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Part Seven

WORKER AND FACTORY

INTRODUCTION and SOVIET UNION.....by Vladimir Gsovski

I. Introduction: Labor and Marxian Philosophy

Labor under the Soviet Communist regime in Russia and its satellites is in a position in 1955 which may seem unexpected in view of the slogans put forward by the Communists in non-Soviet countries, and in the light of their original program for Russia. But, the Communists attach to such expressions as "workers' government," "labor party," and "interests of the working class" a specific meaning which departs from that generally accepted by non-Communists.

Since its first decree, the Soviet Government of Russia has for a long time called itself officially the "Workers' and Peasants' Government." The Communist Party, which is the ruling party of the Soviet Union, and the only political party permitted to exist there, claims to be the party of the proletariat, i.e., of industrial labor and farm labor.

The official history of the Communist Party alleges that "the Communist (Bolshevik) Party of the Soviet Union grew up on the basis of the workers' movement in pre-revolutionary Russia formed from the circles and groups of Marxists which established connections with the workers' movement and imparted to it socialist ideology."^{1/} However, the term "workers' movement," as used here or elsewhere by the Communists, designates not an economic but a political movement. By "imparting socialist ideology to the workers' movement," the Communists did not aim to improve the lot of laborers within the framework of the ten existing social order, but, according to the same source, their aim was the downfall of capitalism and the "transformation of

capitalist ownership into socialist ownership," i.e., the substitution of government enterprise for private enterprise. "The Communist Party of the Soviet Union," according to the above quoted history, "has been and is guided by the revolutionary teachings of Marxism-Leninism." The Communists believe, in accordance with the teachings of Marx and Engels, that their aim cannot be achieved "in a peaceful manner, but that the working class can achieve this aim only by the use of revolutionary violence against the bourgeoisie, by means of a proletarian revolution plus the establishment of its own political rulership--the dictatorship of the proletariat--which must suppress the resistance of the bourgeoisie and exploiters, thus creating a new, classless society." 2/

Thus, for the Communists, the presumed interest of the worker in the coming social revolution has been "the class interest of the proletariat" which they are fostering in non-Soviet countries concurrently with their own aim. The prosaic, current, economic and professional interests of one or another labor group do not fall within the concept of class interest thus defined, and may even be in conflict with it. Consequently, social revolution and the dictatorship of the proletariat, and not the protection of the current daily and professional interests of labor, have been and are the target and the ultimate goal of the Communist Labor Party.

In their choice of laborers as their prospective followers the Communists were guided by the belief of Marx and Engels as stated some hundred years ago in the "Communist Manifesto" of 1848 that "the proletariat...cannot raise itself up without the whole superincumbent strata of official society being sprung into the air." 3/ According to Marx, "in proportion as capital

accumulates, the lot of the laborer, be his payment high or low, must grow worse," ^{4/} and "of all the [social] classes that stand face to face with the bourgeoisie today the proletariat alone is a really revolutionary class." (Communist Manifesto) ^{5/} Marx and Engels also expected social classes, other than capitalists and proletarians, as destined to disappear--"Society as a whole is more and more splitting up into two great hostile camps...Bourgeoisie and Proletariat." ^{6/} They therefore wrote: "the proletarian movement is the self-conscious, independent movement of the immense majority in the interests of the immense majority." ^{7/}

However, the expectations of Marx and Engels did not materialize, particularly at the time when the Communists put the social revolution on the order of the day in 1917. With the progress of capitalism, especially in the more industrialized countries, industrial labor found effective peaceful ways to improve its lot without recourse to social revolution. Social classes other than capitalists and proletarians did not disappear, the peasantry in particular. The proletarians did not become an "immense majority," nor did the majority of industrial workers become Communists. This is especially true of Russia in 1917, when the Communists seized power, and where the industrial workers formed only six percent of the population.

II. Dictatorship of the Proletariat and the Communist Party

1. Statements by the leaders

By that time some other Marxists arrived at the necessity of reconsidering the Marxian idea of the dictatorship of the proletariat as the order of the day. Lenin and his followers, though, insisted on an interpretation of a dictatorship which clearly gave the mandate for its exercise to the Communist Party alone. They plainly advocated a minority rule.

Thus, Lenin frankly admitted that in Russia, in 1917, "the proletariat is in a minority, the petty bourgeoisie [i.e., peasants] were in a majority." ^{8/} In fact, even the Soviet statisticians consider that industrial workers, together with the clerical employees, constituted 11.2 millions out of 180 millions of the total population in 1913. But according to Lenin,

A political party may unite only the minority of a [social] class just as the truly conscientious workers constitute a minority in an capitalist society. Therefore we have to admit that only the conscientious minority may direct the toiling masses. ^{9/}

The [Communist] Party absorbs the vanguard of the proletariat, and the dictatorship of the proletariat is carried out by this vanguard ... We [the Communists] are the party of the [proletarian] class and therefore the entire class must act under the direction of our party ... Our State means the working class, that is its vanguard, that is we [the Communists.] ^{10/}

In 1923 the 12th Congress of the Communist Party officially stated as follows:

The dictatorship of the working class cannot be secured in any other way than by the dictatorship of its vanguard, the Communist Party, because it alone is called by history to carry out the dictatorship of the working class. ^{11/}

Stalin on several occasions also emphasized that:

The [Communist] Party exercises the dictatorship of the proletariat ... The dictatorship of the proletariat is in essence the 'dictatorship' of its Party, as the main guiding force of the proletariat. ^{12/}

2. Representation of workers in government bodies.

Prior to the 1936 Constitution such bodies were the Congress of Soviets and its Executive Committee which exceeded the Congress in importance. The last Congress convened in 1931 and comprised 1,576 deputies; its Executive Committee comprised 611 members. ^{13/} Actual workers

constituted 22.1 percent in the Congress and 13 percent in the Executive Committee while the peasants made up 15.2 and 9.5 percent respectively. Under the 1936 Constitution both these bodies were superseded by the Supreme Soviet (Council) of Toilers. After the 1946 elections of the Soviet, workers constituted only 8 percent and peasants only 13 percent. ^{14/}

The bulk of membership consists of those holding various administrative posts in the government and Party machinery. The Supreme Soviet is a kind of convention of field officers called by the central government to hear current policy instructions, take the blame for failures, report on accomplishments and vote unanimously.

3. Workers among the members of trade unions

It is also characteristic that when, after a lapse of seventeen years, the Congress of Trade Unions convened in 1949, only 23.5 percent of the delegates were workers, the rest being trade union officials who are the equivalent, under Soviet conditions, to government officials specializing in labor relations. Full-time trade union officials constituted 43 percent. Members of the central committees of trade unions controlling sixty-seven nation-wide organizations, i.e., top-ranking officials, constituted 39 percent of the delegates. Members of the Communist Party and those who applied for membership constituted 72 percent. ^{15/} Since 71 percent of the deputies had a secondary or higher education, the Congress represented the new Soviet intelligentsia rather than manual labor masses. It must be borne in mind that, in the Soviet Union, managers and clerical employees belong to the same unions as the laborers.

From all these figures the fact transpires that the rank and file of labor has a meager representation in the governing bodies of the Soviet

Union and the Soviet trade unions.

4. Workers among Communists

The Communists' claim to being a worker's party is not true in their own state. When the Bolshevik group began to play a political role in Russia (about 1905), their leaders admitted that their "party is not a proletarian party as yet. Something must be done to make it, at least to some extent, proletarian." ^{16/} On the eve of the March 1917 revolution the whole membership of the Bolshevik Party comprised, according to the estimates of Soviet statisticians, from 23,000 to 40,000 members, and the workers formed 60 percent of the membership, i.e., about 12,000 to 25,000 as against the total number of workers and clerical employees which was about 11 million (this is the figure for 1913, given by the Soviet Encyclopedia). ^{17/}

In 1919, the second year of the Soviet regime, when the total membership of the Communist Party had reached 281,000, the Party leadership realized that workers constituted an insignificant minority among the Communists. Thus a special recruiting campaign was conducted among the workers for whom special easy admittance requirements were offered. Nevertheless, the registration made in 1920 disclosed among the Communists, only 44 percent workers, 25 percent peasants and 31 percent of all others. The percentage of workers in 1921 decreased to 37 and only after the purge of 1922, during which mostly peasants and others were expelled, the percentage of workers among Communists rose to 44.4 percent.

For the later period the detailed figures were made public in accordance with the returns of two party censuses. One was made in 1927 and showed a total membership of 1,147,074 (including both the full members

and those on initial probation, the so-called candidates). ^{18/} Another census was made in 1931 and showed a total of 2,457,324 members and candidates. ^{19/} (The total number of workers was 14.5 million in 1930.) Later the total membership was made public on various occasions but without detailed figures concerning the social stratification of its members. The above-mentioned censuses took into account the obvious fact that many members registered themselves as workers, although they ceased to exercise their vocation and occupied various administrative posts. The censuses, as well as the registration of the social status of members of the Soviet Government representative bodies, began to draw a distinction between workers by origin and "workers from the work bench," i.e., actual workers. In 1927, the workers by origin constituted nearly 56 percent of the Communist Party membership, while those by actual occupation only 30 percent (10.1 percent were peasants, 0.5 percent were artisans, 5.1 unemployed and 51.3 percent of all others). In 1931 the actual industrial workers constituted a somewhat smaller minority than in 1922, viz., 40.5 percent as against 44.4 percent. (The peasants formed 18.4 percent.)

The Communists embraced in 1927, only 9.1 percent of all the industrial workers in the Soviet Union and only 0.78 percent of the population.

The following figures show that on the one hand the Party wished to enroll the workers but, these, on the other hand, were not too eager to join the Communist Party. Thus, during 1930 and 1931, only 9 to 10 percent of worker applicants were rejected, as compared to 49-60 percent of rejected peasants and 61 percent of other rejected applicants. While, among the expelled, workers constituted 45 percent in 1930 and 30 percent in 1931, the percentage of workers among those who left the Party voluntarily was as high as 71 in 1930 and 40 in 1931.

There is every reason to believe that the percentage of workers among the Communists has hardly increased recently. No figures were made public by the Soviets, but in addition to the silence of Soviet sources, this assumption is supported by the fact that the percentage of actual workers in the official representative bodies of the Soviet Government tends to decrease.

4. Workers' Privileges

The Communist Party of the Soviet Union, though claiming to be the party of the working class, had very few workers among its members before the revolution, and was not able to attract the rank and file of labor after its dictatorship was established in 1918.

The Communists expected that industrial workers and farm hands would have a special aptitude for a Communist order and a mentality different from other groups of people, which would make industrial workers loyal and efficient builders of a new society without private enterprise and private profit. Therefore, not only were the industrial workers and farm hands easily admitted to the Communist Party, and special recruiting campaigns conducted for this purpose, but also special opportunities and privileges were offered to them in the form of appointment to higher governmental positions and higher education qualifying them for professional positions.

During the early stage of the Soviet regime an industrial worker who had barely an elementary education, or who had not even completed it, could obtain a scholarship for studying at special departments of the University (Rabfaki- labor colleges), and thus become a physician, engineer, or other professional man. Proletarian origin was a specially sought qualification

for high position in the administrative and even judicial service. It also guaranteed better treatment during the time the punishment was served under the Statute of Camps of Correctional Labor of 1930. ^{20/} Children of workers had priority for admittance to higher education, which was free.

During that period many individuals from among the workers, or their children, had ample opportunity to elevate themselves to higher positions, to become high officials of the Communist Party or of the Soviet Government. They formed also the core of the new Soviet intelligentsia. But this rise of individuals, even in large numbers, did not result in the elevation of the status of the masses of labor. The ample opportunities had even an adverse effect on the general level of the working class. The most ambitious, able, and energetic elements, left the class for higher and better paid jobs. Many of them perished during the civil war of 1919-1920. A new upper stratum of soviet society was gradually created--the new ruling class, and it was largely recruited from among former workers and their children.

The present-day industrial workers do not constitute an upper or a privileged class of the Soviet society. When private enterprise was suppressed and replaced by governmental enterprise, the Soviet workers did not prove any more loyal or enthusiastic supporters of the steps taken by the Soviet Government in the building of a socialist society. The worker under the Soviet regime does not appear to be a peculiar species of humanity. When his natural material needs are not satisfied, the Soviet worker does not take the interests of government industry more to heart than he did the interests of the private employer. He tries to obtain higher pay for his work and if this does not occur he leaves for another job or fails to do his job properly. The Soviet legislation affords ample evidence to this effect. Thus, Soviet management

has to face turnover of labor, failure to appear for work, shirking on the job and many other manifestations of indifference of workers to their work. Likewise, managers and other bosses who were raised from the rank and file of labor are not less susceptible to inefficiency, incompetence, red tape and inaccurate accounting than any other bureaucrats of non-proletarian origin.

The original privileges were gradually withdrawn. Tuition fees established in 1941 for an education in the higher grades of high school and universities certainly preclude a better education and future for children of workers' families in the lower brackets of income. There is less opportunity for a worker to rise than before. His position on the job is in no way a privileged one. This rather surprising change is explained by the fact, among others, that in the country of the dictatorship of the working class the participation of this class in the administration is very meager to say the least.

NOTES

1. History of the All-Union Communist Party (Bolsheviks): Short course as edited in 1938 (in Russian, Moscow, 1947) p.3. Translation by the author.
2. Ibidem, p. 11.
3. Karl Marx and Friedrich Engels, Communist Manifesto, New York, 1948, p. 22.
4. Karl Marx, Capital, vol. 1, transl. by Samuel Moore, Chicago, 1906, p. 709.
5. Communist Manifesto, op.cit., supra note 3, pp. 20-21.
6. Ibid, p. 9.
7. Ibid, p. 22.
8. Lenin, Collected Works (2d Russian ed.), vol. 26, pp. 215-216.
9. Id., On the Role of the Communist Party, collected works (1st Russian ed.), vol. 18, pt. 2, p. 270.
10. Id., vol. 18, pt. 1, p. 8; The Child Disease of Leftism, id. vol. 18, pt. 2, p. 35.
11. VKP (b) in the Resolutions and Decisions of its Congresses, Conferences, and the Plenary Session of the Central Committee, vol. I, 1898-1932, (in Russian, 1933) p. 565.
12. Stalin, Problems of Leninism, English edition, Moscow, 1940, pp. 131, 134, and 135.
13. Elections to the Soviets. The Composition of the Authorities of the USSR (in Russian, 1931) table 26, Gsovski, Soviet Civil Law, vol. I (1948), p. 55.
14. Ananov, "The Triumph of the Soviet Democracy" in the Soviet State and Law (in Russian, 1931), 1946, no. 3/4 p. 9. Also Gsovski loc. cit.
15. Tabulation from Soviet authentic sources, by Deutscher, Soviet Trade Unions, London, 1950, pp. 128-129.
16. Social and National Composition of the All-Union Communist Party (Bolsheviks) (in Russian, Moscow, 1928) p. 12.
17. Ibidem pp. 11-14.

18. All figures concerning the membership of the Communist Party are derived from the following Soviet publications: Social and National Composition of the All-Union Communist Party (Bolsheviks). Returns of the Party Census of 1927 (in Russian, Moscow, 1928) pp. 13, 15-17, 27, table 1, p. 42 table 16, p. 52 table 18; Composition of the All Union Communist Party (Bolsheviks) in figures, No. XI. Dynamics of growth in 1930 and the first half of 1931 (in Russian, Moscow, 1932) pp. 1, table 1, p. 9 table 1, p. 35 table 18, p. 30 tables 12-13. See also Zinoviev, The Results of the Work of the Party in 1922-1923 (in Russian, Moscow, 1923) pp. 38, 113, 119; Lenin, Childish Disease of Leftism in Communism (in Russian, 1932) p. 84, note 12.
19. Composition of the All-Union Communist Party etc. (1932) cited supra note 15, p. 9, table 1, p. 35 table 18.
20. USSR Laws, 1930, item 248.

III. Labor in the Early Stages of the Soviet Regime

1. Labor on the Eve of the November 1917 Revolution and in the Early Days of the Soviet Regime.

After the fall of the Imperial regime in March 1917, the so-called factory committees (shop committees) came into being. They were self-appointed revolutionary agencies of the working class which were elected by the workers of each factory or plant and sought not only to protect the interests of workers but also to interfere in the management of the enterprise. Their existence was ratified by the Law of April 23, 1917, enacted by the Provisional Government ^{1/} before the Bolsheviks seized power in November of the same year. The functions of the committees were restricted under this law to the cases concerning the welfare of the workers. They also were not supposed to interfere with management. Still, the legal recognition of their existence signified an essential change in labor relations.

In the summer of 1917 when the Communists (then called Bolsheviks) were fighting for power against the Provisional Government one of their slogans was: "The land must be given to the peasants, the factories to the workers." The Bolsheviks claimed to be the workers' party and called upon the factory committees to assume "labor control" over the factories and plants. Their propaganda was couched in a language making the impression that under their rule each factory would be owned and operated by its workers.

Under the influence of this propaganda strikes and seizures of industrial establishments by the workers, i.e., by their factory committees, began and have increased in number since August 1917. In the important Moscow industrial region a wave of seizures of textile mills directly preceded the seizure of governmental power by the Bolsheviks.

The Soviet Government came into being in November 1917, as a result of an armed uprising organized by the Bolsheviks. The Bolsheviks officially called their new Soviet Government "The Workers' and Peasants' Government" and before they adopted the policy of total confiscation of private business enacted several decrees protecting labor. The eight-hour work day (48 work hours a week) was decreed on November 12, 1917; and the right of any employee to a two weeks' vacation with pay after six months of employment, decreed on June 14, 1918. A broad program of social security and workmen's compensation (social insurance) was also declared by the Decrees of November 29, December 11 and 16 of 1917, but this program never materialized in the announced form. The Government sought also to standardize and level the wages throughout Russia allowing only for a small difference between the higher and lower brackets: wages for manual labor were brought close to the salaries of the executives and high governmental officials. ^{2/}

By the Decree of November 14, 1917, the factory committees were granted the authority to exercise "labor control" over "production, purchase, sale and storage of products and raw materials as well as the financial side of the enterprise," i.e., in fact over all phases of management. ^{3/} In a way, this was the first step toward the seizure of private business, but the labor control signified also a radical change in labor relations. It established participation of labor in the operation and management of an enterprise, a kind of labor self-government. But the labor control soon gave way to direct nationalization of industry and commerce, i.e., confiscation of all business enterprises without indemnity and their conversion into outright government property.

In the interim before the total nationalization of industry, the government sought to organize the management of industry on a regional and national scale through regional Councils of National Economy and a Supreme

Economic Council created on December 5, 1917. ^{4/} In some of the regional Councils (e.g., Moscow) the representation of factory owners was allowed for a time, together with the representation of labor as distinct from representation of Trade Unions.

2. Militant Communism

The Supreme Economic Council was granted the power to nationalize, i.e., to confiscate without indemnity private enterprises. But, confiscations of individual enterprises were superseded by a wholesale nationalization of big business on June 28, 1918 which was followed by a general nationalization of industry on November 29, 1920 when government ownership of all industrial enterprises employing ten or more workers (or five if a motor installation was used) was declared. ^{5/} The number of workers permitted to private employers was later raised to twenty. The Supreme Economic Council gradually acquired the character of a regular government department of industry. Nationalized property meant property owned, managed and operated by the government. The traces of participation of labor in management gradually disappeared. Factory committees ceased to be independent organizations of workers of a given factory or shop. The committees attempted to form their national organization for the exercise of the management of industry. Bolsheviks called upon the trade unions and with their help frustrated the planned congress of factory committees of Russia. The factory committees were transformed into basic nuclei and local agencies of the trade-unions, i.e., were incorporated into the unions and together with these became eventually a branch of the Communist Party and the Soviet Government.

By the end of 1918 the Soviet policy crystallized into what was later called Militant Communism or War Communism. ^{6/} The Soviet Government aimed to

be the only producer and direct distributor of commodities and the sole employer of any consequence. In addition to the above mentioned confiscations, banking, insurance business and foreign trade were declared government monopolies; merchant marine, private river crafts and railways were nationalized. Inheritance was abolished; stocks and bonds annulled and savings were practically confiscated.

The Constitution, adopted in July 1918, declared the principle "whoever does not work shall not eat" (Section 18) and the principle of universal labor duty (draft of labor) was laid down as the basis of a Labor Code enacted on December 11, 1918, supplemented in June 1920 by a General Regulation of Employment and Payment.

The management of nationalized business was highly centralized in the hands of various bureaus of the Supreme Economic Council--so-called Glavki (from the Russian Glavnyi Komitet--Main Bureau or Chief Board). These bureaus were organized and functioned as regular bureaucratic agencies. Glavki not only planned and supervised but also sought to manage in detail all operations of enterprises under their control. The authority of the director of an enterprise was considerably shaken by various boards, but the more nationalization of industry proceeded the smaller was the share of factory committees in the administration of the factory.

The financing of enterprises was done through the governmental budget after the fashion of regular government agencies. The general plan was to make individual enterprises exchange their goods without any payments on orders of the central administration. A general substitution of direct supply in kind for wages was visualized as the next step. A government

department--People's Commissariat for Food Supply--was charged by the Decree of November 21, 1918, with the task "to take the place of private commerce providing for all articles of personal consumption and household effects."

The Government claimed, although with little success, the monopoly of all crops and the grain trade. At the end of 1920 several decrees appeared ordering the abolition of any payment for rationed food, staples for consumption, fuel, housing with all communal services, forage, printed matter, and postal and telegraphic services. All of this was supposed to apply in the first place to the workers. All commodities were rationed and the highest ration was given to the workers. But the labor conditions were, in fact, unsettled and very poor under Militant Communism. They are described in a Soviet treatise on labor law by Tettenborn, printed in Moscow in 1920, as follows:

Soviet Russia does not know of any 'free' contract of employment, nor of any legal relations usually connected with the concept of employment contract. In Soviet Russia labor duty (draft of labor) is the basis of labor relations. The manual workers and clerical employees do not work because they are hired but because the State imposes upon them the duty to work. The employees do not receive wages or pay for their labor but the amount of money or products required for the satisfaction of their needs and those of their families (which amount at the present time does not cover these needs and is insufficient because of the economic breakdown caused by the imperialist war). 7/

A more complete and realistic picture is drawn by a Soviet treatise published during the later period, in 1927:

Another characteristic of the Labor Code of 1918 is the complete denial of the so-called freedom of the contract of employment. All the relations between the employer and the employee were completely regulated by legislation. It fixed the rates of wages. Any departure from the established standards of labor conditions were prosecuted by the government.

Along with the principle of the labor duty (draft of labor), the Code of 1918 contained broad declarations of a series of measures intended to offer a many-sided protection of labor and a universal social security. However, the difficult condition of the country did not give any chance to carry out the protection of labor and social security. The conditions of labor grew worse with a catastrophical speed. The Government was not able to give to the worker even starving minimum wages. The able-bodied population of the cities including workers at the factories and the plants who had not lost connections with the countryside used to leave their employment. The Government had to enact laws which introduced severe militarization of labor, drafted all the able-bodied population of the country and fixed the manual laborers and clerical employees to their jobs." 8/

Famine, total breakdown of the whole economy and the rebellion of the Kronstadt sailors, hitherto ardent supporters of the Soviet regime marked the end of Militant Communism. Miliutin reported on behalf of the Supreme Economic Council on May 1921 that the output of metal was only 4 percent of pre-war, while the volume of consumers' goods was only 30 percent. At the Fourth Congress of Trade Unions (May 1921) statements were made to the effect that workers in factories were stealing 50 percent of goods produced and the average worker could pay with his wage only one-fifth of his cost of living. The New Economic Policy (N.E.P.) was inaugurated in 1921.

3. New Economic Policy--NEP (1922-1929), Five Year Plan, 1936 Constitution

The New Economic Policy (NEP) from 1922 to 1929, implied a concession to private enterprise in business. Old private rights were not restored but their acquisition in the future was allowed and protected by law. Certain fields were reserved for State monopoly: land, transportation, banking, insurance, foreign trade and large scale industry. But within these fields licences, especially to foreign capital, were permitted and granted. Other fields were left to private business: domestic commerce and small-scale

industry (establishments employing not more than 20 workers). But in these areas, government enterprises sought to compete with private undertaking. Stalin said about this period that "It was more or less free trade, limited only by the regulative activity of the State. The private sector occupied an important place in the traffic of commodities." ^{9/} It was "a policy of the Party permitting a struggle by socialist elements with the capitalist elements but aimed at the victory of the former over the latter." ^{10/} Thus private enterprise was allowed within certain narrow limits.

Along with this refashioning of business after the capitalist pattern, the Labor Code enacted in 1922 sought to regulate labor relations on the principle of free contract and protect labor by methods resembling advanced capitalist legislation, such as giving force to collective bargaining and labor arbitration.

The New Economic Policy came to an end about 1929 with the inauguration of the First Five Year Plan. This plan, according to Stalin, had been drawn up and executed with the aim of eliminating capitalist elements and creating an economic basis for a socialist society. ^{11/} Since then private enterprise has been replaced by governmental enterprise.

The Constitution, adopted in 1936, declared socialism achieved in Russia. "The economic foundation of the USSR," states Section 4 of the Constitution, "consists in the socialist system of economy and socialist ownership of the instruments and means of production." The principal form of "socialist" ownership is the government ownership to which the following objects are reserved: "land, subsoil, waters and forest, mills, factories, mines, railways, water and air transportation, banks, means of communication ... public

utilities," in other words all the principal places of employment are governmental. Private business is allowed only in the form of small-scale handicraft and midget farming provided they are conducted without employment of hired labor (Constitution of 1936, Sections 7 and 9). Independent artisans may fulfill the orders for customers but are not, as a rule, allowed to produce for sale on the market. Artisans and farmers may sell their produce directly to consumers, but no middleman, no private commerce in commodities is allowed. In brief, all private business of any consequence is totally barred.

NOTES

1. Collection of Laws and Decrees of the Provisional Government, 1917, item 551, Jurisdiction as treated in Sec. 9.
2. E.G. Decree of Nov. 23, 1917, RSFSR Laws 1917-1918, item 46; Decree of June 27, 1918 id item 567 especially Sec. 4; Sept. 22, 1918 id item 747; Oct. 18, 1918, id item 815, also id items 552, 776, 839.
3. RSFSR Laws, 1917-1918, item 35.
4. Id item 83.
5. Id items 546, 559; id 1920 item 512. See also id 1921 item 323.
6. For description and analysis of major stages of the Soviet policies and their expression in law, see Gsovski, Soviet Civil Law, University of Michigan Press, Ann Arbor, Vol. I (1948), pp. 10 et seq., 791 et seq., Vol. 2 (1949) pp. 537 et seq.
7. Tettenborn, Soviet Legislation on Labor (in Russian, 1920) p. 16.
8. Safonov, Brief Outline of Soviet Labor Law, (in Russian), 1927, p. 6. See also Deutscher op.cit. note 19 at p. 52. It may be noted in passing that the recent Soviet analysis of this period fails to reveal the true situation, e.g., Aleksandrov, ed., Soviet Labor Law, (in Russian), 1949; Dagadov "Stages of Development of Soviet Labor Law" in Uchenye Zapiski of Leningrad University, Series of Legal Sciences, No. 2 (1949), p. 11 et seq.
9. Pravda, January 10, 1933.
10. Stalin, Problems of Leninism (10th Russian ed., 1938) p. 146.
11. Stalin, op.cit. (English ed.) Moscow, 1940, p. 409.

IV. Present Status of Labor

1. Legal Sources of Regulation of Labor Relations: Labor Code and Other Laws.

The Soviet Union is described by its Constitution as a federation and separate Codes and Labor Laws exist in each of the 16 Soviet states (so-called constituent republics). But, according to the Constitution, the Soviet federal government is in full control of labor conditions throughout the Soviet Union. Section 14, Subsec. (t) of the Constitution, now in force, reserves to the federal government the "establishment of principles of labor legislation." In the event of a discrepancy between the two, federal law prevails over the state law (Constitution, Section 20.

The regulation of labor relations is far from being uniform in the Soviet Union. Labor conditions vary greatly in individual localities and branches of industry, but these variations are not the product of local (state) legislation, but are established by federal authority in accordance with its plans and policies. The "Codes of Labor Laws" which are found in each of the 16 Soviet Republics (states), repeat, in fact the Code of the R.S.F.S.R. -- The Russian Soviet Federated Socialist Republic, which is the oldest and largest of the states in the Soviet Union.

The Labor Code of the R.S.F.S.R. was enacted in 1922 at the time the New Economic Policy (N.E.P.) was inaugurated. Private enterprise was, with certain limitations, readmitted, and the freedom to

form an employment contract was recognized. The original provisions of the Labor Codes sought to regulate labor relations on the basis of a free contract, and to protect labor by methods resembling advanced democratic labor legislation such as collective bargaining, arbitration, etc. ... When after 1929 the N.E.P. came to an end the Labor Codes remained on the statute books, but numerous laws and decrees were issued by the federal government in direct and indirect amendment of the Codes. Thus, the provisions of the Labor Codes which reflected the liberal spirit of the New Economic Policy, were either repealed or for the most part became inoperative, being superseded without a formal repeal by the new federal laws and decrees. These new rules, and not those found in the Codes, reveal the main features of the present legal framework of labor relations in the Soviet Union. They served as a basis for the present study.

2. The Nature of Soviet Enterprise at Present.

When private enterprise finally disappeared in Russia the great majority of persons engaged in industry and commerce -- from top executives to manual laborers -- became employees of a single owner -- the government. ^{1/} In that sense there is no contrast between capital and labor in the Soviet Union. The Soviet Government claims that there is a "unity between the interests of the toilers of the Soviet Union and those of the Soviet Socialist State," as an official textbook on labor law stated in 1946, ^{2/} However, such unity can hardly be demonstrated in reality. Soviet industrial organization shows that the fixed relationship between labor and State management took the place of the free relationships between labor and capital in capitalist countries.

Government-owned industry and commerce now operate on a different

basis from that of the first years of the Soviet regime (1918-21). At that time, private enterprise and profit-making were outlawed without offering a substitute for satisfaction of personal ambition or an opportunity for extra earning.

In contrast, the policy adopted after the drive began for total socialization was popularly called "whips and cookies." On the one hand, concessions are made to the ever emerging personal ambition; but on the other criminal law is put into operation in an effort to check the inefficiency of the entire economic system.

Government agencies engaged in business operate on a "commercial basis (khoziaistvenny raschet); they enjoy a degree of formal independence, and enter into contracts with each other and with private persons. Although they are government agencies they are supposed to act with the competitive vigor of a private enterprise (the principle of "socialist competition"). This "independence" should not be overrated. Planned assignments of higher bureaus set definite limits to their independence, to say nothing of continuous supervisory control by various government agencies and political control by the secret police and Communist Party.

The management of a Soviet quasi-corporation is as interested in obtaining the lowest unit labor cost as its capitalist prototype. A single executive is appointed by the head of the bureau under whose authority the enterprise (called "trust" in industry and torg in commerce) operates. He hires and fires, allocates wages, imposes penalties, and grants bonuses. Bonuses are paid from a special director's fund based on a percentage of the profits or savings. His own bonus also depends upon the efficiency of the enterprise. ^{3/} In case the output falls below standard quantity or quality, he is liable to imprisonment up to 8 years. (infra)

3. Inequality in Remuneration - the Basis of Wage Policies.

Private profit-making is barred and the earnings of the bulk of the population are practically limited to wages and salaries. But the governmental scale of compensation for work, whether in money or comfort, aims to offer a substitute for profit-making to stimulate efficiency. A system of wages and salaries is designed to allow wide latitude for differentials in wage, salary, and bonus payments. To this end, the principles of piecework and bonuses for efficiency, without any guaranteed minimum wage, constitute the basis of compensation for work in government industry, in collective farming, and in cooperatives.

Regardless of whether the employee is paid by time or by piece, he must attain a standard of output established by the management. If he fails to do so through his fault he is paid according to the quality and quantity of his output.

Soviet Labor Code, Sec. 57 as amended in 1934:

If an employee at a governmental, public, or cooperative enterprise, institution, or business fails through his own fault to attain the standard of output prescribed for him, he shall be paid according to the quantity and quality of his output but shall not be guaranteed any minimum wage. In other enterprises and businesses (private enterprises including those under a concession) such an employee shall be paid not less than two-thirds of his scheduled rate.

Progressive scales of piecework and bonuses for extra efficiency are issued by the government for individual industries and industry groups.

Numerous honorary titles -- "Hero of Labor" and others -- and medals carry with them distinct material benefits, such as tax exemption, right to extra housing space, etc. There are also "personal salaries" awarded without reference to any scale, and Stalin prizes amounting to as much as 300,000 rubles in a lump sum.

All this affords professional, managerial, and skilled labor remuneration in money and comfort greatly exceeding that given to the ordinary laborer. For example, a scale of salaries and wages for electrical power plants, established in 1942 and still in force as late as 1946, ranged from 115 to 175 rubles monthly for janitorial services to 1,000 to 3,000 rubles for a director. 4/

Material benefits, thus promised under the differentiation of wages, piece rates, and Stakhanovism, proved to be insufficient stimuli for good work.

4. Stakhanovism

The terms "Stakhanovism", "Stakhanovite" originated from the record of a coal miner Alexei Stakhanov, who was reported to have exceeded the standard output on August 31, 1935 by fourteen times. He produced 102 tons of coal in one shift. Workers all over the country were called to imitate him. However, this was only a new form of a campaign for "Socialist Competition" among the business establishments and shops and for "Shock work" (udarnichestvo) that started in the 1930's. It is with the development of these campaigns into Stakhanovism that the differentiation of wages was greatly intensified and widely spread. In addition to higher wages Stakhanovites enjoy important privileges: use of rest homes and sanatoria, right to have tutors for their children, free medical help at special Stakhanovite homes and a number of other services. Stakhanovites form a stratum of labor aristocracy whose standard of living is high above the rank and file of labor, 5/e.g. Pravda reported on November 16, 1935 that a coal miner doing general underground work earned 170 rubles a month, a regular miner 400-500 rubles a month, while a "Stakhanovite" worker: earned

more than 1,600 rubles a month.

The Soviets proclaimed "Stakhanovism" a new and efficient method of organization of production processes, a peculiar feature of socialist organization of labor. Many critics dismiss this claim and characterize the records claimed to be publicity stunts. However, denying any miraculous achievement, it must be admitted that some increase of productivity of Soviet labor have resulted from Stakhanovism. Hasty industrialization during the First Five-Year Plan left plenty of room for improvement of the labor process and raising thereby the efficiency of labor. Under the system of piece rate Stakhanovism, to be sure, an exemplary record of individual workers gave the management a good reason to revise the standard of output required for the full rate of wages. But the secret of the highly exaggerated records was simple. The efficiency of managers and foremen was to an extent graded depending upon the number of Stakhanovites among their subordinates. This induced them to place better tools and material at the disposal of workers aspiring for the title of Stakhanovites. They were relieved from the preparation of the work site and other auxiliary functions. The record was the result of special team work which not always could be made a standard.

Thus, Stakhanovism helped few workers to raise their standard of living above that of their fellow workers but did not improve the lot of these. It even had an adverse effect on the labor mass: workers were required to produce more for the same pay.

There is no wonder that Stakhanovism was met with resistance of the masses of labor but this resistance was suppressed. The following statement of Zhdanov, later almighty member of the Politburo reveals this struggle:

"In some enterprises the Stakhanov movement has met with resistance ... the party will not shrink from any measures that will help it to sweep away all the resisters from the victorious path of the Stakhanov movement." (Pravda, November 13, 1935)

Lack of energetic action against this resistance is in part the reason for which during the purges of 1937-1938, the personnel of factory committees of trade unions was changed to the extent of 70-80 percent and that of the central committees of unions to the extent of 96 per cent. ⁴

Stakhanovism, the mixture of progressive rationalization and old time sweated labor, in words of Deutscher, a competent non-Soviet but socialist writer became firmly established in Soviet economy. ⁷

5. Labor Penal Law and Managerial Powers.

Heavy responsibility is imposed upon both workers and management. Inefficiency involves not only loss of material benefits and possible loss of job, but prosecution in court as well. Workers are subject to penalties imposed by managers for "loafing on the job" and to court action for absenteeism and unauthorized quitting of the job. From 10 to 25 years in a forced labor camp, with or without confiscation of property, can be imposed by court for "misappropriation, embezzlement, or any kind of theft" of the property of the principal employers, the government, or public bodies. ⁸ Prior to 1946, the death penalty could be invoked. ² In case of damage to or loss of property of the employer -- tools, raw materials, fuel, even work clothes -- if due to employee negligence can result in deductions from wages, in some instances in an amount 10 times the value of the property. ¹⁰

A series of laws penalize inefficient management for such things as poor quality or small volume of output, failure to penalize workers for

absenteeism and other violations of labor discipline. 11/

The constant increase of managerial power over workers since the suppression of private enterprise in the Soviet Union is revealed by successive amendments to some individual provisions of the Labor Code. Provisions defining the right of the employer to dismiss the employee summarily because of failure to appear for work may serve as an illustration. The Labor Code of 1922 incorporated the provision of Czarist law 12/ permitting management to dismiss a worker for failure to appear without justifiable reason for 3 consecutive days or for 6 days during a month. 13/ In 1927, this was changed. Failure to appear for a total of any 3 days during a month constituted grounds for dismissal. 14/ In 1932, only one day's unjustified absence was sufficient and mandatory ground for dismissal of a worker in a government enterprise, to be followed by an automatic eviction, without a court action, from the living quarters which he occupied because of his employment. 15/

An act of December 28, 1938, was directed against tardiness, leaving work before the scheduled time undue prolonging of lunch time, and loitering on the job. Those who committed such infractions were subject to warning or to transfer to lower grade jobs. Three violations in 1 month or four in 2 months, lead to dismissal (Sec. 1). 16/ An official interpretation of the act, issued on January 9, 1939, states that penalties milder than dismissal should be applied only in cases of tardiness not exceeding 20 minutes. A single tardiness exceeding 20 minutes should result in immediate dismissal. 17/

Later, by an edict of June 26, 1940, job freezing was enacted, and unauthorized quitting was made an offense punishable in court by imprisonment. Then, according to the Soviet jurists, the possibility

arose that a worker might purposely fail to appear on time in order to be dismissed and thereby obtain a chance to find a better job. Therefore, the June 1940 edict rescinded mandatory dismissals for tardiness and absenteeism and declared them to be offenses punishable by disciplinary penalty in case of tardiness or court sentence for absenteeism.^{18/}

The Act of December 28, 1938, made managers subject to dismissal and penal prosecution in court for failure to inflict the prescribed penalties (Sec. 2).

Several other disadvantages were introduced for those who did not remain long enough on the job (Sections 4, 11). In case of sickness, only employees who had worked in the same establishment continuously for at least six years were entitled to compensation to the extent of 100 per cent of their pay; those who had been continuously employed in the same establishment for less than two years could receive only fifty per cent. Vacations, disability pensions, priority rights to rest homes and sanatoria, and other social security benefits were made contingent upon sufficiently long employment in the same establishment (Sections 5-10, 13-23).

Likewise for the purpose of strengthening labor discipline, foremen (masters) in heavy industry were granted extensive rights and responsibilities by the Decree of May 27, 1940. Their wages were increased, and a premium system was established for them. Foremen are called upon to review production quotas and piecework rates, to fix wage scales, to make tests, to hire and discharge workers after consultation with the head of the shop, to fine and reward for bad or good work, and to have a say in the distribution of bonuses.

Cases of so-called petty larceny (i.e., larceny of property under fifty rubles in value) and acts of hooliganism committed by employees at

their place of employment, which had been handled since 1930 by the "comrades' courts" and disposed of by fine or public censure, were declared by the Edict of August 10, 1940, to be crimes strictly punishable by imprisonment for one year, where the offense does not come under a law providing for a more severe punishment.

The Standard Rules of Internal Labor Organization, enacted on January 18, 1941, stress that "every violation of labor discipline shall entail either a disciplinary penalty or prosecution in court" (Sec.19). Disciplinary penalty is imposed by management as soon as it becomes aware of the violation. The imposition of the penalty does not relieve the employee from the duty to compensate for damage caused by any defective work. 19/

Among the violations, the rules specify tardiness, loitering on the job, absenteeism, and unauthorized quitting of the job (Secs. 21, 25, 26). Coming to work late, going out for lunch ahead of time, if done without a justifiable reason, subjects the worker to managerial discipline in instances where the loss of time does not exceed 20 minutes and does not occur thrice a month or four times within two consecutive months. In the latter instances violators are considered absentees and are punished in court.

If an employee appears at work in a state of intoxication, he is guilty of absenteeism (Sec. 26). Unauthorized quitting a job is an offense punishable in court. Loitering on the job is subject to disciplinary penalties.

The application of so many penal clauses raised fine legal problems for Soviet jurists, who have perhaps shown an attachment more for legal niceties than common sense. Following is a discussion of the legal definition of sleeping on the job in a treatise on Soviet labor law printed in 1946: 20/

The question whether loitering on the job or sleeping during working hours should be considered absenteeism came up in judicial practice several times. Legal writers answered this question in various ways. Some thought that "there is no reason to exclude ... loitering on the job from the concept of absenteeism", 21/ while others were of the opposite opinion. 22/

From the comparison of Sections 21 and 26 of the Standard Rules of Internal Order, it becomes evident that loitering on the job, regardless of how long it lasts and how often it occurs, entails a disciplinary penalty and not punishment in court. Sleeping during working hours is a form of loitering on the job and therefore should not be considered absenteeism. This conclusion is supported by the following ruling of the Trial Criminal Division of the U.S.S.R. Supreme Court: "Insofar as sleeping on the job is a violation of labor discipline, not connected with the absence of the worker from his post but, on the contrary, necessarily presumes his presence there, such an offense may not be qualified as absenteeism. Being a kind of loitering, sleeping during working hours, if it did not and could not cause serious harm, must be visited by disciplinary penalty." 23/

Leaving the place of employment without the express permission of management has been punishable in court by imprisonment for from 2 to 4 months since June 26, 1940. 24/ Previously a month's notice by the employee was adequate for quitting. In defense industry the penalty would be imprisonment up to 8 years. 25/

The provisions relating to this penalty are broadly interpreted. Thus, an employee who, twice convicted for absenteeism and serving a compulsory labor sentence at the place of his employment in lieu of jail, commits absenteeism (tardiness of more than 20 minutes) again, must be prosecuted for unauthorized quitting. 26/ An employee who violates the shop rules for the purpose of being dismissed must be prosecuted in a like manner. 27/

The U.S.S.R. Supreme Court has also held:

A lengthy failure to appear for work may be considered absenteeism only in instances where the court has established that the employee had no intention to quit the given job. If the court establishes that the person concerned intentionally

stayed away from work with the design to quit it without authorization, such act must be qualified as quitting of the job without authorization even if the perpetrator appears again on the job before the trial. 28/

Finally, by the Edict of October 19, 1940, Government department heads were authorized to allow to transfer certain categories of technical personnel and skilled labor, regardless of their wishes, from one establishment to another. A series of decrees lists the jobs coming under the decree. Failure to obey the transfer is punished as unauthorized leaving of the job. 29/ It is characteristic that the imposition of penalties for infraction of labor discipline are heard in court by a single professional judge with the exclusion of two lay "assessors" required for all other trials. 30/

In several branches of industry especially severe rules of discipline are established granting the "bosses" power to impose penal confinement up to 20 days at their own discretion without a court action.

Railroad employees were placed under strict military discipline in 1943 by virtue of a special disciplinary code. 31/ Arrests not to exceed 20 days could be imposed at the discretion of a superior. Appeals could be made to the next higher superior whose decision was final, but appeal had to be filed within 3 days with the superior who imposed the penalty. No court appeal was permitted.

Similar provisions are contained in the new disciplinary codes for the following employees: maritime and inland waterways transportation lines; the main bureau of the Civil Air Fleet; postal, telegraph, and radio systems; and municipal electric power plants. 32/ Militarized watchmen of warehouses and workmen in air defense and fire protection of defense industries are also covered.

The harshness in the enforcement of penal provisions as outlined

above was somewhat tuned down in the most recent years, say after 1952. These provisions were never repealed but their application seems to be more restricted. There is no change in penalizing by disciplinary action, but the apparent change relates to prosecution in court for absenteeism, threatening with correctional labor without confinement up to 6 months and, for unauthorized change of the job, threatening with confinement from 2 to 4 months.

Comprehensive university text books on labor law printed in 1949 and 1950 expressly mention these provisions as being in force. But a new edition printed in 1953 simply omits the discussion of these penalties and the prosecution in court. ^{33/} Likewise, a collection of laws and decrees on labor compiled for the use of labor union officials quotes these provisions in its 1948 ed., but in the 1952 ed., the statutes by which they were enacted are quoted with the omission of the particular passages dealing with these penalties. It is not indicated that they were repealed or became inoperative, as it is customary in such collections. ^{34/}

The government evidently decided to suspend for the time being the application of these penalties but leave them on the statute books so that it may resume their application without any change in legislation.

6. The Role of Trade-Unions

Under such an arrangement there is no less reason for the rise of labor conflicts than under capitalism. But under the Soviet system labor is deprived of the main effective devices by which it may protect itself in a labor dispute in the capitalist world. Neither the Constitution nor any law or decree mentions the right to strike and the strike is tacitly outlawed. In general, all the channels through which labor can pursue its

objectives in the capitalist world--legislation, courts, administrative agencies, the press, and trade-unions--are in Soviet Russia agencies of the principal employer of industrial labor--the State.

(a) Early Promises

While on the road to power the Communists promised the workers the factories. As late as 1919 they still promised, in their program, the management of industry to organized labor--the trade-unions. But after a heated discussion all such plans were abandoned by 1922.

The program of the Party adopted at the 8th Congress of the Communist Party (Economic Section, Clause 5) promised, in 1919, to the trade unions, an active role in industrial management, as follows:

The organizational machinery of the socialized industry ought to be based, in the first instance, on the trade unions...the trade unions ought in the end actually to concentrate in their hands all the administration of the entire national economy...the participation of the trade unions in economic management,...constitutes the chief means of struggle against the bureaucratization of the economic machinery.

But in fact, trade unions were pushed away from the administration of both governmental and private Soviet industry (when the latter was readmitted in 1922). Not only did the trade-unions fail to stop the bureaucratization of management but also became bureaucratized themselves. In 1922 the 11th Congress of the Communist Party firmly set the elimination of trade-unions from the industrial management as its goal. In contrast to the early policy of 'labor control' (supra p.1) the Congress resolved that "the trade unions should not assume directly any functions of control over production." The resolution demanded that "the managers of factories should concentrate full powers in their hands... Any direct interference of the trade unions with the management of enterprises must... be regarded as absolutely harmful and

inadmissible." Thus, participation of trade-unions in the economic management was eventually reduced to the mere concession that many Soviet managers were selected from among the trade unionists.

The same Eleventh Congress of the Communist Party in 1922, recognized that if government enterprise operates on a commercial basis "inevitably certain conflicts of interests on the issue of labor conditions in the enterprises are created between the working masses and the directors, managers of the government enterprises, or the government bureaus to which the enterprises are subordinated." Consequently the resolution "imposed upon the trade-unions the duty to protect the interests of the working people." ^{35/}

Thus, the Labor Code of 1922, then enacted, relegated to the collective agreements between management and trade-unions the settlement of all the basic working conditions, including wage rates, standard of output, shop rules, etc.

Nevertheless, even then, both before and after this period, the trade-unions were not considered as a force independent from the Communist Party or the Soviet Government. The Ninth Congress of the Party (1920) had stated that "the tasks of trade-unions lie primarily in the province of economic organizations and education. The trade-unions must perform these tasks not in the capacity of an independent, separately organized force but in the capacity of one of the principal branches of the government machinery guided by the Communist Party." ^{36/} The Tenth Congress went further and in 1921 passed the resolution, drafted by Lenin, and stressing the role of the trade-unions in Soviet Russia as a "school of communism." ^{37/} The Fifteenth Congress in 1925 stressed that "trade-unions were created and built up by our [Communist] Party." ^{38/}

"The most important task of the trade-unions," says the official textbook on civil law of 1944, "is the political education of the toiling masses, their mobilization for building up socialism, and the defense of their economic interests and cultural needs..." 29/

"Formally," says the official textbook on administrative law of 1940, "the trade-unions are not a party organization but, in fact, they are carrying out the directives of the Party. All leading organs of the trade-unions consist primarily of Communists who execute the Party lines in the entire work of the trade-unions." 40/

The official textbook on civil law of 1950 emphasizes as the most important tasks of the trade-unions the education of its members in the spirit of Soviet patriotism, communist attitude to work and their mobilization for the fulfillment of production plans after which comes the defense of their economic interests and securing of their cultural needs. 41/

(b) The Reality After 30 Years

Thus, the trade-unions were transformed from a labor protecting arm into an arm for execution of government policy, and achievement of production goals. As the drive for socialization progressed, this special protective quality of the unions was pushed to the background. Instead, the notion of the identity of interests of the workers and the Soviet State was put forward, and the primary function of Soviet labor unions is to serve the interests of the State. According to Soviet jurists, "the socialist industrialization of the country required that labor law...serve the successful struggle for productivity of labor and strengthening of labor discipline."

Such transformation of the trade-unions into a government arm, enforcing official economic policy, began soon after the onset of the first

Five Year Plan. Accordingly, the Sixteenth Congress of the Communist Party directed in 1930 that the trade-unions, striving in collective agreements for improvement of the standard of living of the workers, must take into account the financial status of the enterprise with which the agreement was made and the interests of the national economy. In making the agreement, the resolution insisted, each party must undertake definite obligations in carrying out the financial and production plan of the enterprise. The unions in particular were obligated to guarantee, on behalf of the workers, the productivity of labor contemplated by the plan. 43/

The central agency of all the Soviet trade-unions--their Central Council--was granted the status of a government department in 1933. It officially took the place of the People's Commissariat for Labor, which was then abolished, and the Council was also charged with administration of social insurance. But then the Central Council of Trade-Unions lost the character of a representative body of trade-unions even in terms of the Soviet "democracy." Under law this Council must be elected by the Congress of Trade-Unions which is designated as "the supreme authority of the trade-unions of the Soviet Union." Nevertheless, since the Ninth Congress in 1932 no such Congresses were convoked for 17 years, during which the whole Soviet social order and the position of labor were radically changed.

When the Tenth Congress convened in 1949, no explanation was asked or offered for the delay. The Congress adopted a new statute which reaffirmed the total control of the Communist Party over the trade-unions:

42/ "The Soviet trade-unions conduct their entire work under the direction of the Communist Party--the organizing and directing force of the Soviet Society. The trade-unions of the U.S.S.R. rally the working masses behind the Party of Lenin-Stalin." 44/

Among numerous tasks assigned by the new statute to the trade-unions the generalized political objectives are described in the first place at great length. For example, the trade-unions "strive to enhance in every way the socialist order in society and State, the moral- political unity of the Soviet people, the brotherly cooperation and friendship between the peoples of the Soviet Union; they actively participate in the election of the agencies of governmental power; they organize workers and clerical employees for the struggle for the steady development of the national economy."

In contrast, "the duty to protect the interests of the working people" which had been emphasized by the Party Congress in 1922 is not expressly stated. It may have been considered unnecessary because the statute assumes that "in the conditions of the Soviet socialist order the State protects the rights of the working people." But in any event the labor-protection tasks of the unions are couched in **cautious** language.

At the very end of the above quoted passage it is mentioned that the unions "look after (zabotlatsia) the further rise of the material well being and the full satisfaction of the cultural needs of the toilers." At another place the unions' monopoly to represent the workers is stated with a hardly accidental lack of specificity: "[unions should] act on behalf of workers and clerical employees before the governmental and social bodies in matters concerning labor, culture, and workers' everyday life."

7. Wages

The Labor Code of 1922, enacted when limited private enterprise was tolerated, provided for payment by time or by piece, leaving the determination of individual pay to the individual employment contract or to collective

agreements. The remuneration was not, however, to be less than the minimum wage fixed by competent authority (Secs. 58-60). These provisions may be considered totally out of date. In the first place, the principle of piecework since 1931, has been given official preference and, by 1934, 70 percent of the work done in large industrial plants was paid for by piece rate. Secondly, the practice of making collective agreements was abandoned for 14 years in 1933 when "the transition from regulation of wages by a contract to their regulation by the Government was completed." ^{45/} When collective agreements were resumed in 1947, only such rates of wages could be included as were previously established by the Government. The all-embracing governmental plan, Soviet writers declare, does not exclude collective agreements altogether, as some of them thought in 1946, but certainly excludes wages from bargaining. ^{46/} The definition of schedules and rates of wages and salaries is reserved to the higher agencies of the principal employer--the Government. As the official compilation of labor laws of 1947 puts it:

The amount of wages and salaries is at the present time fixed by the decisions of the Government (or on the basis of its directives).

The agreement of parties plays a subordinate role in the determination of the amount of wages or salaries. It should not be contrary to law and is allowed only within limits strictly provided for by the statute, for example, where the precise amount is fixed in instances in which the approved table of organization defines the rate as "from" -- "to"; or fixing the remuneration for part-time employment of a person holding another position, and the like. ^{47/}

The schedules established by the Government are subject to constant changes and are too complex to be analyzed in the present study. It should suffice to state three basic features common to all schedules: highly progressive piecework rates, bonuses, and, absence of a guaranteed minimum wage. Bonuses

are of two kinds; those based upon output and periodically paid as part of the wages; and individual bonuses given at the discretion of the administration. The overriding principle is that in order to receive the minimum rate the worker "must attain the standard of output prescribed for him." (Labor Code, Sec. 57 as amended in 1934).

Originally the Labor Code as enacted in 1922 (when some private enterprise existed) left determination of the standard of output to agreement between the administration of the plant or factory and the appropriate trade-union.

But since the Acts of June 4, 1938, and January 14, 1939, the revision of standards of output has been in the hands of the Ministers in charge of the individual industry branches who must, however, consult the Central Council of the Trade Unions, i.e., the labor department (supra, Part I.) but not the individual unions. As an example, the official textbook on labor law of 1944 refers to the Order of the Minister of the Aviation Industry of April 20, 1942, No. 117. By this order, new standards of output and new rates are to be approved by the directors of individual plants upon the recommendation of the heads of the shops, and immediately put into effect. ^{48/} In some instances, standards of output and rates are directly enacted by the Council of Ministers (prior to March 1946, of People's Commissars), e.g., the schedule for the cotton textile industry and for motor transportation. ^{49/} Thus, the trade-unions, though controlled by the Government and the Communist Party, have in certain instances no part in establishing the major conditions determining wages.

The Edict of the Presidium of June 26, 1940, lengthened the working day from 7 to 8 hours for plants and offices, except for especially dangerous jobs, for which the 6-hour day was retained. Moreover, the edict restored

the 6-day workweek with Sunday as the day of rest. 50/ Since 1931 there had been a 5-day work schedule with each sixth day a day of rest. This meant an addition of 33 hours per month for laborers and of 58 hours for office workers. Salaries paid on a time basis remained unchanged, and the piece-work rates were correspondingly lowered to keep wages at the same level. 51/

It should also be mentioned that on June 26, 1941, 52/ the management of individual enterprises could impose mandatory daily overtime up to 3 hours. Minors under 16 years of age were limited to 2 hours overtime a day. Pregnant women from the sixth month on, and those nursing babies during the first month of nursing, were exempted. This overtime may, however, be considered only as a wartime emergency.

8. Agreements without Bargaining

Collective bargaining, provided for in the Labor Code of 1922, was discontinued in 1933. As the official Soviet text on labor law explained in 1946: "The collective agreements as a special form of legal regulation of labor relations of manual and clerical employees have outlived themselves. Detailed regulation of all sides of these relations by mandatory acts of governmental power does not leave any room for any contractual agreement concerning one labor condition or another."53/

In plain English, this means that the Soviet leaders chose to abandon the last vestige of contract in relations between labor, even as represented by party-controlled trade-unions on the one hand and State management on the other, for the sake of outright government regimentation. Capitalist free collective bargaining was frankly declared unfit in the socialist surroundings of the Soviet Union.

However, in 1947 a campaign for making new collective agreements

was suddenly ordered after a lapse of 14 years.

Collective agreements were declared the most important measure "to achieve and exceed the production plan, to secure further growth of the productivity of labor, improvement of the organization of labor, and the increase of responsibility of management and trade organizations for the material condition of living of the employees and cultural services rendered to them." ^{54/} Nevertheless, the new policy is far from introducing free collective bargaining. Certain matters are definitely excluded from any negotiation and agreement and are reserved for government regulation.

The new rules positively require that "the rates of wages, of piecework, progressive piecework, and bonuses as approved by the government must be indicated" in the agreement. It is expressly forbidden to include any rates not approved by the government. In other words, wage rates are excluded from bargaining, but if included in the agreement are no more than applications of the governmental schedule to the establishment for which the collective agreement is drawn. This is true, to a large measure, of other points covered, particularly standards of output. The official act and the jurisprudential writings insist that the primary purpose of such agreements is to translate the abstract terms of the general plan for economic development into specific assignments and obligations within each particular establishment. They appear to be merely a form in which the orders of the government are made more precise.

A Soviet writer of authority comments:

It is understood that the present day collective agreements could not but be different by content from collective agreements which were made at the time when the rates of wages and some other conditions of labor were not established by the law and government decrees.

The purpose of the present day collective agreement is to make concrete the duties of the management, shop committees, workers, technical, engineering, and clerical personnel toward the fulfillment of the production plans and production over and above the plan as well as to raise the responsibility of business agencies and trade-unions for improvement of material living conditions of workers and cultural services rendered to them. ^{55/}

As before, the new regulations are based on the assumption that "the interests of the workers are the same as the interest of production in a socialist state" and that the collective agreements are designed to be the "juridical form of expression of this unity." ^{56/} Accordingly, a model agreement is drafted by each ministry upon consultation with the central offices of the appropriate trade-unions. Then the model agreement is sent as a fait accompli to the establishments concerned.

While such collective agreements are not the result of collective bargaining, it may be observed that when the Soviet Government faced the task of postwar rehabilitation of its economy, it preferred to give decreed labor conditions the appearance of an agreement.

9. Financial Responsibility of Employees

A particular feature of the Soviet labor law is the financial responsibility of the worker for any damages to the employer caused by the worker. There are three types of such responsibility: liability for the full amount of actual damage, liability limited to a certain portion of the employee's pay, and liability exceeding actual damage several-fold.

Liability for the full amount is charged when a criminal offense is established in court, when liability is stipulated in writing in the employment contract or is provided for by special laws, or when damage is caused outside the performance of the employee's regular course of employment. (Labor Code, Sec. 83¹).

Liability is limited to one-third of the scheduled rate if the damage is caused by negligence in work, by a violation of law not constituting a criminal offense, or by a violation of shop rules or the employer's special instructions and orders. This type of liability applies in cases of injury, destruction, or loss of equipment or livestock, in cases of failure to collect full payments, of loss or depreciation of documents entrusted, and also where the employer has been forced to make unnecessary payments, including penalties. The same responsibility arises in case of improper expenditure of money assigned for business needs (Labor Code, Sec. 83).

The liability of an employee is greater if he spoils, through negligence, raw material or semi-finished or finished products. He then is liable for up to two-thirds of his average earnings rather than of his scheduled rate. ^{57/}

The greatest liability rests on storekeepers of fuel stocks at machine-tractor stations and governmental farms for shortages of fuel--10 times the value of the shortage, provided their acts do not incur penal prosecution. ^{58/} In case of theft, wanton destruction, or intentional spoilage of raw materials, semi-finished or finished products, as well as of instruments, work clothes, and other property issued for the use of an employee, he is liable to pay up to fivefold the amount of damage. ^{59/} The same rate applies to theft, unaccountable shortage, or mishandling of industrial products in governmental stores, but based on the commercial or black market price.

10. Arbitration and Conciliation

With the elimination of collective bargaining in 1933, the arbitration procedure originally devised for settling labor disputes has also undergone a change. After collective bargaining was resumed in 1947, the Soviet

jurists drew a distinction between disputes involving establishment or change of labor conditions and those arising from the application of conditions and those arising from the application of conditions already established. For all practical purposes, they say, only the second group comes under the special arbitral procedure originally devised for both. Establishment of labor conditions and their change are at present within the province of the administration. ^{60/}

Cconciliation boards and arbitral boards, established to resolve disputes over labor conditions, under the Labor Code and Act of August 29, 1928 (which remain on the statute book), ^{61/} went out of existence after the People's Commissariat for Labor was replaced by the Central Council of Trade-Unions in 1933. ^{62/}

The piece-rate and dispute boards established at that time in each establishment are still in existence, but since January 2, 1933, "the principal part of their function regarding piece rating, viz., establishment of standards of output and piece rates, fell off," according to the official textbook on labor law of 1946. ^{63/} They are, in fact, boards for settling disputes between individual employees and management concerning the application of the existing labor regulations, that is to say, like grievances committees. In some instances the aggrieved party must bring his grievance before the board before going to court or elsewhere. Representatives of the management and of the workers' committee have equal votes, and if no accord is reached the aggrieved may go to court. The awards are final but may be revised ex officio by higher authorities; if they set the award aside the aggrieved party may then go to court.

In some other instances there is a choice between going to court or to the board. Consequently, the Soviet regulation of labor disputes

offers the employee, at best, redress against individual abuses committed by the management.

But there are also instances in which the party may not appeal to a court or board, but only to higher administrative authorities. This is true of the branches of employment in which the management, through the so-called Disciplinary Codes, enjoys especially broad disciplinary powers. An employee in these branches, if penalized by the administration, may not appeal to the court or conciliation board but only to higher superiors in the establishment.

11. Earnings of the Soviet Worker.

The standard of living of the Soviet industrial worker is among the lowest in Europe and is far below that of the industrial worker in the United States. Several studies conducted in this country on the basis of Soviet official data consistently arrived at this conclusion.

The comparison of the last average wages published by the Soviets, viz., that for 1940, with the prices then prevailing, is striking. According to the Large Soviet Encyclopedia (published in 1947) the average wages for Soviet workers and clerical employees (including highly paid managerial personnel) was in 1940 equal to 4,100 rubles per annum or 342 rubles a month, about one ruble per hour.⁶⁴ At that time, the price in the Moscow government stores (i.e., the cheapest stores) of a man's suit was 695-1000 rubles; of an overcoat, 1300 rubles; of a pair of shoes, 280-404 rubles; of a pound of butter, 10 rubles; of a quart of milk, two rubles; of one pound of beef, five rubles. Thus, the price of a suit represented the average wages for from two to five months; of an overcoat, $4\frac{1}{2}$ months; of a pair of shoes over one month of average wages; of a pound of butter, one day and two hours; of a quart of milk, two hours and of a pound of beef,

five hours. ^{65/}

More elaborate studies on the international comparison of wages and prices were made for various periods by the Bureau of Labor Statistics of the U.S. Department of Labor. All these studies consistently revealed that work time required to buy a given quantity of food was much longer in the Soviet Union than in any of the countries studied. This, in spite of the fact that all studies covered Italy, Austria, France and Germany, and some of them also covered Hungary, Czechoslovakia and Chile, countries which could not claim high earnings of workers at the time.

Since the end of World War II several reductions in prices were declared in the Soviet Union^{66/} and in spite of these reductions, the conclusion of the study related to April 1952 is as follows:

An industrial worker in the United States can buy more than five times as much food with an hour's pay than a Russian worker who shops in a Moscow State Store (i.e., the cheapest and best supplied store in the Soviet Union) ... Work time required to buy a given quantity of food was longer in the Soviet Union than in any of the 10 Western European countries (covered by the Study). The food-buying power of the Italian worker (even without family allowance) was 44 per cent higher than that of the average worker in the Moscow area, and that of the average Norwegian 300 per cent higher.^{67/}

The disparity is even greater with reference to individual commodities. A comparison for some was made in 1952 and for others in 1953. A worker in the Soviet Union must have worked nearly 27 times longer than an American worker to buy one pound of sugar in 1952 and 25 times as long in 1953; 22 times longer for an apple in 1952; 19 time longer to buy a pound of tea in 1952 and 21 times in 1953; 13 times to buy bacon in 1952; 9 times longer to buy a pound of butter in 1952 and 1953; 15 times longer to buy one pound of rice in 1952; over six times longer to buy a quart of milk in 1952 and 1953 or a dozen eggs in 1952 and seven times in 1953. ^{68/}

These calculations are concerned with food only, but the difference is even greater for non-foods than food.

There are no Soviet official studies with which the above figures could be confronted. Their absence in itself suggests that the results of Soviet studies would be unfavorable to the Soviets. The Soviet government has at its disposal a highly developed statistical machine and, being in control of all industrial establishments, has ample facilities to undertake such studies.

A rebuttal to some earlier American studies was attempted by the Soviets indirectly, but it does not shake essentially the conclusions of the American studies. The results of some earlier American studies were published in the New York Times on December 21, 1947 by Will Lissner. Dmitry S. Shysheyev, Soviet chief engineer at the Ordjonikidze machine tools plant in Moscow, who had visited the United States before, broadcasted over Moscow Radio, a criticism of the conclusions of the U.S. statisticians. He also wrote a letter to the editor of the New York Times, which was printed there on December 30, 1947. This was obviously done by the consent of the Soviet Government and the statements represent the Soviet attempt to attack the findings of the American experts. Mr. Shysheyev certainly did not face the issue squarely. Instead of basing his presentation on the wages of an average worker on which the American studies were based, he reported the average wage rate of a skilled worker, which according to him was about 480 rubles in 1947. Still, he argued that this is merely the average rate and the actual average earning of a skilled worker, due to the bonus which ranges as high as 900 to 1,000 rubles a month. As an example, he referred to his plant where in 1947 the bonuses totaled 1,000,000 rubles a year so that every worker received no less than 400 rubles in bonuses during the year. To this it may be said

that a bonus of 400 rubles a year would make 33 rubles a month. Thus, if the average monthly rate is 400 rubles, the total earning would make only 430 rubles, i.e., far below Shysheyev's unsupported allegations that the average earning is from 900 to 1,000 rubles. As mentioned above, the American scholars took 600 rubles as the average earning of a worker for the basis of their studies.

Shysheyev relates also that it is common in the Soviet Union for several members of a family to work, a fact which raises the earning of the whole family to a sum from 2,500 to 3,000 rubles a month. This, of course, does not invalidate the figures obtained by American scholars in calculating the earning power of one worker. Finally, Mr. Shysheyev referred to the fact that rents in the Soviet Union are cheap and that the state grants the workers free services, medical care, rest homes, care of children, education, etc. With reference to rents no comparison in figures can be made because low rents are paid for overcrowded and miserably equipped quarters in the Soviet Union. Free medical care available to the rank and file of Soviet workers is, according to the available information, no better if not worse than that afforded by the free clinics in America. That only a limited number of workers can use the sanatoria and rest homes is clear from the fact that 832 such institutions could accomodate, before the war, 161,000 persons from roughly 26 million Soviet workers. The post-war Five Year Plan calls for an increase in the capacity of accomodations to 185,000 persons. There is a tendency to make the workers pay for certain services. Thus, even a working mother must pay for the day nursery where she must leave small children.

In general, Mr. Shysheyev claims that various free services amount to the increase of money wages by 38 per cent. However, Kuznetzov, the spokesman of the Central Council of the Trade Unions reported at the Tenth Congress

of Trade Unions in April 1949, that the value of social insurance and health services amounted to one third of the national wages bill. Whether one or another figure is true it does not raise the real wages of a Soviet worker enough to affect the computation of American scholars. The Soviet worker still appears to be one of the worst paid workers in the civilized world of today.

12. Conscript Labor

In discussing the general situation of post-war free employment, Soviet Russian writers themselves plainly indicate that "voluntary" employment under Soviet conditions is not much different from conscript labor. A treatise by Dogadov on the development of Soviet labor law, which appeared in 1949, states:

In the socialist society there is no difference in principle and quality between drafted labor and labor performed by voluntarily entering into labor relations by the taking of employment. When we say that in the socialist society the principle of voluntary labor is recognized, we are not speaking of some kind of abstract principle of free labor and trade in a liberal and bourgeois sense, a principle which would be treated as a value per se.

Under the conditions of socialist society ... it is impossible to secure the principle "from each according to his ability" without pressure by the state and law regarding the universal duty to work. ^{69/}

It is clear that the "voluntary employment" still to be found in some branches of Soviet industry is far from our concept of free labor.

The Soviet jurists point out that in many instances under the Soviet law employment is also created by administrative act. ^{70/} An example of this is the draft of youths for industrial labor and the duty of those graduated from universities to work where assigned.

a. Labor Draft of Youth

The Edict of October 2, 1940, authorized the Council of People'

Commissars (since 1946, the Council of Ministers) to draft annually from 800,000 to 1,000,000 youths of from 14 to 17 years of age for training in trade schools and railroad schools to become skilled laborers, or for special on-the-job training (shkoly fabrichno-zavodskogo obucheniia) to become "mass workers," as the law termed it, in the mining, ore, metal, and building industries.^{71/} The training period is from six months to two years only, thus making it clear that these schools are not educational institutions but merely training projects.

The curriculum is designed not only for industrial training, but also for political indoctrination and militarization of labor. No particular number of hours is reserved for the study of general subjects, but two hours a week are assigned to political indoctrination.^{72/} The trainees wear a special uniform and live under a regime similar to that of a military school.^{73/} They must observe the rules of military courtesy. For example, the rules of March 15, 1947, prescribed the following standard of conduct:

Section 7. When the instructor approaches, the trainee must get up and he may not sit down until the instructor passes by or gives him permission to sit down. When the instructor addresses him, the trainee must stand at attention. If the trainee has to pass by the instructor, he must ask permission to do so, e.g., "Allow me to pass by."^{74/}

By the Edict of the Presidium of June 19, 1947, the draft age was changed, and it was made clear that youths of both sexes are subject to the draft.^{75/} For training in the vocational and railroad service schools, boys from 14 to 17 years of age and girls from 15 to 16 years of age may be drafted. For schools of industrial training, boys and girls from 16 to 18 years of age, and for underground work in coal and mining industries, as well as for smelters, foundries, welding, and drilling in metallurgy and oil industries, boys up to 19 years of age may be drafted.

After training, the labor draftees are obliged to work for four years in government factories, plants, mines, etc., as assigned by the Ministry of Labor Reserves. ^{76/} If, while in training, the draftee is engaged in production, he may be paid 35-50 per cent of the rate of wages of a regular worker; if in the coal, mining or timber industries, up to 80 per cent. In case he is paid one half the rate, the cost of his clothing and footwear is deducted. ^{77/} Upon appointment after graduation, the draftees are paid regular wages, equal to those of other workers. Until the expiration of their term of service, labor draftees are deferred from military service. ^{78/}

Leaving school without authorization, and other violations of school discipline subject the young people to penalties of up to one year in a reformatory. ^{79/} The number of young men to be drafted from the cities is determined by quotas established by the Council of Ministers for each year. From the collective farms (the rural population), two young people for each 100 persons between the ages of 14 and 55 are drafted. ^{80/} Drafts of 600,000 were ordered in November, 1940, and in June, 1941. ^{81/} During World War II, two million young workers underwent training under this program; in 1946 a total of 400,000 graduated from these schools, and for 1947 the plan provided for 800,000 graduates. ^{82/}

Aside from this draft, orphans of from 12 to 15 years may be assigned to special schools of industrial training for three or four years. They are subject to all duties of the draftees and their number is included in the above figures. Available regulations do not indicate that consent of the orphans or of their guardians is required.

Moreover, graduates from higher educational institutions (universities) and vocational schools on the level of technical high schools (tekhnikum)

must work for three or five years ^{83/} at jobs assigned by the ministry in charge of the particular school. Failure to take the appointment is treated as an offense punishable in court as absenteeism or unauthorized quitting of the job. ^{84/}

V. Conclusion

The survey of recent trends in Soviet legislation thus far made suggests the conclusion that the disappearance of private enterprise from the Soviet economy has not been followed by the increase of rights of labor in labor law. If compared with the time when private enterprise was tolerated, the legal status of labor has worsened. Another striking feature of the Soviet regulations on labor are the numerous penal provisions.

Worker and manager are under equally heavy penalties, both criminal and civil. Millions of future Soviet citizens, while still only 12 to 14 years old, are assigned for training at jobs selected for them by the authorities, without necessary regard for personal preferences or those of their parents or guardians. Professionals, for a considerable time after graduation, are denied the right to go into a job of their own choosing. This is the general picture of "free" labor in the Soviet Union.

NOTES

1. Members of the so-called productive cooperatives are in fact paid for their work and not according to their shares. See Gsovski, op.cit. Vol. I, p. 411 et seq.
2. Aleksandrov and Genkin, Soviet Labor Law (in Russian, 1946).
3. USSR Laws, 1947, text 272. Translated in Gsovski, op. cit., Vol. II, p. 324; discussed Vol. I, pp. 387, 810-811.
4. Handbook on Wages in Electrical Plants (in Russian, 1946), pp. 8-12, 25.
5. Deutscher, Soviet Trade-Unions (London, 1950)p. 109 et seq. where a good analysis of Stakhonovism is to be found from which most of the material given in this Section is derived.
6. Land of Socialism (Moscow, 1939), p. 405, quoted from Deutscher op. cit., p. 116.
7. Deutscher, ibid.
8. Statute of June 4, 1947 concerning the crimes against government and public property, Vedomosti 1947, No. 19.
9. Law of August 7, 1932. For its translation and discussion see Gsovski op. cit. supra note 27, Vol. I pp. 562, 728.
10. Soviet Labor Code Secs. 83-84⁴ (as amended), Act of June 20, 1942, Sec. 12; Instruction of the People's Commissar for Labor of June 1, 1932, Secs. 1-3. For further citations, see Gsovski op. cit. Vol. Ipp. 823-825.
11. Act of Dec. 28, 1938; Edict of July 10, 1940, id. p. 821.
12. Code of Industrial Labor, Sec. 62, subsec. (1) (1913 ed.) Svod Zakonov, Vol. XI, Part 2.
13. Soviet Labor Code, Sec. 47, subsec. (f) as enacted in 1922.
14. Idem, as amended on August 22, 1927, RSFSR Laws, 1927, text 577. For other reasons of premature dismissal, see Gsovski, Soviet Civil Law, Vol. I, p. 801.
15. Act of November 20, 1932, RSFSR Laws, 1932, text 371.
16. Act of December 28, 1938, USSR Laws, 1939, text 1.
17. Interpretation of January 9, 1939, Izvestia, January 9, 1939.
18. Edict of Presidium of the Supreme Soviet, Vedomosti, Nos. 20 and 28, 1940.

19. USSR Laws, 1941, text 63.
20. Aleksandrov, joint author, Soviet Labor Law (in Russian, 1946). p. 279.
21. The author refers to Dubovsky "Concept of Absenteeism" in Soviet Justice (in Russian), No. 1, 1940.
22. The author refers to Moskalenko, "The New Rules of Internal Order" idem. No. 11.
23. USSR Supreme Court, Criminal Trial Division, Decision of January 25, 1943, quoted from Judicial Practice of the USSR Supreme Court (in Russian), 1943, No. 4, p. 14.
24. Lex cit. supra, note 18.
25. Edict of December 26, 1941, Sec. 2, Vedomosti, 1942, No. 2.
26. USSR Supreme Court, Ruling of July 7, 1941, Collection of Rulings of the USSR Supreme Court from June 23, 1941, to March 1, 1942, p. 9. Aleksandrov, op. cit. supra, note 50, p. 283.
27. Idem. Ruling of December 15, 1941, op.cit., p. 21.
28. Idem. Ruling of October 22, 1942 in Judicial Practice of the USSR Supreme Court (in Russian), 1942, No. 2, p. 4; Aleksandrov, loc.cit.
29. Edict of Presidium of the USSR Supreme Soviet of October 19, 1940, Vedomosti, 1940, No. 42. For citations of decrees specifying jobs coming under the edict, see Gsovski, Soviet Civil Law, Vol. I, p. 830, note 132. Also Z. Vyshinskaia, Crimes in the Field of Labor Relations (in Russian, 1949).
30. Edict of Presidium of the USSR Supreme Soviet of August 10, 1940, Vedomosti, 1940, No. 28.
31. Collection of Legislation for Workers of Railroads (in Russian, 1944), pp. 186-188.
32. Aleksandrov and Moskalenko, Soviet Labor Law (in Russian, 1944), p. 129; Aleksandrov and Genkin, id. (1946), p. 272; Legislation Concerning Labor (in Russian, 1947), pp. 54-55.
33. Aleksandrov, editor, Soviet Labor Law (in Russian, 1949), p. 280; id. 1950, p. 279; id. 1952, p. 265.
34. Reference book of a labor union worker (in Russian, 1948), pp. 55, 61; id. 1953, pp. 104, 109.

35. All-Union Communist Party on Trade Unions, Collection of Resolutions (in Russian, 1930), p. 55. See also Deutscher, Soviet Trade Unions, London, 1950.
36. Ibid. p. 35.
37. Ibid. p. 36.
38. Ibid. p. 87.
39. Agarkov and others, Civil Law (in Russian, 1944), Vol. I, p. 190; Civil Law Textbook (in Russian, 1938), Vol. I, pp. 108-109.
40. Denisov, Soviet Administrative Law (in Russian, 1940), p. 60.
41. Op. cit., supra note 20, p. 90.
42. Ibid., p. 98.
43. Genkin, editor, Soviet Civil Law, Vol. I (in Russian, 1950), pp. 187-188.
44. Trud (in Russian), May 11, 1949. See Bureau of Labor Statistics, Notes on Labor Abroad No. 11, May 1949, pp. 39-40.
45. Aleksandrov, op. cit., supra note 20, p. 51.
46. Moskalenko, "Legal Problems Involved in Collective Agreements" in Trade Unions (in Russian), 1947, No. 8, p. 16; also Aleksandrov, op. cit., p. 203, 211, etc.
47. Aleksandrov and other compilers, Goliakov, editor, Legislation Concerning Labor (in Russian, 1947), p. 65, also Gsovski, op. cit., Vol. I, p. 808.
48. Aleksandrov and Moskanlenko, Soviet Labor Law (in Russian, 1944), p. 94.
49. Act of August 15, 1938, USSR Laws, 1938, text 214, also idem, 1939, text 119.
50. Vedomosti, 1940, Nos. 20, 28.
51. Decrees of the Council of People's Commissars, USSR Laws, 1940, texts 385 386, 387.
52. Vedomosti, 1941, No. 30.
53. Op. cit. supra note 20, p. 106. *Italics in the original.*
54. Resolution of the Presidium of the Central Council of the Trade Union approved by the Council of Ministers, Preamble, Trud (in Russian) Apr. 18 1947. See Bureau of Labor Statistics, Notes on Labor Abroad No. 2,

June 1947, p. 28, and No. 13, December 1949, p. 36.

55. Aleksandrov and other compilers, Goliakov, editor, Legislation Concerning Labor (in Russian, 1947), p. 15.
56. Moskalenko, "Legal Problems Involved in Collective Agreements" in Trade Unions (in Russian, 1947), No. 8, p. 16 et seq.; Trud (in Russian) Apr. 18, 1947, Editorial.
57. Instruction of the People's Commissar for Labor of June 1, 1932, Sec. 3, Aleksandrov, Legislation Concerning Labor (in Russian, 1947), p. 135.
58. Act of June 20, 1942, Sec. 12; Order of Attorney General of June 23, 1942, Aleksandrov, op. cit. supra note 87, p. 136.
59. Id., p. 135; Instruction cit. supra, note 57, Secs. 1, 2.
60. Aleksandrov, op. cit. supra, note 20, p. 311, etc., and note 55, p. 242.
61. USSR Laws, 1928, text 495.
62. Aleksandrov, op. cit. supra, note 20, p. 313 and note 55, p. 243.
63. Id., p. 314.
64. Bolshaia Sovetskaia Entsiklopedia: Vol
65. Monthly Labor Review, Washington, D. C., Vol. 69, No. 5, Nov. 1949, p. 487; Vol. 72, No. 2, Feb. 1951, p. 143; Vol. 74, No. 6, June 1952, p. 658.
66. Decrees of Apr. 10, 1948 (Trud, Apr. 10, 1948); Feb. 28, 1949 (Izvestia, March 1, 1949); Feb. 28, 1950 (Pravda, March 1, 1951); Feb. 28, 1951. (Trud, Mar. 1, 1951); and Apr. 1, 1952 (Trud, Apr. 1, 1950).
67. Monthly Labor Review, June 1952, p. 658.
68. Ibid. table 3, p. 660.
69. Dogadov, "History of the Development of the Soviet Labor Law," in Uchenye Zapiski of Leningrad University, Series of Legal Sciences (in Russian, 1949), No. 2, pp. 163, 166.
70. Edict of the Presidium of the USSR Supreme Soviet of October 2, 1940, Vedomosti, Oct. 9, 1940, No. 37. This and other acts bearing on labor reserves are to be found in Labor Reserves of the USSR (Trudovye Reservy SSR Zbornik Ofitsial'nykh Materialov). A collection of official materials, Rozofarov, compiler, 1950.

71. Edict cit. supra note 2, Sec. 4.
72. Order of the Minister of Labor Reserves of Oct. 20, 1940, No. 254, Sec. 3, Labor Reserves (Trudovye Reserivy), 1950, p. 142.
73. Order approved by the Council of Ministers of Oct. 4, 1940, Secs. 10-11.
74. Rules of internal organization and conduct of students approved by the Minister of Labor Reserves on March 15, 1947, Secs. 7-10, op. cit. supra note 4, p. 71.
75. Vedomosti, 1947, No. 21.
76. Edict of Oct. 2, 1940, Sec. 10.
77. Order of the Chief Administration of Labor Reserves of Feb. 12, 1941, as amended on May 14, 1942, No. 1703/TS.B. Digested in Legislation on Labor (in Russian, 1947), p. 189.
78. Edict of October 2, 1940, Sec. 10, also op. cit. p. 11.
79. Edict of the Presidium of the USSR Supreme Soviet, Secs. 1-4, of Dec. 28, 1940, Vedomosti, 1941, No. 1.
80. Edict of October 2, 1940, Secs. 8 and 9.
81. Acts of the Council of Ministers (at that time called Council of People's Commissars) of the USSR of Oct. 2, 4, and 9, 1940, USSR Laws 1940, texts 602, 603, 604 and 673; Izvestiia, June 5, 1941.
82. Large Soviet Encyclopedia (Bol'shaia Sovetskaiia Entsiklopediia), special volume SSSR, 1947, p. 1130.
83. Aleksandrov and other compilers, Goliakov, editor. Legislation concerning Labor (Zakonodatelstvo o Trude, in Russian, 1947), p. 12. The Institutions of Higher Education (Vysshaia Shkola, in Russian, 1945), p. 170; Act of Sept. 15, 1933, USSR Laws, text 356.
84. Orders of the USSR People's Commissar for Justice of Sept. 25 and Dec. 4, 1940, Nos. 125/171 and 173/202, Aleksandrov, op. cit. p. 12.

PART VII

WORKER AND FACTORY

Bulgaria
by Dr. Iwan Sipkov

- I. Economic-political Reorganization of the Country
- II. Principal Aims and Features of the Present Labor Legislation and Policy
- III. Legal Sources
- IV. Present Legal Order Relating to Labor

I. Economic-political Reorganization of the Country

In the course of the years following the coup d'état of September 9, 1944, the new government completely reorganized the economic and political structure of the country, after the Soviet pattern, aiming at developing branches of heavy industry.

On the basis of the new Constitution of 1947 and by special laws, all underground natural resources, forests, water (including sources of mineral water), sources of natural power, railroads, air transport, post offices, telegraph and telephone communications, radio broadcasting facilities, cargo vessels, urban properties and all industrial and mining enterprises were nationalized. All heavy industrial equipment was declared government property. Banks, insurance companies and capital were nationalized; foreign and domestic trade were declared a monopoly of the government; farming underwent collectivization; in addition, many other monopolies (for instance, tobacco, spirits, petroleum, rose oil) were introduced. Properties thus acquired by the government were placed either under the management of various ministries and government agencies or organized as industrial governmental quasi-corporations under

the Law of 1948. Private commercial corporations and individual firms regulated by the Commercial Code were liquidated.

As a result, private enterprise was abolished in all branches of the economy, with the exception of work shops on a very small scale; and its place was taken by the government enterprise, agency or organization. In other words, the government became the only employer of importance in the country.

II. Principal Aims of Present Labor Legislation and Policy

Being the only employer, the government put all its efforts into developing heavy industry. However, the lack of sufficient raw materials, the absence of modern equipment, as well as of qualified workers, are the main reasons why such plans were frustrated.

The government sought by all means to strengthen labor discipline and to increase the productivity of labor, with the purpose of "fulfilling and overfulfilling" its economic Five Year plans. This, in the mind of the government, could be achieved only by control over manpower; i.e., by monopolizing the recruiting and allocation of labor, and by employing cheap labor forces under any working conditions.

In pursuance of this aim, the trade unions were transformed from representatives of the workers' interests into agencies controlled by the government and the Communist Party. No place was left for the individual labor contract. Collective labor agreements became regulated by government agencies, fixing the relations between the management of a government enterprise, office or organization, and the trade unions, which are also the instruments of the government and party policy. The absence of free enterprise, free labor contract and free labor unions reduced the collective lab

agreement to a mere formality: the economic plans of the government took the place of an agreement between workers and enterprises.

The settlement of labor disputes was the responsibility of trade unions or was included in the jurisdiction of administrative agencies.

The right of individuals to free choice of employment and working conditions was fully disregarded and violated. A worker might always be arbitrarily assigned to a job or frozen on it, or transferred to another, thus forcing him to work under any conditions offered to him.

Further features of present legislation are that no distinction is made between manual workers and clerical employees. Employees are, in reality, forced to join trade unions which are tools in the hands of the government and Party. Strikes and lock-outs are legally forbidden, as outlawed in 1945. The Dimitrov Constitution of 1947 and the Labor Code of 1951, however, do not contain any provisions concerning this. Management of enterprise has more powers than ever before at the expense of the workers.

III. Legal Sources

Legal sources regarding labor and labor relations are to be found in the Constitution of 1947 (DV No. 284), the Labor Code of 1951 (Izvestiia No. 91), and a number of acts issued after the adoption of the Labor Code.

The Dimitrov Constitution which followed the pattern of Stalin's Constitution of 1936, contains some provisions concerning labor. Chapter Two: "Social-economic organization," declared that all means of production may be nationalized; i.e., become government property, and that labor is to be considered as "a fundamental social-economic factor." Chapter VIII of the Constitution, "Basic Rights and Duties of the Citizens," also contains some provisions relative to labor. Section 72 declares that women enjoy a position

equal to men regarding labor and labor relations; Section 73 stipulates that every citizen has the right as well as the duty to work; Section 74 proclaims that every citizen has the right to pension and material compensation.

In light of the background described above, a Labor Code was adopted, November 13, 1951, which was "entirely based on the rich experience of the Soviet Union."

In addition to this, later on a number of acts were passed, such as: (a) Law to Establish Manpower Stability in Factories and Offices, February 17, 1953 (repealed Nov. 10, 1953, IPNS No. 90); (b) Edict Concerning Conclusion of Collective Labor Agreements, January 27, 1953; (c) Edict Concerning Transfer of Qualified Workers and Employees, April 17, 1953; (d) Resolution Concerning Creation of Central Agency for Labor Reserves, March 3, 1952.

Concerning the organization and management of government enterprises and factories, the following enactment deserves mention: Edict Concerning Government Enterprises of October 12, 1951 (IPNS No. 82) as amended, March 19, 1954 (IPNS No. 23).

IV. Present Legal Order Relating to Labor

A. Administration of Labor; Trade Unions

At the time of the seizure of power by the Fatherland Front Government, there existed a Ministry of Commerce, Industry, and Labor (with a Directorate of Labor and an Institute of Social Insurance). The new government created a new Ministry of Social Policy which took over the functions of the Ministry of Commerce, Industry, and Labor relating to the application of labor laws. The Dimitrov Constitution provided for a separate and special Ministry of Labor and Social Welfare. Later on, at the beginning of 1951,

when the entire economic, social and political structure of the country was reorganized and the Central Council of the Labor Unions fell completely into the hands of the Government and the Bulgarian Communist Party, the Ministry of Labor and Social Welfare was abolished. All services and offices of the abolished Ministry were divided between the Central Council of the Trade Unions and the Ministry of Public Health. Thus, the Directorate of Social Welfare, and a large part of the central offices of the abolished ministry were transferred to the Ministry of Public Health, while the Directorate of Labor and the Government Institute of Social Insurance were completely absorbed by the Central Council of the Trade Unions (hereafter CCTU).

Trade unions received the status of government agencies in charge of labor and insurance matters. However, the CCTU and the central committees of professional organizations are now entirely in the hands of the Communist Party and also enjoy a monopoly in the representation of labor (Labor Code Secs. 2 and 3).

The status of trade unions today is best characterized in the legal writings and declarations of leading Bulgarian jurists and politicians :

Of great importance for the successful work of the trade unions is the problem of the decisive improvement of the leadership [of the trade unions] by the Party members. It is necessary to understand that the source of every success in the economic, social, and cultural-educational work of the trade unions is the right party-political leadership of the trade unions (Speech on acceptance of the Labor Code by Georgi Chankov, Vice-President of the Council of Ministers and Members of the Politburo of the Bulgarian Communist Party, Trud, organ of the CCTU, November 10, 1951).

The primary task of all our trade unions is the successful organization of socialist competition and the transformation of the latter into a constant method for building socialism....

And the cultural-educational work of the trade unions is to improve the Marxist-Leninist education of

manual workers and clerical employees in the spirit of the new relationship to labor and government, for everlasting and indestructible friendship with the Soviet Union, for fidelity and devotion to the great Stalin, our teacher and leader.... (Todor Prakhov, President of the Central Council of the Trade Unions, in his report to the Congress of all trade unions in Bulgaria, held on December 16-19, 1951, Trud, December 17, 1951).

In the mechanism...of the people's republic... trade unions play the important role of a transmission belt between the guiding force--the Party--and the working class; with the help of this transmission belt, the daily work of the dictatorship of the proletariat is accomplished (Professor Radoilski, in his study "Basic Principles of the Labor Code," published in Izvestiia of the Economic and Legal Institutes of the Bulgarian Academy of Sciences).

Finally, the By-Laws of the Trade Unions themselves, adopted in December, 1951, stipulate in their preamble that

The trade unions in Bulgaria carry out their work under the leadership of the Bulgarian Communist Party.

Thus, as in the Soviet Union, the trade unions in Bulgaria "were not considered a force independent from the Communist Party or the Soviet Government" (Gsovski, Elements of Soviet Labor Law, Washington, 1951, p. 3).

B. Collective Labor Agreements

Working conditions, such as hours, place of work, compensation, wages and salaries are always determined by collective agreement. The latter as defined by the Labor Code, is "an agreement between the trade unions as representatives of manual workers and clerical employees on the one hand, and the enterprise on the other, in which are described the mutual obligations of the parties as regards fulfillment and the over-fulfillment of the production plan" (Section 9). Such a collective labor agreement is "obligatory for the enterprise and all employees of the same" (Section 10). But the contents of the collective agreement and working conditions are determined in advance by the government agencies alone; i.e., the government

enterprise and the Central Council of the Trade Unions, and the aim of the contract is only the "fulfillment and over-fulfillment" of the government's economic plans. This is clearly expressed also in Section 20 of the Labor Code which reads:

Any clause of an individual employment contract which is in contradiction to the laws, provisions of a law, or to collective labor agreement, shall be null and void (Underlining supplied).

The collective agreement must become a fundamental economic-political document..., an instrument for the mobilization of the working class and for the fulfillment and over-fulfillment of the economic Five-year plan.... (Todor Prakhov, President of the Central Council of the Trade Unions, in December 1951 before the Congress of Trade Unions shortly after the adoption of the Labor Code, Trud, December 17, 1951).

Further, these agreements

must contain, above all, concrete obligations of the administration and the trade unions for the development of mass socialist competition among the workers for the fulfillment and over-fulfillment of the government economic plan.... (Prakhov before the Enlarged Plenum of the Central Council of the Trade Unions, February 5, 1952, Trud, February 9, 1952).

C. Arbitrary Assignment to Work; Forced Stay on Job; Students; Absenteeism

(1) Arbitrary Assignment to a Job

The government may arbitrarily assign a worker to a job or transfer him from one enterprise to another, or from one working place to another. Thus, according to the Labor Code of November 13, 1951, a worker may always be "transferred to another type of work in the same or another establishment, or to work in another locality [place, village, city, or working project] without his consent, and only upon order of the respective ministry" (Section 26, Para. 1). Moreover, "the enterprise, office, or organization may send any employee to work in a place other than that determined in the employment

contract...." (Section 26, Para. 2).

Any refusal "to follow the order for his transfer to another enterprise, office or organization, or another locality" entails the dismissal of the worker (Section 33 "e" of the Labor Code). Subsequently, he is punished and sent to a correctional labor camp on the basis of special laws (infra).

(2) Forced Stay on the Job

A worker may also be frozen on the job regardless of working conditions or his desires. Workers often try to leave their jobs because of the inadequate and unsatisfactory working conditions. The official daily admitted that the

reasons for leaving their work or working places on the part of the workers are hidden in the bad organization of the work, in the violation of the labor laws, and in the untimely and unfair remuneration of labor...(Trud, published by the Central Council of the Trade Unions, October 20, 1951).

The paper reported that in the building of railroads, women worked "under most strenuous conditions--on cold, icy roads and during snow storms" (id., Dec. 21, 1952).

A law was enacted on February 17, 1953 to combat labor turnover. It forbade "any voluntary unauthorized resignation from jobs by workers or employees" under threat of punishment; i.e., confinement or imprisonment in a correctional labor camp. Quitting the job was possible "only by permission of the management of the enterprise or office." The "legal" grounds for leaving one's place of employment, as enumerated in this law, were the following: (a) sickness, rendering fulfillment of work impossible; (b) enrollment in a special higher vocational school; (c) old age; and (d) service in the armed forces. This proved evidently too harsh and was repealed on

November 10, 1953 (IPNS, No. 90).

Another enactment of this kind is the Edict of the Presidium of April 17, 1953 (IPNS, No. 31). This edict authorized the government and its agencies at their own discretion to transfer manpower (skilled manual workers and clerical employees) "from one enterprise or office to another, regardless of their territorial location." Any refusal to take up assigned work was punishable according to the Law to Establish Manpower Stability of February 1953 (supra).

(3) Youth in Training Accorded the Same Treatment

Students of the so-called Schools for Labor Reserves also receive the same treatment, and similar penalties are provided in case they leave the school without authorization (Law of February 17, 1953). These schools are managed by the Central Agency of Labor Reserves (created in 1952) which has authority to recruit, train and allocate young manpower for industries, construction projects and transportation facilities. The schools train young people of both sexes from 14 to 18 years of age. The Council of Ministers has direct control and supervision over this program, a fact which proves its importance. Moreover, graduates of such schools are under obligation to accept the work and the working place assigned them, which is determined by the Council of Ministers. Should a student thus directed to work refuse to take up the job assigned to him, criminal proceedings are instituted and punishment is imposed under Section 268 of the Criminal Code (IPNS No. 13, February 13, 1951).

(4) Absenteeism

A worker is dismissed if "he is absent from work, without valid reasons, for more than half a working day, or late for more than half an

hour more than twice a month" (Section 33, "f" of the Labor Code). This, combined with the elimination of any unemployment insurance and the possibility of being sent to a labor correction camp, keeps the worker under constant pressure.

D. Labor Record Books

The so-called labor record books play an important role in the present system of forced labor within the framework of the Labor Code and other labor enactments.

"Following the example of the Soviet Union," a special personal labor record book was introduced on March 8, 1949 which all employees were compelled to have (DV No. 58, March 14, 1949; Labor Code of 1951, Sec. 17). The Labor Code required that no employee could be hired without presentation of his labor booklet to the administration office of the enterprise. The enterprise kept the booklet and returned it only when the employee left (Regulations of March 31, 1953, IPNS No. 26 and Instructions of April 19, 1953, IPNS No. 49). Upon employment the employee had to surrender his booklet to the management of the enterprise; without the book he could not change his job or place of employment.

Moreover, every citizen was obliged, when obtaining or quitting a job in an enterprise, office or other organization, to submit his personal passport [personal identification card] within 24 hours, for the purpose of fixing information concerning dates of commencement and termination of the bearer's employment (Directive of the Ministry of Interior of March 24, 1953, IPNS No. 24). Thus, police authorities and other official persons could, at any time, track down anyone who tried to escape employment assigned to him. Now, no worker may obtain employment unless he is able to submit, among other things, his labor record book and his personal passport (IPNS No. 47, June 19, 1953).

E. Wages and Salaries, Stoppage, Defective Output

Section 73, para. 2 of the Dimitrov Constitution stipulates that labor is to be paid in accordance with the quantity and quality of the work done by the worker and employee. Under the Labor Code (Sec. 68), remuneration for labor in individual productive enterprises and offices is determined by the Council of Ministers, according to work hours, the qualification of the worker, the character of the work, potential danger to the worker's health and the importance of the work for the people's economy. It is also dependent to a great extent upon the achievement by the worker of an established standard of output.

In order to force the workers to an absolute fulfillment of the standard of output, the new labor legislation does not guarantee minimum wages which would have to be paid even in the event of non-fulfilling the norm and which normally would be identical with the time-wage rate. Thus, for instance, according to Ministerial Resolution No. 538 of August 24, 1953 (IPNS No. 73) concerning organization and remuneration of workers in the forest economy.

remuneration shall be paid at the end of every month under the condition that the labor brigade or circle shall have fulfilled its production plan.

The Ministerial Regulations of July 17, 1953 (IPNS No. 57) provide that the standard of output determining the rate of wages and salaries should be worked out by the "Labor and Wages" Department of the enterprises, together with specialists and representatives of the trade unions. These standards of output remain in force for at least one year after they are approved by the management of the enterprise and "explained at length to the workers." But the standard of output may be amended by the Council of

Ministers at its discretion.

Overtime labor is to be paid as follows: the first two hours with 25 per cent more and every following hour or part of an hour with 50 per cent more than the regular wage.

Workers who work on January 1, May 1 and 2, September 9 and 10, November 7, and December 5 [these are the legal holidays in Bulgaria today] are to be paid 100 per cent more than their regular wages (Regulations Concerning Overtime Labor of May 11, 1952, IPNS No. 40). Workers who participate in congresses, conferences and plenary sessions arranged by political and public organizations are also to be paid for the time spent out of work (Ibid.).

Although wages and other compensation are individualized, the Soviet system of a "wage fund" is followed; namely, a definite amount to be spent for wages is determined by the government economic plan. All payment to labor in an enterprise should not exceed this amount.

Payment of labor in case of stoppage or defective output is governed by special Regulations of April 21, 1953 (IPNS No. 32). The Instructions of the Central Council of the Labor Unions and the Ministry of Finance, of May 15, 1953 (IPNS No. 39), covered the same subject but this time with respect to clerical employees in enterprises and offices. The main points of both enactments are as follows:

For the duration of a work stoppage which was the worker's fault no wages are to be paid. For the duration of a stoppage which was not the worker's fault labor remuneration is to be paid at the rate of 70 per cent of the normal wage. The worker is under obligation to notify the management immediately after he learns of the causes which could stop work, otherwise

he will not be paid at all. During stoppages, the worker must be shifted to another job; refusal to take up an assigned job precludes compensation and is considered an "infraction of labor discipline" and thus punishable pursuant to Section 130 of the Code of Labor. For completely defective production caused by the worker, alone, no wages are paid. For partially defective production; viz., when production does not meet quality requirements, wages are paid at varying rates not to exceed 70 per cent of the normal pay. For defective output caused by other factors, wages not less than 80 per cent of the normal pay are paid.

"Worker's fault" means failure to comply with instructions given to the worker, negligent performance, or any other infraction of rules of technical operation.

F. Labor Discipline

The Labor Code is mostly concerned with introducing measures for "strengthening labor discipline." After the adoption of this Code, it was officially stated that

in the new Code special emphasis is given to measures relative to the enforcement of labor discipline in enterprises.

The existing laws [up to the adoption of the Labor Code] did not secure...the strengthening of labor discipline in enterprises and offices and the decrease of labor turnover... (Trud).

The Council of Ministers is authorized to issue Standard Rules for Internal Labor Organization for all enterprises, offices and establishments, which rules are mandatory for all of them (Section 124). Indeed, by the Ministerial Resolution of May 3, 1952 (IPNS No. 40) such standard rules were introduced.

Failure to fulfill his duty is considered an infraction of labor discipline and is punishable according to the provisions of the Labor Code, and by penalties imposed by other laws (Section 128).

Violations of labor discipline are: (a) tardiness; (b) leaving work before the scheduled time; (c) loitering on the job; (d) failure to appear for work--absenteeism; (e) refusal to fulfill assigned work without good cause; (f) violation of the provisions of the Standard Rules of Internal Labor Organization (Section 129 of the Labor Code).

Disciplinary penalties are: (a) remark; (b) reprimand; (c) severe remark; (d) transfer to a lower paid job for a period of three months in the same enterprise, office, or organization; (e) transfer to a lower paid job in another enterprise, etc.; and (f) dismissal (Section 130 of the Labor Code). These penalties are imposed by the manager of the enterprise and may be published in the press or announced among the workers.

The Standard Rules of May 11, 1952 (IPNS No. 40) describe in detail all measures regarding labor discipline. They add the following violations to the list included in the Labor Code: (a) failure to accomplish a duty ~~or~~ negligent performance of it; (b) abuse of confidence or dissemination of secret data; (c) commission of a crime connected with the job; (d) coming to work in a state of intoxication. Workers and employees are also financially responsible for property damage to the enterprise, office or organization.

Before the imposition of penalties, the manager of an enterprise must hear the worker's explanations. Appeal against penalties may be made to the head of the enterprise who is to answer to the appeal within 15 days. In case of dismissal the worker may appeal to the conciliation board.

Disciplinary penalties are not to be entered in the labor booklets.

G. Labor Disputes. Conciliation Boards

All labor disputes between workers and enterprises (or organizations) concerning the existence, fulfillment and termination of employment contracts, disputes regarding collective labor agreements, as well as all disputes in connection with the application of Part II of the Labor Code (Wages, Salaries, Labor Discipline, Leaves, Protection of Labor, etc.) are to be decided:

(a) by the conciliation boards; (b) by the courts; and (c) in accordance with the supervisory power of the administrative organ (Section 133 of the Labor Code).

1. Conciliation boards are created by and attached to every trade union of an enterprise, office, or organization. They consist of representatives of the management and of the trade union in an equal number. These boards, at the first instance of labor disputes, act as arbitrators, as enumerated in Section 136 of the Labor Code. A dispute has to be presented before the board within 3 months. The decision of the conciliation board may be appealed to the district committee of the corresponding trade union within 2 weeks (Section 138 of the Labor Code). The decisions are executed by the management of the enterprise, office, or organization (Section 139 of the Labor Code).

Further, Section 140 of the Labor Code and the Rules concerning the settlement of labor disputes by the courts, issued by the Ministry of Justice, June 3, 1952 (IPNS No. 47) specifies which cases are under their jurisdiction. The people's courts arbitrate: (c) cases which are not under the mandatory jurisdiction of the conciliation boards; (b) cases which were not decided because of differences in opinion between the board members; (c) disputes whose decisions by the conciliation boards were not upheld by

the district committee of the trade union; (d) cases concerning restoration of damages which were the full responsibility [of the workers or the management of the enterprise]; (e) disputes concerning labor relations with private or juridical persons.

2. Disputes concerning the interpretation and application of collective labor agreements are decided by the district courts with juries. All these cases before the courts are decided pursuant to the rules of the Code of Civil Procedure and the above-cited Regulations of June 3, 1952. The Government Attorney should be notified of every labor dispute. All action should be taken within 3 years. The proceedings before the courts are free of charge; there is no appeal from decisions of the court.

3. Finally, there are cases which can be decided neither by the conciliation boards nor by the courts, as described in Section 143 of the Labor Code and the special Regulations of July 1, 1952 (IPNS No. 55); for instance: (a) dismissal of elected "workers and employees" who occupy paid positions in the organization which elected them; (b) dismissal of managers of enterprises, offices, or organizations, and their disputes (all persons who are trustees of the Party and government are exempted from the jurisdiction of the conciliation boards and the courts); (c) imposition of disciplinary penalties, except in case of dismissal; (d) dismissal on recommendation of the Central Committee of the corresponding trade union; (e) dismissal on recommendation of the Commission of State Control.

All these cases are decided by the heads of the enterprise, office, or organization; i.e., by the higher administrative authorities.

Moreover, the central committees of the trade unions are authorized to revise ex officio decisions of the conciliation boards in which final

judgment has already been rendered (Section 29 of the Regulations Concerning the Conciliation Boards of May 9, 1952, IPNS No. 38 and the special Directives of August 19, 1952, IPNS No. 69). This may occur on request of the party within one month or on recommendation of the Chief Government Attorney. The latter is not bound by any term of time.

The rights of workers to strike and lock-out were abolished as early as 1945 (DV No. 179). Present legislation contains no provision regarding these rights, either in the positive or in the negative sense. "Concerning the strike," writes Professor Ianulov, "our Constitution does not contain any text that it is forbidden; i.e., it is allowed in the frame of syndical freedom; but, in the socialist regime, where there is no class suppression...the strike in itself dies away and becomes insignificant" [Iliia Ianulov, Trudovo Pravo (Labor Law), 2nd rev. ed., Sofia, 1948, p. 487].

PART VII

WORKER AND FACTORY

Czechoslovakia

By Dr. Alois Bohmer

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I. Introduction

Czechoslovakia was one of the first countries in Eastern and Central Europe which recognized the right of employees to organize themselves in the workshops and enterprises for the purpose of promoting their economic, social, and cultural interests. As representative agencies of working class interests, these shop committees were not a substitute for the more powerful trade unions.

One of the most important functions of trade unions was bargaining and entering into collective contracts. Furthermore, they considered individual problems of the working conditions; their agents represented the collective

and individual interests of their members, gave legal advice and assistance, influenced the supply and demand for labor, ran labor exchanges, etc.

During the war, the independent trade unions were abolished and replaced by one with quisling management and workshop committees were not existent. The communists established in 1945 in every workshop and enterprise the so-called "council," composed largely of members of their party and at the same time, they took over the Nazi trade union organization and renamed it the Revolutionary Trade Union Movement. They skillfully exploited for their political purposes the confusion of the first post-war days and the economic chaos arising after the long war. Political and economic factors lead to a vast nationalization of industry and, ultimately, of the whole national economy. In the first stage, in 1945, the nationalization of all mines, heavy industry, banks, insurance institutions and many other enterprises took about 65 per cent of the whole industry of the country out of the hands of private businessmen and the rest was nationalized, with a very few exceptions, in the second stage, in 1948. These events shifted the balance between the worker and the employer substantially in favor of the latter, which was now the state. Workers, instead of being freed from the old "employer-exploiter," moved into a status of complete subjugation to the new employer without the protection of an independent, unbiased body and without appeal.

II. Constitution of 1948

According to Fundamental Article III, Subsection 3 of the Constitution of 1948, all citizens have the right to work, to a just reward for work done, and to leisure after work. The right of the people to form trade unions is recognized in Fundamental Article IV, Subsection 3. These

fundamental rights are spelled out in detail in Section 25 (on the United Trade Union Organization) and Sections 26 through 29 on so-called social rights.

These provisions are balanced by Fundamental Article IV, Subsection 1, which states that the work for the benefit of the community is the duty of all. Section 32 says: "It is the duty of every citizen to work in accordance with his abilities and to contribute his work to the commonweal."

III. Trade Unions

The once powerful and independent trade unions which had genuine powers to protect the worker's interests have been reduced to instruments of state policy. The democratic trade unions had been destroyed by the Nazis during the war and replaced by a totalitarian unified trade union movement at the end of the war. The communists seized control of this organization and renamed it the Revolutionary Trade Union Movement (ROH). Since 1946, it has been completely in the hands of the Communist Party. Concerning the means which the Communist Party used in order to achieve the "unity" of the trade unions, former Prime Minister Zápotocký explained in 1953 that

...the enemies reproach us often that we deviate from the principles of a real democracy. The truth is that when the unity of a trade union is attacked and the attacks become stronger and stronger, and the unity of the trade union is in danger, then I must not refrain from using dictatorial measures to save the unity... (Práce, Jan. 25, 1953.)

Trade unions have the right

to submit proposals and give advisory opinions upon the drafting and enactment of legal provisions by the legislative and executive authorities concerning the administration of social welfare, economics, health, and cultural affairs in all instances involving the interests of the working people; to send representatives of the working people, in accordance with legal provisions in force, to all public administrative bodies in which seats are reserved for the working people, until such time as elections take place in conformity with special provisions regulating this matter. (Law No. 144 of 1946 Coll., Sec. 3)

The functionaries of the trade unions are elected in workshops and enterprises by means of an electoral system permitting no choice of candidates, which assures the election of devoted communists.

The role and functions of the trade unions were basically affected by the fact that the state has become the sole owner of all industry in the country and the employer of all industrial labor. As the Statute for National Industrial Enterprises (appended to Government Decree No. 105 of 1950 Coll.) stated:

...In enterprises, the representative of all working people shall be the Revolutionary Trade Union Movement. The objective, which the Revolutionary Trade Union Movement laid out for itself in building up socialism, differs very substantially from the tasks of trade unions under capitalism. Enterprises are now in the ownership of the working people. Consequently, the organization of the Revolutionary Trade Union Movement shall contribute with all its strength to the development and prosperity of these enterprises and for the exact fulfilment of their plans; the organization considers the constant instruction and mobilization of manpower so that all shall work at their best according to their abilities as the main purpose of its activity.

In other words, the interests of workers were subordinated to the interest of the employer and worker's organizations have become the instrument of government policies aiming at the fulfilment of production targets, raising the productivity of labor, and making savings in management. Trade unions and the government, which under the new setup has ceased to be an impartial moderator between the workers and the employers, may promote workers' interests only insofar as they coincide with the interests of production.

IV. Compulsory Direction of Manpower

The first provisions concerning regimentation of labor were introduced after World War II as a result of the shortage of manpower, especially in agriculture and mining. Under Government Decree No. 15 of 1945, every employer had to report to the authorities any fluctuation of labor in his

enterprise. Changes in employment could have been made only after the previous approval of the local authority. Presidential Decree No. 88 of 1945 ordered a general labor duty for all able-bodied males from 16 to 55 and females from 18 to 45 years of age. Individuals could be ordered to work by the labor department of the county peoples' committee for a period up to three years "when the performance of that work was urgently needed by important public interests." (Law No. 175 of 1948) With few exceptions (Sec. 13, Subsec 3 of the Law), all contractual employment could be made or terminated only with the previous approval of the said department. Law No. 121 of 1946 introduced regimentation in agriculture. In order to deal with the shortage of workers in mining, working conditions were improved and wages and other benefits were increased.

The introduction of the planned economy with its steadily increasing production requirements caused even greater shortages of manpower in Czechoslovakia. The economic plans placed particular emphasis on production of capital goods, with the result that conscription labor for coal and ore mines, metallurgical, chemical and machine industries, construction, etc., was given the highest priority. Youths, women and handicapped persons were included in the labor force. Mobilization of manpower was first carried out on a voluntary basis, but when the required labor quotas were not met, individuals were drafted according to the regulations on labor duty (i.e., Law No. 87 of 1947 Coll.), and work regulations were considerably tightened.

According to the first economic plan (Law No. 192 of 1946 on the Two Year Economic Plan), some 270,000 workers were to be placed or transferred to industry from other occupations, about 90,000 workers to construction work, and about 230,000 workers to agriculture and forestry. This plan was succeeded by a vast scheme for the mobilization of manpower (Law No. 87 of 1947

Coll., as amended). It consisted of measures:

- a) on the use of manpower,
- b) drafting for work all unemployed able-bodied persons,
- c) transferring persons who could be spared in their present work into fields where they were urgently needed,
- d) returning technically educated or trained workers to their original occupations,
- e) increasing the number of working women,
- f) drafting physically handicapped persons for work, and
- g) increasing labor efficiency and discipline.

Recruitment of another 176,000 workers into agriculture and forestry, stone quarries and construction work, mining and foundries was ordered by Government Decree No. 156 of 1947. In 1948 the plan was to increase by 5.6 per cent the number of persons productively employed. In industry the number of workers was to grow in that year by 18.5 per cent and in construction, by 50 per cent. This additional manpower was to come from the draft of youth for work and the increased number of women and handicapped persons employed in industry. In order to make these provisions more effective, forced labor camps were established (Law No. 247 of 1948 Coll.) where persons physically and mentally fit, but who evaded work could be confined. The age limit for this confinement was set between 18 and 60. Individuals confined in camps must work for the "common good" and receive "moral", vocational, technical and "cultural" education.

In 1948, the Five Year Economic Plan for 1949-1953 was enacted (Law No. 241 of 1948 Coll.). There are no statistics available as to the overall distribution of manpower during the period of the Plan. However, the shortage of labor continued and in 1951, to increase the number of

workers, the Cabinet ordered the firing of 77,500 civil servants, who were sent into ore mines, coal mines, factories, etc. (Úřední List II of July 19 and July 27, 1951).

New regulations on the organization of recruitment of workers were enacted by Government Decree No. 128 of 1951 Coll., which gave a high priority, regarding the distribution of manpower, to important economic sectors. The government determines those fields of economic activity and establishments to which this planned recruitment shall apply, and the number of workers needed. Detailed allocations for every province, county, etc., are to be worked out every year. Establishments cannot exceed the prescribed number of workers. Every ministry shall make contracts with the Ministry of Manpower for a period of at least one year regarding recruitment for its own sphere of activity. Recruiting shall be organized first, among the rural population; second, among the urban population not working in socialist sectors; and third, in enterprises, institutes, offices and other establishments. Recruiting shall be carried out by the Ministry of Manpower through the local peoples' committees. Contracts with recruited workers shall be made by county peoples' committees on behalf of enterprises, for a period at least one year.

V. Employment of Youth

The endeavor of the communist regime in Czechoslovakia to increase the number of workers so urgently needed led the government to enact several laws which deeply affected the youth in that country.

After completing his compulsory general education, i.e., from the age of six to fourteen, a Czechoslovak youth has a very limited choice for further training or employment. The goal of education, especially in secondary

schools, is to shape the mind of the pupil according to the needs of the economic plan. The school must inculcate in every pupil "the understanding and willingness to work wherever he is needed, be it in the remotest parts of the Republic" (Directives of the Ministry of Education, Arts and Sciences, January 19, 1953, No. 7 - Věstník ministerstva školství, věd a umění of January 31, 1953, Vol. IX, Issue 3, pp. 23-26). The teacher must systematically observe during the whole period of compulsory school attendance the abilities, interests, and character of the pupils and the influence of their family surroundings, and choose the suitable means to bring the interests of the pupils into harmony with the needs of the plan. At the time of the final secondary school examinations, "teachers, leaders of the pioneer organizations (i.e., component organizations of the Czechoslovak Union of Youth), members of Parents' Associations and Friends of the School, as well as officials of Divisions IV and V of peoples' committees, are to maintain direct contact with the parents as often as possible to advise them and persuade them about the correct choice of the pupil's profession." This "consent" on the part of the future worker or his parents is a pure formality.

The student may complete the remaining three years of the secondary schools' eleven-year program and then enroll in one of the schools of higher education, or attend a technical school established "to meet the needs of important fields of the national economy," or enroll in a teacher's college. However, the students are strictly selected in view of their proletarian origin. Children of capitalist, or former capitalist families, may be admitted only as an exception. The number of students admitted to each school is limited by the state plan for development of the national economy. The selection procedure is elaborate and the candidate's background, along with

that of his parents, is thoroughly investigated. One of the members of the commission which decides on the admission of candidates is also a representative of the Communist Party. (Directives of the Ministry of Education, February 12, 1954, No. 17 in Věstník ministerstva školství, Vol. X, Issue No. 5 of February 20, 1954.)

Graduates from these schools have no free choice of occupation. Cabinet Decree No. 20 of May 6, 1952, Coll. introduced a restriction in the choice of employment for graduates of universities and also for graduates of vocational and technical schools which places them "according to the governmental economic plan." Graduates must work for three years at the place of employment assigned to them by the authorities. No enterprise or other place of employment may accept any of these graduates without proper assignment. According to Decree No. 56 of June 23, 1953, Coll., the graduates of departments of universities hitherto exempt, and graduates of all types of teachers' schools could also be assigned to employment for three years. Only graduates of medical schools and social workers' schools, art and divinity departments and graduates of military schools are exempt.

In addition, the following categories of students may accept employment only with the approval of the competent central office having jurisdiction over their respective schools, and given in accordance with the government economic plan:

- (1) Graduates from eleven-year schools as long as they do not continue their studies;

- (2) Pupils attending the last two years of a technical school who leave the school or are expelled from it if the provisions of Decree No. 20 apply;

(3) Students from schools of university level who have passed the first state examination or have been expelled from the school if Decree No. 20 applies.

Furthermore, the youth may be trained in government institutions of the Labor Reserves (Law No. 110/1951 Coll.) with a period of apprenticeship of six months to three years. Graduates are obliged to work for three or four years in enterprises selected by the Ministry of Manpower. The individual assignment is made by the principal of the institution. He takes, if possible, into consideration the reasonable wishes of the graduate. The enterprises may not accept any graduate who has not been assigned to them. The assignee cannot terminate employment before the above mentioned term has elapsed (Proclamation of the Ministry of Manpower of May 20, 1954, No. 109 Official Gazette, and Directives of this Proclamation published in the Official Gazette of May 29, 1954, Issue 65, pp. 555-564).

Finally, youths who have not been admitted to, or do not wish to attend any of the above schools, are to be recruited and given employment in an enterprise according to a scheme directed by the government and planned according to the needs of the national economy (Cabinet Decree No. 19 of 1954 Coll.). Recruitment is carried on by enterprises and assisted by subordinate authorities (agents of the peoples' committees). If work in the enterprise requires special technical training, the youth shall be trained as an apprentice for at least a period of one year in training schools. A written contract with the apprentice is required; all details on this subject are contained in the Proclamation of the Central Union Council of June 12, 1954, No. 124 Official Gazette. The worker has no right to terminate the contract unless his health prevents him from working.

VI. Freezing on the Job

According to Government Decree No. 43 of 1952 Coll., certain categories of skilled workers may be transferred without their consent by a competent central office from one enterprise or other place of employment to another enterprise or place of employment for a period up to three years. The transfer must be in conformity with the needs of the state economic plan. The Decree "justifies" this hardship thus : "Successful execution of socialist construction demands that the key enterprises especially those introducing a new kind of production, shall be adequately provided with a sufficient number of skilled workers."

The meaning of the term "skilled workers" was defined very broadly. It covers, in particular, graduates of higher technical schools of construction engineering (construction, communication, water supply engineering), electro-technical engineering, chemical engineering, mining engineering, agricultural engineering, veterinary science, forestry, graduates of university departments of natural sciences in mathematics, geology, physics, chemistry, and economics, graduates of technical schools in industry, agriculture, forestry, commerce and communications. Furthermore, technicians, foremen, builders, draftsmen, chief bookkeepers, planners, personnel establishing standards of output are covered by the Decree even though they were not graduated from the schools referred to above.

The government may place other groups of skilled workers under the provisions of the Decree.

VII. Employment Contracts

Generally speaking, employment contracts are made by the consent of both parties, employer and employee. Yet this principle has been infringed in Communist Czechoslovakia to such an extent that the case where

employment is a free choice on the part of the worker is an exception. In most cases, the labor relationship is made by an administrative act; for instance, graduates of government institutions of the labor reserves, graduates of universities, higher schools, technical selective schools and government employees are appointed to their functions.

A labor contract can be made by a person who has reached 15 years of age. The management of an enterprise makes a contract with a worker in cooperation with the shop committee. The validity of the agreement depends on the consent of the Manpower Division of the County Peoples' Committee (Presidential Decree No. 88 of 1945 Coll.). The agreements with those drafted under the planned recruitment for these fields of economic activity are made by a county peoples' committee on behalf of enterprises. Under these conditions, the workers has no right to choose his employment. An article in the newspaper Práce of March 4, 1952, expresses this fact in the following statement:

If we let everybody freely choose his employment and the sort of work he would like to do, we would get nowhere but into confusion ... Therefore, the draft of workers is now being organized for individual sectors and for provinces as well... This is not restraining the right to choose employment. This is a simple necessity to avoid disorders and turnover and to enable the organized workers to be placed in those sectors where the Republic needs them.

The period of notice, provided by the law, for the termination of employment is two weeks. In practice, however, the communist regime introduced serious restrictions on the exercise of this right. A primary reason for this policy was that the worsened labor conditions in Czechoslovak industries contributed to a great turnover of workers and a general instability of manpower conditions. Absenteeism rose to

alarming proportions. In 1952, no less than one third of the workers in industrial enterprises changed their employment. In mining the figure was close to 100 per cent. The turnover of labor and absenteeism contributed greatly to the disruption of work in 1952 in government-controlled enterprises and the non-fulfilment of the production plan for that year. The culmination of these forces was the economic collapse, which led to the currency reform of 1953.

In order to eliminate the manpower instability the government issued instructions to make labor contracts for a period of at least one year, (Government Decree No. 128 of 1951 Coll.) or longer (see supra Employment of Youth). On "freedom" to give notice, the book Pracovne právní a mzdové předpisy (Praha, Prace, ROH, 1954, p. 8) makes the following remark:

Although the law does not require that the party giving notice is obliged to give reasons for so doing; however, the common interest requires that the notice can be given only for serious reasons. Exceptionally, the reasons for a notice are determined by law for government employees and for similar personnel. To give absolute freedom to an employee to terminate his labor relation at any time, would jeopardize the fulfilment and over-fulfilment of the economic plan, which is a prerequisite for the satisfaction of steadily increasing needs, both material and cultural, of all the population. On the other hand, if we give complete freedom to the employer to give to his employee a notice at any time, this kind of termination of a labor relation would be contrary to the principle of the Constitution ensuring the right to work. Since an approval of the county peoples' committee is necessary for the termination of employment of either side, employer and employee, the reasons of the notice must be communicated to the county peoples' committee, or shop committee, as the case may be, so that it can examine the seriousness of the reason.

If there are important reasons, the worker may, of course, be discharged. If he leaves his job without justification (important reason), he may be made responsible for damages the employer may have suffered by his premature departure. On June 10, 1952, the government ruled that

workers are financially liable for defective production, which may be attributed to their negligence; the same decision also authorized administrative transfer of workers from one enterprise to another.

Another substantial infringement of the worker's freedom to choose his employment was imposed by the Cabinet Decision of June 17, 1952, and by the Cabinet Decree No. 39 of 1952 Coll., which provide that all enterprises, agencies, people's committees, etc., may employ a worker only when his previous employment was properly terminated and this fact was entered on his identity card by the employer.

Entries on identity cards concerning the beginning and proper termination of any employment or apprenticeship, are carried on by enterprise managers who are responsible for the correct execution of this duty (Penal Code for Administrative Authorities). Directives of the Ministries of Manpower, Interior, National Security, Justice and of the Central Trade Union Council, implementing the above Cabinet decision and decree have imposed the strictest control of the entries and their correctness. Control is exercised officially on any appropriate occasion by various agencies of the government, the national security, the Trade Union Movement, and people's committees.

VIII. Wages and Salaries

Determination of salary and wage policies is solely the business of the government in Czechoslovakia. The state control over wages was imposed immediately after the communists seized power in 1948. According to the Constitution of 1948 (Sec. 27), a "just remuneration for work done shall be guaranteed by the state's wage policy to be carried out in agreement with the United Trade Union Organization..." The Ministry of

Social Welfare was entrusted with organizing and directing wage controls (Law No. 244 of 1948 Coll.). All agreements on remuneration had to be submitted for the approval of the Ministry. Employers were not allowed to give remuneration over the fixed amount. A new organization was established in 1951 (Government Decree No. 27 of 1951 Coll.) in order to correct the disproportion between low labor productivity and the increase of wages and salaries. All matters of wage policy were transferred to the Government Wage Board. The powers of the ministries and other central agencies over wage policy were determined by Government Decision of February 24, 1953, and in workshop and enterprises by the Government Decision of August 18, 1953.

Particulars of the other conditions of labor contracts are provided in detail in legislation dealing with social welfare, social security, safety of work, medical care, productivity of work, organization of enterprises, etc. No deviation is permitted from the provisions of the law. There is nothing left for "bargaining." The duties of workers to their employers form a major part of the agreements. Also, collective agreements became agreements fixing the duties of workers and employers rather than their rights. As we can see from the law, a collective agreement deals with matters not usually within its compass:

Collective agreements shall be made between employees and the management of an enterprise and shall fix the duties of the enterprise toward the employees, especially in technical improvement, organization of work, and improvement of social, sanitary and cultural care for employees in workshop, as well as the duties of employees towards the enterprise, especially in fulfilment and overfulfilment of the production plan... (Law No. 27 of 1951, Sec. 7, Subsec. 2).

IX. Overtime Work

The communist regime has drastically cut down the worker's leisure time. The 48-hour week of prewar Czechoslovakia has not been shortened as

was promised. On the contrary, the worker is now under pressure to work a far longer time:

In a society building up socialism, the work hours have quite a different character. It is a time during which working people utilize their creative ability for the commonweal, working for themselves and their country. The limitation of the fixed work hours is here not only a real protection of the work, but also a measure of the length of the work by which every worker is bound in the interest of the development of the socialist economy and in the interest of a speedy and systematic increase of the living standard for all of us. (Pracovne právní a mzdové předpisy. (Praha, Československo, 1954, p. 8)

Bank holidays have been reduced to less than one-third of the prewar number (Law No. 93 of 1951 Coll.). Another form of overtime work is the "worker's brigade" in which workers undertake tasks "voluntarily" after their regular working hours and on Sundays and participate, without compensation, in various drives, such as assistance to farmers at harvest time, assistance in repairing agricultural machines, with construction and land improvement activities in communities, etc. At first, the status of this brigade was that of a semi-official institution. For instance, for the purpose of social insurance, brigade workers were defined as persons who, in an organized program and for a period not to exceed six months, assist in fulfilling tasks important to the public interest, which are not their regular employment (Directive of the Minister of Labor and Welfare No. 45 of 1950 Coll.). An organized program is an action initiated by administrative agencies, schools, political parties, nationwide mass organizations, or central trade organizations; otherwise, approval of the competent people's committee is required. Later, this "innovation" became a permanent institution legalized by Council of Ministers Decree No. 128 of 1951 Coll., by which a new organization of manpower recruitment was enacted. The decree ordered the maintenance of the number of brigade workers at a constant

level by the replacement of departing workers.

Finally, in May 1953, under the name of Civil Auxiliary Labor Service (Council of Ministers Decree No. 40 of 1953 Coll.) a new kind of draft labor was established, according to which all working citizens of Czechoslovakia may be given an overtime work assignment. All inhabitants of Czechoslovakia are subject to such a draft under very vague terms. Persons who are regularly employed may be drafted if this is not to the detriment of their regular duties. Persons drafted are to be paid regular wages. The vagueness of the terms of the draft makes it possible to by-pass overtime pay. Thus, it is possible to draft persons for work at the place of their regular employment in excess of regular hours, and to pay regular, rather than overtime, wages. The following persons are exempted from such service: children in compulsory schooling, women over 50, men over 60, ill or physically unfit persons, pregnant women up to the sixth month after birth, persons enjoying extraterritoriality and foreigners, provided that reciprocity is granted, and members of the armed forces. The local people's committee may grant further exemptions. A call to work may be issued by people's committees or by a central agency with the approval of the Ministry of the Interior; it may also be addressed to individual persons.

X. Discipline of Labor

In 1947, the Law on the Two-Year Economic Plan had the following provisions:

Employers and employees shall be obliged to do all within their power and ability to ensure that the best output in enterprise will be obtained and that obligations arising from the labor contract and legal regulations will be duly fulfilled; particularly that labor discipline will be maintained. It is necessary to ensure that there will be no absence from work without a justified excuse. If it is necessary for the

fulfillment of the Two-Year Economic Plan, there must be overtime work and night work pursuant to applicable regulations.

Other provisions (Penal Code for Administrative Authorities No.

88 of 1950 Coll.) imposed heavy penalties for those who intentionally shirk work or otherwise disturb the work of others, especially those who hamper, threaten, or disturb the organization of labor directed by the government according to the economic plan and, in particular, hinder the planned recruitment and placement of manpower.

Conscript labor and compulsory work introduced by the Communist Government in connection with the economic plan has met with dislike and resistance. By 1950, in spite of mass labor recruiting and overtime work, production increased only 7 per cent while wages increased 17 and one-half per cent. Obviously, the cost of production rose. Until 1953, when food rationing was abolished, one of the methods of compulsion resorted to against those who shirked work was to deprive them, and later, members of their households, of rationed food. In the factories the negative attitude of the transferees from other occupations toward the work influenced the regular workers adversely.

Frequent change of work and absenteeism have been the most effective weapons used by the workers against the regime. In the summer of 1953, simultaneously with the adoption of a currency reform, the government decided to move firmly against absenteeism and turnover. The Decree of the Council of Ministers No. 52 of 1953 provided that any worker who was absent, without proper excuse, one working day a year was to be reprimanded by the manager after consultation with the representative of the Central Trade Union Organization. A public reprimand was to be given a worker absent for a second day or absent on two consecutive days in a year. Absence on a

third day or on three consecutive days a year entailed a temporary transfer to a lower paid position. Disciplinary measures could be appealed to the appropriate officers of the Central Trade Union Organization. More serious cases of unexcused absence, especially on four working days in a year, were to be reported by the manager to the prosecuting attorney. Managers disobeying the provisions of the decree were subject to prosecution in court. Yet, because of the workers' opposition, this decree was repealed one month later (Decree of the Council of Ministers No. 59 of 1953 Coll.).

In pre-war Czechoslovakia, strikes were legal unless they were directed against individual employers because of racial or political motives (Sec. 1, Subsec. 2 of the Law No. 309 of the 1921 Coll.). The Constitution of 1948 guarantees no right to strike; indeed, there are provisions which may easily be interpreted as prohibiting strikes. "It is the duty of every citizen to work in accordance with his abilities and to contribute by his work to the commonweal." (Sec. 33) Many laws speak about the duty to work, to work overtime, to work efficiently, about the duty to fulfil the economic plans, etc., but nowhere is there a provision permitting a strike. The Penal Code of 1950 provides for the punishment of a person who jeopardizes or impairs the operation or progress of a state, national, local governmental or other public enterprise or cooperative, especially through the fact that he does not fulfil or violates the duties of his vocation, employment or his service, or evades fulfilment of such duty (Sec. 135). Whoever evades work may be confined in a forced labor camp (Law No. 247 of 1948 Coll.).

XI. Conclusion

Nationalization of industrial enterprises in Czechoslovakia, including even the smaller workshops vitally affected industrial labor relations.

The state became the sole employer, but as a worker's state it claims to be representative of the interests of the laboring masses. In addition, because of the subordination of all political and social organizations to the leadership of the Communist Party, trade unions are no longer true representatives of labor interests, but function as one of the many channels of command conveying the Party and government instructions to the lower echelons of labor organization in order to promote, in the first place, the interests of production and to assure the fulfilment of the economic plans.

Labor organizations have the right to be consulted before the more important legislation concerning labor is enacted. However, this right has been reduced to rubber stamping Party or government decisions.

The state economic planning with its exaggerated quotas resulted in overburdening the nation with heavy work. In order to combat the shortage of manpower the freedom of movement of labor was abolished and extensive regimentation of manpower was ordered. Working hours, although formally kept at 48 hours weekly, are being exceeded by regular overtime work for the accomplishment of specific tasks, Sunday brigades and evening political courses and meetings. On the other hand, absenteeism and turnover of labor which mushroomed to such an extent that economic planning was seriously threatened, are severely punished.

Along with the conscription of labor, the government decided to train all juvenile workers of the nation and obtain in this way every year about 180,000 new workers expertly trained for work in required fields.

Consequently, the whole labor system became a forced institution by which every citizen is assigned by an administrative act of the government to the place of work and to the type of work. Free choice on the part of the worker has been practically eliminated. The intention of the new labor legislation is to protect the interests of the state rather than that of the

workers

PART VII
WORKER AND FACTORY

Hungary
by Dr. Alexander Bedo

- I. Transition from Private Enterprise to Public Ownership
- II. Nature of the Present Labor Law
- III. Conscript Labor
- IV. Employment Restrictions
- V. Place of Employment and Transfer to Another Job
- VI. Abolition of the Right to Strike or Quit
- VII. Hours of Work
- VIII. Rest Periods and Annual Leave
- IX. Wages
- X. Workman's Compensation
- XI. Old Age Pension
- XII. Labor Discipline
- XIII. Liability for Damages
- XIV. Labor Disputes

I. Transition from Private Enterprise to Public Ownership

The war was hardly over when the Hungarian government appointed receivers to every industrial, mining or foundry company whose operation was essential to the reconstruction of the country, and to payment of reparations or other obligations based upon international treaties (Decree 4,660/1946 M.E.). This step was explained by the government as a temporary measure justified by the extraordinary circumstances created by defeat in

the war. The receivership was changed into state ownership through the nationalization of mines, power plants, financial institutions and every industrial establishment employing ten or more people (Edict No. 20 of 1949, etc.). Later, wholesale trade was made the monopoly of the state and mercantile companies were dissolved, with the simultaneous transfer of their assets to the ownership of the state (Decrees No. 560/1949, Korm; 4247/1949, Korm).

Consequently, the Communist government became practically the sole major employer. Through the nationalization of industry and commerce, the government acquired a monopolistic position which, in view of its legislative and administrative power, is far more advantageous in its relations with labor than any individual employer ever held in Hungary. The state did not hesitate to exploit this position and changed the nature of the labor law so that it was detrimental to the interest of the workers whose position the Communist government pretended to protect and advance.

II. Nature of the Present Labor Law

Pre-World War II labor law in Hungary had a mixed character.

Provisions designed to protect the rights of the workers belonged to public law, and government departments in charge of their enforcement took care that certain minimum standards regarding conditions of work applied. Employment itself and conditions of work more favorable to the worker than those in the law were a matter of free accommodation, and, therefore, subject to the provisions of the law of contracts.

Under the Communist regime the change in labor law was expressed in such a way that free contract of employment disappeared, and its terms

became entirely subject to government regulation.

Immediately after the war, the government imposed restrictions upon the freedom of workers to contract for employment, to agree upon the terms of such a contract, and to terminate it. Decree No. 7,000/1945 M.E.--the forerunner of the Communist labor code--gave the government almost unlimited power to compel the individual to perform work for the state. Under this decree men between the ages of 18 and 60, and women from 18 to 42 could be drafted for labor duty (Sec. 3). The individual could be compelled to work for a definite or even for an indefinite period of time. The government might order (a) freezing on the job; (b) assignment to another job; (c) re-training for a specific profession or a job; (d) doing group work (Sec. 2). People might be drafted for group work not only in the public interest but also in case the national production was seriously jeopardized (Sec. 17).

Direction of labor was introduced at first as a temporary provision for the reconstruction of the country. Later, however, legal provisions were also applied to promote the fulfillment of the economic plan and they were repealed only when the Communist system of labor law was already established by other and more effective provisions.

The basis of the Communist labor law had been laid down in the Constitution of the Hungarian People's Republic, modelled after Section 12 of the U.S.S.R. Constitution of 1936, (Law No. XX of 1949) which reads:

Sec. 9 (1) Labor shall be the foundation of the social order of the Hungarian People's Republic.

(2) It shall be the right, duty, and a matter of honor for every able-bodied citizen to work according to his ability.

The basic source of the Communist labor law is the Labor Code (Edict No. 7 of 1951), as amended by Edict No. 25 of 1953 (cited as Mt.)

and Decree No. 53/1953 M.T. (cited as Mt.V.) enforcing the provisions of the Labor Code.

The Labor Code applies to workers as well as to civil servants, employees of the post office, state railroads, and persons employed in private industry or commerce. The Labor Code does not apply to persons employed in farming cooperatives (Mt. Sec. 5; Mt. V. Sec. 4).

III. Conscript Labor

In 1947 the Hungarian government ventured into forced industrialization with the Three Year Plan (Law No. XVII of 1947) which required the employment, beginning in January, 1949, of 20,000 new workers every month (2,000/1950 Mt.h.).

The Five Year Plan (Law No. XXV of 1949, as amended by Law No. II of 1951) stepped up the rate of industrialization, causing an even greater demand for manpower. These increased demands forced the government to introduce measures to secure new workers for the industry and to set up an organization for the proper administration (distribution) of the nation's manpower. Resolution No. 2,000/1950 (I.8.) Mt.h. of the Cabinet provided as follows:

4. The National Planning Office shall fix the number of trainees to be employed in a certain trade or plant.

9. ... To secure the uniform administration of vocational training the Office of Labor Reserve shall be established. The Office of Labor Reserve shall take over...the administration of vocational training schools, training-shops, student homes and vocational schools under the supervision of individual ministries.

Compulsory vocational training is the main device by which the government drafts youth for work in industry. The Labor Code contains the basic provision for such a draft.

Sec. 132 (1) Graduates of trade schools or re-training courses in order to learn or improve their trade and complete the

compulsory vocational training shall be compelled to enter into the employment of the enterprise assigned by the competent minister.

As a matter of fact, compulsory vocational training is not restricted to graduates of trade schools or re-training courses, but also includes graduates of universities, colleges, secondary vocational schools, and training courses.

Although the aim, declared by the government, is practical training as an addition to the theoretical knowledge acquired in the regular school, nevertheless compulsory vocational training is designed also for political indoctrination and militarization of labor. Resolution No. 151/7/1951 N.T. of the National Economic Council provided that:

II. It shall be the responsibility of the MTH (Office of Labor Reserve) to further increase the standard of the vocational training.

To secure this aim the National Economic Council orders as follows:

1. The MTH shall see to it that the trainees shall not only receive professional instruction from the teachers but also an indoctrination. The instructors must be faithful to the People's Democracy and the working class and shall educate the vocational trainees in a revolutionary spirit....

The military character of vocational training is apparent from

Section III, Subsec. 3 of the same resolution:

III. 3. During the year 1951 the MTH shall provide 7,000 winter and summer uniforms and work clothes for the newly drafted vocational trainees. The MTH shall gradually secure 2,530 uniforms for the instructors of the schools, homes, and training shops, as well as for the employees of the MTH and headquarters [local councils] engaged in vocational training....

The length of compulsory vocational training varies from six months to two years. Graduates of universities or colleges have to serve two years, and graduates of lower schools somewhat less time. Annual leave and military

service cannot be subtracted from the time of the training (Mt.V. Sec. 219-231).

The competent minister assigns to the trainee a place of work to "conform with the interest of the national economy" and fixes his wages. The principal of the vocational school informs the trainee at the time of his graduation of (a) the enterprise (factory) to which he is assigned, (b) his job, (c) his wages and (d) the date he has to report for work. The date of reporting for work has to be set within 30 days following his graduation (Mt.V. Sec. 223).

The enterprise assigned by the competent minister is compelled to employ the trainee in the job and for the wage fixed by the minister. The minister's consent is needed for the termination of employment or transfer to another position.

If the trainee terminates his employment without the consent of the minister (or does not report for work), he will be deemed one who abandoned work without authorization and the consequences are that: (a) the time spent prior to the abandonment of work is forfeited and will not be credited against the compulsory vocational training time; (b) the minister will assign such a recalcitrant trainee another place of work.

IV. Employment Restrictions

Every individual over the age of 14 may legally become employed. Children over the age of 12, with the consent of their parents, can be employed in the summertime for light work. In general, every individual and legal entity possesses the right to employ workers. This right, however, is restricted; e.g., an artisan or craftsman cannot employ more people than he employed on November 1, 1950; and an individual contractor cannot employ

skilled workers.

V. Place of Employment and Transfer to Another Job

The worker may be transferred, either at his own request or in the interest of the national economy, from one place of work to another within a given enterprise--also, from one enterprise to another, one area to another, or one type of employment to another. In principle, a worker is allowed eight days in which he can appeal to the conciliation board against the transfer. His appeal, however, will suspend the order for his transfer only if it involves his moving from one area to another, taking up a lower post, or the continuation of his studies at a university or other educational institute specifically mentioned in the Labor Code. In any event, the decision of the conciliation board is final and, if it confirms the transfer, the worker is obliged to abide by its decision; any refusal on his part would be regarded as arbitrary termination of employment without notice and good cause (Mt. Sec. 136).

One of the greatest hardships imposed upon the transferred worker is the separation from his family due to the lack of adequate housing facilities at his new place of work. The worker may not refuse to accept the transfer for the reason that the new employer cannot provide adequate housing for him and his family. His only remedy is that he may resign after six months if he did not receive adequate housing facilities during that time (Mt. Sec. 137). Resignation from the job, however, is a questionable remedy, because it does not mean automatic return to the previous job; rather, the worker may remain without a job and be exposed to the direction of the labor exchange.

VI. Abolition of the Right to Strike or Quit

The right to strike was abolished by Section 6 of Law No. XXXIV of 1947. This provision was repealed and replaced by Edict No. 4 of 1950 on Criminal Protection of the Planned Economy, which was incorporated into the BHO (Official Compilation of Criminal Statutes in Force, 1953). The relevant provision of the Edict reads as follows:

Sec. 238. Whoever maliciously, especially with the intent of endangering the fulfillment of the national economic plan, or any part thereof, or of harming otherwise the interest of the national economy

(a) terminates or restricts the operation of an enterprise (factory), or performs the work in or for the enterprise with delays, incorrectly, or defectively, or has it thus performed, shall commit a crime and shall be punished by imprisonment not to exceed five years.

The worker not only has no right to strike but also he cannot terminate his employment at will. Previously, workers who left state-owned enterprises without good cause or without having obtained the consent of the management, were punished by the following penalties: (a) sick benefits were reduced by 50 per cent; (b) in the first two years of new employment the worker's annual leave was limited to six days, and no additional leave could be granted; (c) new employment had to be arranged exclusively through the official labor exchange office (2,000/1950 Mt.h; Decree 30/1951 M.T. Sec. 17).

Since the New Course (June 4, 1953), labor discipline has been somewhat relaxed. Edict No. 25 of 1953 modifying and amending the Labor Code made the termination of employment contracted for an indefinite period of time (most employment is such) easier. Also the penalty for arbitrary abandonment of work became more lenient. Today an employee may terminate his employment contracted for an indefinite period of time by serving notice (Mt. Sec. 30):

(a) if he becomes eligible for an old-age pension (benefit), disability or temporary disability pension, or casualty benefits under the social security laws;

(b) if he has been admitted to the day course of a secondary or higher educational institute;

(c) if he has been transferred to a job with lower pay, unless the transfer was a disciplinary action, or the decrease of the basic salary was less than ten per cent;

(d) if his spouse has been transferred to another locality and he wants to move to her new place of residence;

(e) if he has been transferred, and no housing facilities could be secured at the new place or work within six months following the transfer;

(f) if, for domestic reasons, health, other personal reasons, or for any other reason at all it would be obviously in his interest to terminate his employment.

The employee may terminate employment to be effective immediately (Mt. Sec. 32):

(a) if continuation on the job directly and seriously endangers his life, limb or health;

(b) if he is doing piecework and the company employs him in work at least two grades lower than his personnel classification for an uninterrupted period of over four weeks.

If the director of the company refuses to accept the plea that the continuation of employment jeopardizes the employer's life, limb, or health, it has to be substantiated by an official certificate. The Cabinet may classify certain branches of the industry, or certain positions as ones in which employment cannot be terminated to be effective immediately.

Penalties for arbitrary abandonment of work, such as reducing sick benefits by 50 per cent and re-employing such persons exclusively through the labor exchange office, have been abolished. The penalties for such breaches are: (a) reduction by one half of the worker's annual leave for the first two calendar years after his re-employment (additional leave to be granted only if the work is harmful to the worker's health or if he is still a youth and the work is harmful to him (Mt.V. Sec. 51) and (b) forfeiture of his right to extra pension allowance if he terminates his employment arbitrarily within five years preceding his retirement (Sec. 29 (2) of Edict No. 30 of 1951).

Relaxation of labor discipline is manifest also in court decisions. Acts formerly prosecuted as crimes are not considered as such any more. The principle is stated in the following leading decision of the Hungarian Supreme Court:

1. The unilateral termination of employment by arbitrary departure or unexcused absence from work does not in itself constitute a crime. But if such conduct violates the duty to produce, handle, use, register, deliver, acquire or put into circulation certain products or produce, and such conduct jeopardizes the successful materialization of the national economic plan, or a part thereof, the crime, as defined in Sec. 240 (1) of the BHO, is consummated.
2. Criminal responsibility shall be established only if the jeopardy is real. The criminal responsibility for jeopardizing the plan may not be established if the production lost by the establishment be made up without any difficulty, in the ordinary course of organizing the work.
3. If the crime had been committed under circumstances constituting valid excuse for the conduct of the perpetrator, unlimited mitigation of the punishment under Sec. 14 (2) of the Bta [General Part of the Criminal Code], or acquittal based upon Sec. 56 of the Bta may be justified (Leading Decision of the Supreme Court, Criminal Branch No. VI, Case 173).

VII. Hours of Work

The working day is eight hours, and there are forty-eight working hours in a week. The Council of Ministers, however, may extend or shorten the working hours (Mt. Sec. 37); for example, a special provision applies to agricultural workers, whose working hours are forty-eight a week in the winter, and sixty in spring and fall, and seventy-two in harvest-time.

Actually, working hours are fixed for longer periods of time than for a single day. The most common period is the week, but in certain cases, the time requirement is stated in terms of a longer period, such as one month for a truck driver and one year for a teacher.

VIII. Rest Periods and Annual Leave

The worker is entitled to a half-hour break during the working day which is not counted against the time of work. However, to be eligible for breaks, the worker must work a whole day. The worker must be assured of at least eight hours rest between two workdays (Mt. Sec. 46). The worker is entitled to a day of rest each week (Mt. Sec. 47). The weekly day of rest is usually Sunday, but the competent minister may designate a different day in his particular branch of industry. In agriculture and industry, workers may be ordered to work overtime on the weekly day of rest (Mt. V. Sec. 65-66, 79). If the worker works on the weekly day of rest, he is not entitled to overtime pay; another day of rest will be appointed for him within a period of two weeks (Mt.V. Sec. 81). Only in a case when no other day can be spared for the worker is he entitled to higher pay.

There are two kinds of annual leave: 12 days basic leave and additional leave of 6-12 days for juveniles, 3-24 days for workers employed in occupations harmful to their health, 6-12 days for miners, 6-12 days for

metal workers, 36 days for teachers and scientists and 3-12 days for executive officers.

The competent minister is authorized to grant extraordinary leave for further professional training, social or communist activities, sport events, and attending training camps for sport contests. The manager of an enterprise can, for important reasons, advance three days yearly toward annual leave, but it must be made up the following year.

IX. Wages

On the basis of piecework the worker's wages are usually calculated. The government is greatly interested in raising production and at the same time paying the worker as little as possible; to accomplish this aim, paying the worker on the basis of piecework is the most successful device.

The piecework system was introduced in 1950. In an industry, every job for which a standard of output has been established or which is done within an estimated unit of time, may be exclusively paid as piecework. The standard of output is the amount of time which is needed to perform certain work (time-norm) plus the quality of the product which must be maintained. Based upon the standard of output and the estimated time unit, every worker is placed in a category which is the basis of his wage when he is not doing piecework. Workers who have passed the technical examination or finished a vocational training school belong to the category for which they have qualified (Decree No. 32/1952 M.T.).

The worker is entitled to a premium (Decree No. 106/1951 M.T.) for:

(a) fulfillment or over-fulfillment of the production target set by the economic plan;

(b) consuming less (or at least no more) power than allotted for the fulfillment of the industrial norm.

Wages are fixed by the Council of Ministers. Basic pay is supplemented with pay for overtime, night work, for work performed during annual leave or on the weekly day of rest.

No overtime can be paid to (a) workers employed in agriculture or related branches of the national economy; (b) to civil servants, except if employed in leading positions; (c) professional musicians employed in the entertainment industry.

Civil servants receive no supplementary pay for night work. Truck drivers and operators of large machinery in agriculture receive a 10 per cent addition to their basic wages for work performed at night.

X. Workman's Compensation

The disabled worker is paid disability benefits by the social insurance agencies. The amount depends upon the degree of disability, type of work, length of employment and the age of the worker.

The worker may sue the government for damages which are not covered by disability benefit payments only if it has been established in a final decision of a criminal court that (a) the injury or sickness was wilfully caused by the employer (or his agent) or (b) the omission of safety devices (required by law) was the proximate cause of the injury (Sec. 37, Decree No. 295/1951 M.T.). Consequently, negligence of the employer, the most common cause of accidents, is ruled out by the "socialist state" as a basis for damages, and the worker can never receive full compensation for the injury suffered but has to be satisfied with the benefits provided by the employer (the government).

XI. Old Age Pension

The old age pension was regulated by Edict No. 30 of 1951. Workers who are over 60 (women who are over 55) and who have been employed ten years are eligible for retirement (Sec. 5).

The pension consists of a basic and a supplementary rate of pay. The basic rate is 15 per cent of the average wage earned in the year immediately preceding retirement. Workers who were employed in a job detrimental to their health for at least ten years are entitled to a higher rate, which is 30 per cent of the basic salary.

The supplementary rate is two per cent of the basic salary for each year spent in employment after January 1, 1945.

The Cabinet may grant a larger pension for persons (and their dependents) who rendered outstanding service in building socialism.

XII. Labor Discipline

The worker will be subject to disciplinary action if he commits a criminal offense connected with his work; conducts himself manifestly in opposition to the political and social order of the people's democracy; if, on his job, he violates the work discipline required by the national economic plan or violates the rules of socialist labor morale; if he lives a scandalous or immoral life, or otherwise conducts himself in a manner which makes him unworthy to discharge his duties (Mt. Sec. 112).

The manager of the enterprise has jurisdiction to take disciplinary action. Before imposing any penalty for a disciplinary offense, an opportunity has to be given the worker to present his defense (Mt. Sec. 116). A decision finding the worker guilty of a disciplinary offense has to be in writing; the offense has to be described and reasons for it stated; and the

worker has to be notified within three days.

The penalty for disciplinary offense can be: (a) oral admonition; (b) reprimand in writing; (c) transfer to a lower position; or (d) immediate dismissal (Mt. Sec. 113)

As a general rule, the worker can be transferred to a lower position only within the enterprise in which he is employed, and only under exceptional circumstances, with the consent of higher authorities, to another one; and then, only for a period of six to twelve months, the exact duration of which time to be fixed in the decision itself.

An appeal can be made against the decision of the manager imposing the penalty for a disciplinary offense to the conciliation board or, in the case of an executive officer who has committed a disciplinary offense, to the immediate higher authority. No appeal can be made against decisions of the Council of Ministers, individual ministers, or the head of an agency placed under the direct control of the Council of Ministers.

XIII. Liability for Damages

Prior to the inauguration of the Communist regime, there were no special rules regulating the worker's liability for damages to the employer in the course of employment, for the law of torts was operative.

The first version of the Labor Code (February 7, 1951) flatly stated that the worker was financially liable for any damage to the enterprise (Sec. 121) whether or not the damage was his fault. This rule was changed in November, 1953, and now an employee is liable to the enterprise only for damage caused in which the worker is at fault (Mt. 121), either through willfulness or negligence.

The worker's liability is unlimited if the damage was caused by him wilfully or the damage was the result of the worker's criminal act. In any other case the worker's liability is limited to 15 per cent of one month's basic wage (Mt.V. Sec. 191). This rule has one exception; namely, the extent of liability of persons employed in warehouses for shortages in the inventory is one month's salary.

There is nothing exceptional in the regulations which make the worker liable for damages he wilfully or negligently caused his employer. It is the method of determination of the worker's responsibility that is detrimental to the worker's interests. It is characterized by (a) summary process in which the liability is established and (b) the right of the government to deduct the amount of damages from the worker's pay.

The manager of the enterprise has jurisdiction to establish within 30 days the worker's liability and to set the amount of damages. After that, the claim can be enforced only in the law court. The appeal from the manager's decision establishing liability and fixing the damages goes to the government-controlled conciliation board (Mt. Sec. 123) from which the case can be brought to the law court.

The manager is entitled to satisfy the claim of the enterprise by deducting the amount of the claim, fixed by himself, from the worker's salary. In pre-Communist Hungary such a claim could be satisfied only by a garnishment action. Claims for damages which formerly were regarded as a calculated risk, included in the cost of running the enterprise, are now enforced against the worker. In fact, the worker is made liable even for acts for which he was not the proximate cause of the damage. This is apparent from the decision of the Supreme Court (Legf. Bir. Pf. II, 21,416/1953) in which the court ruled

that "in the case of unauthorized use of an instrument or object to perform a certain task, the employee can be made liable for damages even if they were not caused directly by him but by somebody else."

In the actual case, the defendant persuaded the driver of an official car to make a substantial detour, but the accident occurred when the prescribed route had been resumed. The court found the defendant to be the indirect cause of the accident because, without the detour, the driver would not have become tired, or sleepy, and the accident would not have occurred.

There is another administrative method for fixing damages in higher amounts in specific circumstances. The State Control Center can establish liability and compel payment for damages in the following cases: when goods, equipment, raw material, fuel or other materials deteriorate, are destroyed, lost, or when illegal payments have been made.

The decision is made by the President of the State Control Center against which the employee has no appeal. The amount of the liability is three times the monthly salary of the employee. The decision compelling the employee to pay damages will be enforced summarily, and the amount deducted from his salary. The deduction, however, cannot exceed 33 per cent of the salary (Decree 51/1952 M.T.).

XIV. Labor Disputes

That "no man ought to be a judge in his own cause" (12 Coke 114a) is a fundamental rule of reason and of natural justice. This basic rule is disregarded in litigations between the worker and his employer (the government) because the overwhelming majority of litigations concerned with employment are decided by conciliation boards, controlled by the government, and only

a minority of cases may be brought to the law court.

The conciliation boards have exclusive jurisdiction in most questions of employment, such as (a) making wage, category, and grade classifications, (b) fixing the hours of work and overtime, (c) fixing the amount of annual leave, (d) serving supplementary food, (e) arranging transfer and termination of employment (Mt. Sec. 143).

Conciliation boards, consisting of four persons, are organized in all enterprises and shops which have a labor force of more than 30 workers. Of the members of the conciliation board, two are appointed by the manager of the enterprise and two by the shop committee. Government control of the conciliation boards is even more effective in the stage of appeal, because the area conciliation board, whose decision over the appeal is final, is dominated by the chairman whose appointment has to be affirmed by the Council of Ministers (Mt.V. 242).

Courts of law have jurisdiction over questions arising from the employment of an executive officer, except the two most important ones: termination of employment and transfer to another position or place of work, in which cases the employer's (government's) decision is final and the case cannot be litigated in court (Mt. Secs. 141-149).

Courts of law have jurisdiction in all other matters. However, as long as the employment lasts, a case concerning the labor contract may be filed only if the conciliation board was unable to deal with it (Mt. Sec. 148).

PART VII
WORKER AND FACTORY

Poland
by Dr. Kazimierz Grzybowski

- I. Labor and Management
- II. The Role of the Trade Union
- III. Mobilization of Labor Reserves, Labor Duty, Direction of Labor
- IV. Labor Penal Law

I. Labor and Management

As early as 1949 practically the entire labor force employed in industries and cities was in government employment. But not until the reorganization of government enterprises in 1950 was the position of the worker much different from that in private employment. In fact, the worker had in government-owned industries certain rights for which there was no foundation in private enterprise. The Decree of February 6, 1945 on Shop Committees (D. U. No. 8, Law No. 36) assured the workers of participation in running the government industries. A representative of the shop committee was made a member of the management board of the enterprise, and the committee supervised work conditions, approved shop rules, mediated between management and personnel, and supervised recruitment and discharge of workers. At least once a month the shop committee was to be called to a conference with the manager to discuss production, discipline of labor, hygiene and safety of work and other related matters. Decisions of the shop committee were final, and in case of disagreement between the shop committee and the management, the District Inspectorate of Labor was entitled to dissolve the shop

committee and call for the election of a new committee. But if the crew supported their shop committee there was nothing that could be done in order to change the disputed ruling of a shop committee.

The Decree of January 3, 1947 (D. U. No. 8, Law No. 42) on the Organization of Government Enterprises also sanctioned the principle of labor participation in management.

The reorganization of government enterprise was effected by the Government Decree of October 26, 1950 (D. U. No. 49, Law No. 439). It introduced the principle of individual management and personal responsibility of the manager for running his enterprise, thus relieving him of all interference from the trade unions. Government enterprises were subordinated to ministers in charge of various fields of production and commerce. The principle of individual direction and responsibility within the enterprise was carried down through the bench level. An order of the Council of Ministers gave the foreman powers to discipline and reward.

II. The Role of the Trade Union

No account of the mechanism ensuring government control of the Polish workers would be complete without the description of the reorganization and reshaping of trade unions. Before the war, trade unions were fully independent organizations. The only requirement for their organization and functioning was registration in the local district court which could not be refused except for reasons specified in the law. In the period before World War II, there was not a single case of such a refusal. During World War II, trade unions were suppressed, and were reorganized again after the liberation of Poland. The Congress of Trade Unions held in 1945 asserted the independence of the trade unions from political parties and government, but at the same

time laid foundations for their future infiltration and control by the government and the Communist Party, by providing for the central organization which headed the unified trade union movement.

As long as two political parties representing the working masses were in existence, the independence of trade unions was assured. However, in 1948, Communist and Socialist parties merged, and Communist leadership in government and national life was established. In 1949 the Second Congress of the Trade Unions convened and passed the new Trade Unions Statutes which recognized the leadership of the Communist Party in all trade union activities, subordinated all trade union organizations to the National Trade Union authorities, the Congress and the Board of the Trade Unions on the principle of "democratic centralism" which denotes the right of unlimited repeal by the higher authorities of the trade unions of all decisions made by lower organizations. The Trade Unions Act of 1949 permitted the creation of new trade unions only by permission of the Board. In the following years (1949-1952) a purge of former socialists from trade union organizations occurred.

In consequence of the reorganization and purges, trade union organizations, on all levels, but primarily on the factory level, have been transformed into another department of the government. Their main task is to assure the discipline of labor in the execution of tasks set by the economic plan, to organize socialist labor competition between various industrial establishments in order to promote production in individual enterprises and branches of industry, and, finally, to cooperate in increasing the productivity of labor, through increasing the standards of output. All other tasks, such as supervision of safety of work, factory hygienic institutions, and cooperation in the administration of welfare funds are secondary to assistance in factory management.

With the reorganization of trade unions, the field offices of the Ministry of Labor and Social Welfare were abolished and their functions transferred to the labor and social welfare committees of the local national councils, and inspection of labor was taken over by the shop committees. However, nothing was done about enforcement of hours of work, restrictive provisions regarding the night work of women and young workers, and the work of apprentices. Indeed, various accounts indicating heavy concentration of young workers in certain factories suggest that, in practice, no attention is being paid to the enforcement of those provisions.

It is against this background that restrictions of "free labor" must be examined. The hand of government and of managers on the enterprise level has been strengthened by legislation dealing with labor discipline and direction of labor, including management of the so-called labor reserves.

III. Mobilization of Labor Reserves, Labor Duty, Direction of Labor

The Decree of January 8, 1946 (D. U. No. 3, Law No. 24) imposed on every male in the 18-55 age group, and every woman in the 18-45 age group the duty to engage in socially useful work.

The Statute of March 7, 1950 (D. U. No. 10, Law No. 106) on the Planned Employment of Graduates of Vocational Secondary Schools and of Academic Schools imposes the duty on the graduates of those schools to serve for three years in government enterprises as directed by the competent authorities. The plan of employment of such personnel is prepared by the Economic Planning Commission, and orders to report to work are issued by the administrative authorities in charge of a given branch of production. A graduate is obligated to take up employment from the moment he receives the directing order. A previous employment contract is automatically rescinded.

Conditions of work and pay are those provided by the collective agreement governing the category of employment which he enters.

The Statute of March 7, 1950 to Counteract the Fluidity of Labor (D. U. 10, Law No. 107) authorized the Council of Ministers to freeze certain categories of persons qualified in professions or trades important for socialist industries, for a period of two years. The Council of Ministers may introduce such a freeze either directly, or authorize the introduction of such a freeze of individual jobs within certain trades or professions. The effect of a freeze, either general or individual, is that the work contract cannot be dissolved by the employee. The management may transfer an employee to a lower grade job, in which case the employee is entitled to the pay received while the old contract is effective, but after the contract's expiration, his salary is scaled down according to the new job.

On April 19, 1950, the Law on Safeguarding the Socialist Discipline of Labor (D. U. No. 20, Law No. 168) was enacted. It provides for penal and disciplinary measures against tardiness and absenteeism. First, unjustified failure to report to work is punished either by reprimand, or by a fine in the amount of a day's wages. Two failures in the course of one year are punished by a fine in the amount of the average daily wage for each working day missed. Three failures to report in the course of a year are subject to a fine in the amount of two daily wages for each missed day or by transfer to a lower grade of work.

The manager has the responsibility, under threat of punishment by detention up to three months, or a fine or both, to discipline and to prosecute in court breaches of discipline.

IV. Labor Penal Law

Every enactment in the field of labor law produces a new range of offenses and penalties. Generally speaking, in contrast to the provisions of the pre-1939 labor law, which contained only penal sanctions directed against the employer, the labor law of the People's Poland has produced a whole range of penal provisions directed against the workingman. New obligations and duties introduced by socialist legislation seek to control individual preferences of workers in the matter of employment, channel workers into trades, jobs, and employment favoring the interests of government industries, or freeze them on jobs which, while essential for promoting the interest of the state, fail to be attractive enough to hold their occupants.

Punishable acts threatened by penal sanctions under the Polish labor law could be listed as follows:

- 1) Violations of government monopoly in the management of the national labor force;
- 2) Violations of government measures regarding direction of labor and evasion of labor duty;
- 3) Offenses against discipline of labor.

The Decree of August 2, 1945, which created a government monopoly of job placement and of labor exchange, made professional job placement, employment, or apprenticeship punishable by detention up to one year, or by a fine, or both. An employer who failed to report each free job, every apprenticeship available, and every newly employed person was liable to be punished by detention up to three months, or by a fine, or both.

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A group of three enactments introduced a series of penalties to enforce the duty to work on every able-bodied Polish citizen, to enforce

planned employment of the graduates of secondary and academic schools in order to stabilize available manpower in the professions, trades, and jobs important for the socialized economy.

Under the Decree of Labor and Registration Duty, failure to register or to report the change of address is punishable by a fine and by detention up to three months.

Those who furnish false information while registering, in performance of their duty to register, are liable to be punished by imprisonment or detention up to two years. A penalty of imprisonment up to five years is provided for the use of a false certificate of employment or of any other certificate of release from the obligation to work, and for issuing such certificates. The court may in such cases deprive the offender of honorary, civic, and public rights. Those who, contrary to the direction of competent authority, fail to report to work at a specific date are made liable to be punished by detention up to five years and a fine or by either.

The Statute on the Planned Employment of Graduates (March 7, 1950) provides that graduates refusing to take up employment as directed, or refusing to continue in such employment are liable to detention up to three months or fine or both. The manager of a working establishment who, in contravention of the provisions of the statute, concludes a contract of work with a graduate subject to direction is liable to be punished by detention up to six months and/or fined.

Those who, contrary to the general freeze on jobs, or contrary to the individually ordered freeze to counteract the fluidity of labor, leave their jobs are liable to be detained up to six months, or be fined.

The Statute of April 19, 1950 on Labor Discipline provides for

trial by the court of all cases in which a worker fails to report four times in the course of a year, or misses four consecutive days of work in a year. Four days of work missed is defined as "willful and continuous" absenteeism, and jurisdiction in such cases belongs to the courts; the law provides that the offender shall be sentenced to work at his regular place of work for a salary or wages reduced by 10 to 25 per cent.

In the course of penal labor the employee is unable to dissolve his contract of work, and his failure to comply with the conditions of the sentence is again punishable by detention up to six months.

Besides the pay which a worker loses when he fails to report for work, additional deductions are imposed. Each consecutive failure to report to work revives the whole issue of days missed, even when failures to report to work were already the subject of disciplinary or court proceedings. So, for instance, the first day missed and punished by a reprimand must again be considered in disciplinary proceedings after an additional day missed, and again if still another day of work is missed. However, progressive punishment applies only to cases of absenteeism occurring within the same calendar year.

PART VII
WORKER AND FACTORY

Romania

- I. Labor Law in Pre-Communist Romania
- II. The Period of Transition
- III. Constitutional Provisions Concerning Labor
- IV. The Labor Code
- V. Employment Contracts and Direction of Labor

I. Labor Law in Pre-Communist Romania

Social legislation in Romania goes back to 1894 when laws and regulations concerning health conditions in industries, the Sunday rest, and protection of minors and women in industry were enacted.

The law of January 17, 1912 organized social security. After World War I, the territory and the population of Romania nearly doubled and the number of industrial workers increased considerably. On April 30, 1920, a Ministry of Labor, the highest agency for protection of labor, was created.

The 1923 Constitution expressly granted freedom of choice of vocation or work, the right of association, and established the principle of state intervention to prevent social conflicts (Arts. 5, 21, 29 and 70). On September 5, 1920 the first law to solve labor disputes and to offer full protection of labor was enacted. This law provided for three kinds of labor contracts: apprentice, individual and collective. Additional protection was afforded by the period of notice before the contract could be terminated, which was established at 14 days to 1 year, depending upon time spent in the enterprise. The law provided also that reasons for dismissals had to be given under

sanction of payment of damages. Annual leave of from 7 to 30 days was provided for in the law; the working time was limited to 8 hours a day. Other provisions dealt with the protection of minors and women, hygiene, and rules of safety in industries. This same law established procedures of conciliation and arbitration of labor disputes before resort to strike or lock-out was permitted, and established special courts dealing exclusively with labor disputes.

Social security had been organized since 1912 by the law of January 17 which provided insurance for labor accidents, sickness, invalidism and old age on a cooperative basis with contributions from the State, employers and workers. Later on, the Laws of April 8, 1933 and December 22, 1938 organized Regional Institutes of Social Security and a Central Institute of Social Security.

Trade unions could be organized without any restrictions, on the basis of the Law of May 26, 1921. This law provided expressly that, "No one can be compelled to join or not to join or to quit such trade unions against his will" (Art. 2), and thus prevented domination by the union of individual workers. A number of trade unions and a Confederation of Trade Unions were organized.

During World War II, exceptional decrees and military regulations restricted liberty of movement and established the discipline of labor, but the provisions of the laws concerning contracts, leaves, payment of damages, etc. remained in force.

II. The Period of Transition

In its effort to obtain control of the trade unions, the Communist-controlled regime, established in Romania with the active assistance of the Red Army of occupation, repealed the 1921 law which granted the unlimited right

of association to labor, and replaced it in January 1945 with new regulations (Law No. 52, Monitorul Oficial No. 17, January 21, 1945). This law prohibited the incorporation of a trade union without the recommendation of the Ministry of Labor (Art. 7). This requirement was used extensively to assure Communist leadership of the newly established trade unions. At the same time, the law provided for the formation of the federations of unions on a professional basis, and formation of a nationwide Confederation of Trade Unions. Such a Confederation of Trade Unions was already in existence before the Communists came into power. One of the first acts of the Communist Party, which, before World War II, numbered less than 1,000 members, was to obtain control of the Confederation of Trade Unions.

The Law of January 1945 provided for the formation of the shop committees which have taken over at the factory level the representation of all local interests of workers, whether members of the trade unions or not.

In addition to the Communist control of the trade unions, the position of Romanian labor is affected and shaped by several other factors. In the first place, the nationalization of various branches of the national economy (Law No. 119, B. O.No. 133, bis, of June 11, 1948) put the economic life of the country under government control. In addition, through the system of "Sov-Roms" (Soviet-Romanian Joint Companies formed under the Soviet-Romanian Agreement of July 17, 1945, ratified by Law No. 676 of August 17, 1945) managed by the Soviet appointed managers, certain branches of industry were put under control of the Soviet government. But perhaps the most important feature of public life in Romania which profoundly affects the rights of the worker is the fact that although the government of Romania claims that it represents the interests of the toiling masses, in fact, the government, trade unions,

and factory management are wholly subordinated to the Communist Party, or to Soviet interests.

III. Constitutional Provisions Concerning Labor

Article 12 of the 1948 Constitution of the Romanian People's Republic states that, "Work is the basic factor of the State's economic life. To work is the duty of every citizen. The State supports all those who work in order to defend them against exploitation and to raise their standard of living."

According to Article 19, "Citizens have the right to work. The State shall gradually secure this right through the organization and planned development of the national economy."

The Constitution of 1952 repeated these provisions in more emphatic form. Article 15 reads as follows:

In the Romanian People's Republic, work is a duty and a matter of honor for every able-bodied citizen, in accordance with the principle: 'He who does not work shall not eat.'

Article 77 provides for the right to work as follows:

Citizens of the Romanian People's Republic are assured of the right to work....The right to work is guaranteed by the development of the socialist organization of the national economy.

Consequently, the right to work is linked directly to the socialization of the national economy and the economic plan; and the duty to work, as defined by the Constitution, is created to insure the implementation of these objectives. In order to implement these provisions the Labor Code of 1950 was enacted (Law No. 3 B.O., No. 50 of June 8, 1950).

IV. The Labor Code

The Labor Code of 1950 represents to a large extent a codification

of rules hitherto followed in practice. It uses terminology and refers to institutions common to labor legislation in non-Soviet countries. It will be seen, however, that this terminology has a different meaning from that usually attached to it, as the Romanian labor legislation was inspired by Soviet labor law.

A. Collective Agreements

Article 3 of the Code defines the collective agreement as "an agreement entered into between the trade union committee of an enterprise or institution, representing factory and office workers on one hand, and anybody utilizing their labor on the other."

However, the same article of the Labor Code makes it clear that basic points of the collective agreement cannot be a subject of bargaining and agreement between the parties. Article 3 states further on that the purpose of the collective agreement is to implement the provisions of the State economic plan. As the plan fixes the wage, social security, and safety and hygiene funds in relation to the output, the basic points of the collective agreement must follow the directions of the plan.

According to Article 7 of the law, a collective agreement must be registered with the competent ministry and with the respective trade union, which may eliminate stipulations inconsistent with the Labor Code and the Economic Plan. The same authorities are continuously supervising the execution of the agreements (Art. 11). The collective agreement is mandatory for all employees, even for those who are not members of the union (Art. 5).

B. Shop Rules, Work Hours, and Overtime

Internal discipline in enterprises is determined by shop rules. According to Article 25 of the Code shop rules are drafted by the competent

ministries together with the respective trade unions. Work hours are limited by law, but according to Article 49, the Council of Ministers and the trade unions may establish special categories of workers to whom the limitation of work hours shall not apply. Likewise, the limitation of overtime does not apply in cases broadly termed emergencies (Art. 57). These emergencies are couched in such broad terms that restriction of overtime is deprived of any practical meaning. They involve such cases as (a) defense of the Fatherland or action to avert a calamity or prevent danger; (b) satisfactory functioning of public utilities, communications and transport; (c) action to avert stoppages or delays in production or supply of material; and (d) repairs or reconditioning of installations where breakdown might involve a large number of workers.

C. Financial and Penal Responsibility

Workers are financially responsible for losses in production (Arts. 67 and 68), and in some cases such financial responsibility extends even to cases in which the product is rejected through no fault of the worker (Arts. 30 and 31).

The worker is penalized for turning out faulty products whether he is responsible for it or not. In the first case his wages are reduced by one half; in the second, by one third. If faulty production is due to faulty raw material then the worker's wages are paid in full. The worker's responsibility is much higher when losses to the factory may be attributed to negligence or infringement of internal regulations. Then, in principle, the worker is responsible for the full amount of damage caused. However, not more than three month's wages can be deducted. However, this limitation does not apply to storekeepers and other persons in charge of goods. Indemnity is much higher if the damage was caused by a penal offense.

"When the loss caused is a result of a penal offense, the amount of indemnity will be equal to double the value, calculated at the free market price of replacing the goods"(Art. 68).

D. Standards of Output as Means to Force Production and to Reduce Wages

According to Article 27 of the Code:

The competent ministries, in agreement with the respective trade unions, will establish standards of output for all production branches, jobs and specialized work, fixing the quantity and quality of production or of operations which the wage and salary earners are bound to perform during a definite time, under normal working conditions.

The achievement of this standard is required for the payment of the basic salary, and, according to Article 28, if the worker "fails to fulfill the standard of output, he will be paid only for the work performed in relation to the quantity and the quality of the product turned out." If the work is paid by piece, the piece rate, according to Article 36, is determined by dividing the rate of wages by the established standard of output.

According to Article 27 the standard of output may be readjusted "if new production methods designed to standardize the system of work or to improve the technological process are introduced." Standardization and improvement of technological processes involve a complicated mechanism of propaganda, prizes and awards involving promotion to managerial or political posts designed to encourage individual workers or their teams to step up production (Stakhanovism, socialist competition) with the result that increased production is then used to establish new standards of output, and to reduce rates of pay in relation to output. Once established, standards of output may be changed only with the approval of the Council of Ministers (Art. 27).

E. Collective Responsibility for Shortcomings in Production

Articles 29 to 32 of the Code provide for reduction of wages even if

failure to attain the production targets occurred through no fault of the employees. This principle is repeated also in financial resolutions governing the management of government enterprises. Thus, the Ordinance of the Council of Ministers No. 1,424 (B. O. No. 1 of Jan. 4, 1952) concerning the control of funds for wages provides in Article 4 that the disbursing office of the bank which keeps the accounts of this enterprise shall not make payments from the fund assigned for wages, if the targets of the State Economic Plan have not been fulfilled by this enterprise, and the request for funds has to be reduced in proportion.

F. Trade Unions and their Functions

The Code maintains the organization of unions established by the Law of 1945. According to Article 100 of the Code the representatives of the union on various factory committees are exempt from work, although they are paid by the enterprise. The committees exercise important functions and have huge powers of control over the worker. According to Article 21, the Labor Dispute Boards may dismiss the workers.

According to Article 25, the trade unions, together with the ministries, issue the model for shop rules and thus establish the standards for enforcing discipline. They also cooperate in establishing categories of employees under special working regulations and limitations of overtime (Art. 49). They cooperate with the ministries in establishing and revising standards of output (Art. 27).

Labor Dispute Boards also have jurisdiction in labor disputes (Art. 115). Professional training, protection of labor, and social security are the responsibility of the General Confederation of Labor. According to Article 103, social

security shall be carried out by the Social State Services, which will function within the framework of trade unions. The organization, the management, the guidance, and the control of such Social State Services are reserved by law to the General Confederation of Labor.

As a result, the General Confederation of Labor became a government agency in charge of the administration of social security in addition to other duties. To discharge its duties in the field of social security, trade unions receive contributions from the employers; that is, various government enterprises and institutions, which contribute to the funds under the trade union administration in proportion to the achievements in production. In consequence, trade union organizations are directly interested in promoting production and fulfillment of the targets of the economic plan, and thus are aligned with the management of government enterprises.

G. Labor Disputes

The Romanian Labor Code provides for four channels of settling labor disputes: Comradely Boards, the Labor Dispute Boards, the Higher Administrative Authorities, and the ordinary courts.

The Labor Dispute Boards, which are established under Article 121 of the Labor Code within the framework of the "socialist sector" of the national economy; i.e., government and cooperative enterprises, give equal representation to the management of the enterprise and the shop committee. However, the shop committees are the agencies of trade unions. In a conflict of interests between industrial management and the rank and file of labor, the shop committees are not likely to come to the defense of labor. They share with the trade union the task defined by Deputy Prime Minister Chivu Stoica, the former president of the General Confederation of Labor, in January 1953 as follows:

"The mission of the trade union is to be the main conveyor belt between the Party and the broad masses of the workers...and to be the school for Communism" (Viata Sindicala, January 27, 1953).

Trade unions, therefore, are denied independence and made unable to defend fully the interests of their members because under the Labor Code fundamental conditions such as employment contracts, shop rules, and standards of output are established by the ministry concerned through an agreement with the top bodies of the respective trade organizations (Secs. 7, 25, and 27). The Party's control over the trade unions and the government makes such protection of the interests of the workers highly limited.

The establishment of new "Comradely Boards" (Decree No. 29, 1953, Collectie de legi 1953, July/August, pp. 6-9) evidently sought to achieve several purposes. It represents the creation of an authority additional to the Labor Dispute Boards provided by the Labor Code. But the new boards may impose milder punishment than before for some infractions. They may even try cases of petty theft ordinarily triable by the courts. However, the broad and indefinite jurisdiction of the new boards described infra may give rise to a minute and annoying control in petty matters. Evidently the purpose is to try to simplify the solution of conflicts without resorting to courts and at the same time to maintain the productivity of labor.

The Comradely Boards are charged with combatting "breaches of labor duties," "carelessness and theft of public property," "insults and disorganizing attitudes," and with prevention of such acts "through education of the working masses in respect for labor discipline and the rules of socialist life."

Comradely Boards were elected for one year from "among employees who constantly demonstrate a socialist attitude" and are composed of a

president, two deputy presidents, and five to twenty-five members (Sec. 5). The courts of comrades function in panels of three members (president or deputy president and two members) and try cases involving the following matters: breaches of labor obligations, carelessness, an excessive number of pieces of work rejected, first-offense thefts of objects not in excess of 200 lei, insults, simple assault and battery, and disorderly conduct which is "contrary to the rules of socialist life" (Sec. 1). Proceedings may be initiated by the management, the shop committee, or individual workers (Sec. 2). The management of the factory or establishment is charged with the execution of the court's decisions (Sec. 3). Conflicts between chiefs and subordinates in the line of command are outside its jurisdiction (Sec. 4). The Board applies the following punishments: admonition, warning, suspension from duties for not longer than three months (Sec. 9), and recommends the annulment of contracts of employment in accordance with the relevant provisions of the Labor Code (Sec. 10). In addition, they may impose fines up to 25 lei and judgments for damages up to 200 lei (Sec. 11). Decisions of the court of comrades are immediately executed, and there is no legal machinery for appeal, but the shop committees and higher trade union authorities may set aside "unjust decisions" and order a new trial. Courts of comrades are under the general direction and supervision of the Central Council of Trade Unions (Sec. 14).

The Higher Administrative Authorities are the regular superior agencies of an enterprise. They decide mostly disciplinary matters and cancel employment contracts. Their decisions are not subject to review by any court (Arts. 117 and 125).

Finally, the only judicial bodies deciding labor disputes are the People's Courts competent to proceed in some disputes not assigned by law to

the Labor Dispute Boards: all disputes in which no decision could be reached by such Boards; disputes connected with criminal matters; or, labor disputes arising in private industry (Art. 116).

People's Courts are not special labor courts familiar with labor problems but regular courts. People's Courts are no longer a separate branch of government independent of the executive but they are, rather, agencies subordinate to the executive and the Communist Party.

V. Employment Contracts and Direction of Labor

The Labor Code contains a separate chapter dealing with contracts of employment; in fact, however, the prevailing form of the employment of Romanian workers is direction to work. Consequently, provisions which give the right to a person to contract for work have very little practical importance. Some relevancy may still be attached which provides grounds for termination of a contract. These grounds fall into 3 categories: first, circumstances affecting the activity of the enterprise; and second, circumstances making the employee unfit to hold his job; and third, physical disability. The characteristic feature of all these provisions is that the law provides for no indemnity paid to the worker in cases in which employment is terminated.

Direction of labor seems to be the prevailing form for employing newcomers to Romanian industries. Decree No. 86 published in the Official Bulletin No. 4 of March 7, 1949 established so-called "Offices for the Distribution of Labor," which according to Article 1 and 3 direct the available manpower according to governmental requirements.

Decree No. 68 concerning Qualification and Distribution of Labor Reserves published in the Official Bulletin No. 56 of May 18, 1951 provides for the annual draft of from 45,000 to 55,000 young workers to be trained for

two or three years in vocational schools or in six-month training courses at the place of work (Art. 2). After training, the graduates of such schools are assigned to industries and various works according to a plan approved by the Council of Ministers (Art. 5). The persons undergoing such training must "spend at least 4 years at the enterprise to which they have been assigned" (Art. 6). The local People's Councils are in charge of drafting the required number of youths (Art. 8). This Decree was later completed with more details in Decree 171 April 18, 1953 (Collection of Laws, Decrees, etc., March-April 1953). The duration of training was established as 1-3 years in special schools and from 2-10 months at the place of work.

This compulsory draft of youth for training and then for compulsory work of 4 years duration constitutes a system which approaches forced labor. Decision No. 399 of the Council of Ministers, published in the Official Bulletin No. 56 of May 16, 1951 created a General Administration for Labor Reserves to supervise draft and training, as well as "to distribute any available skilled or non-skilled labor reserves in rural and urban areas, according to the requirements of the national economy."

To enforce these regulations, a section was added to the Penal Code which provided for punishment of those who fail to report to such assigned work.

Decree No. 511 of December 14, 1953 published in the Collection of Laws, November-December, 1953, added to Article 244 of the Penal Code the following:

Failure to report to work by the graduates of technical, pedagogical or qualification courses or secondary schools, or of institutes of higher education, is punished by imprisonment from 3 months to one year, if graduation is connected with this obligation and the appointment has been made without delay.

Finally, Decision No. 4,457 of January 9, 1954 (Collection, Jan. 1954) provided in Article 1 that:

Technical and administrative personnel and skilled workers shall be appointed to the units of the socialist sector by their respective units or by the General Administration of Distribution of Labor attached to the Council of Ministers.

Once directed to a job, a worker is tied to this post and cannot leave it without permission. Decree No. 207 concerning Rules for Appointment, Transfer and Breach of Employment Contracts published in the Official Bulletin No. 113 of November 21, 1951 provided in Article 1 that:

Manual workers, clerical employees, engineers and technicians of state enterprises and agencies, construction projects and mass organizations shall not leave their employment without prior consent from the head of the respective unit,

and, in Article 6, specified the consequences of unauthorized leaving of a job:

No person may be given employment unless legally released from his previous employment.

The same Decree also provides that it is mandatory for all workers to accept the job assigned to them and to report to the new job when transferred.

A. Compulsory Work or Special Labor Duties

The Romanian Labor Code also provides for compulsory work under the disguise of temporary duties. Article 111 states that in order to avoid a catastrophe and also "in order to provide the manpower needed for the achievement of some important public work, the Council of Ministers may require citizens of the Romanian People's Republic to carry out some temporary labor duties." There are no restrictions regarding the time and the conditions of these temporary duties, and the actual determination of a duty is left

to the discretion of the Council of Ministers.

Article 130 also provides that the Council of Ministers may establish special working conditions for some categories of workers, for instance: workers employed in temporary work, seasonal work, construction work, forest and agricultural work and some other categories considered exceptions. In this manner various restrictions regarding time of work, night work, employment of youths and women may be suspended in these important fields of economic activity.

In order to enforce the control of the movement of labor, Decree No. 243 (B. O. No. 101 of November 6, 1950) required all workers to register with police authorities in order to obtain identity cards and labor cards. According to Article 22 of this Decree, "No person may change residence without obtaining an official transfer permit from the militia." Two Orders of the Ministry of Labor published in the Official Bulletin No. 41 of May 13, 1950 and No. 63 of July 27, 1950 made the possession of labor cards mandatory for all workers. Owning labor cards and membership in unions are also conditions for obtaining ration cards for food and clothing.

The Ordinance No. 1,720 of the Ministry of Domestic Trade published in the Official Bulletin No. 113 of December 11, 1950 bars persons who do not belong to one of the trade unions from obtaining ration cards. Similar provisions were re-enacted in the following years.

Conclusion

The institutions of Romanian labor law enacted by the Communist government closely follow the Soviet pattern. Trade unions were transformed into government agencies in charge of the labor aspect of the economic plan.

Their functions, attitude toward protection of worker's rights, and interest in promoting production are highly reminiscent of the activities of trade unions in the Soviet Union. The protective provisions of the Labor Code regarding the hours of work, night work, etc. are rendered inoperative by authorizing the administrative authorities to suspend their operation practically without restriction. Direction of labor has taken the place of a free contract.