DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

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MEMO TO: Chief, Labor Relations and Education Branch
~~(Actg, 8th Army)~~

SUBJECT: Report of Field Trip to Gifu Prefecture on 24, 25 and 26 Jan 50 by Clifford G. Robertson, DAC, GS 12.

1. A three day educational conference was held in Gifu City on 24 - 26 January. The first day was spent with officers of the teachers' union of the prefecture and with officers of six textile unions. On the second day discussions were held with delegations of from three to five local prefectural labor policy section officials from each of the prefectures of the Tokai-Hokuriku Region. On the third day, two labor education programs were conducted with approximately four hundred rank and file union members. The educational program of the Labor Ministry for this quarter was given emphasis. The educational conference was of a routine nature but during the incidental discussions the information outlined herein was provided.

2. There were written labor agreements in half of the textile unions that were represented in this conference. Officials of the unions in attendance estimated, as did the Gifu Labor Policy Section officials, that this was probably representative of the prefectures as a whole. Four delegations said written agreements were on the increase because of active labor education programs. The Aichi group reported working agreements were on the decrease because the unions insisted on keeping to the terms of the old agreement; and Toyama stated that their decrease was due to the continued controversy over union rights under the revised Trade Union Law.

3. All six delegations agreed that the number of written agreements containing provisions for grievance procedure were on the increase. Labor education was credited with the improvement. However, Gifu conceded that to date there may not more than ten percent of the written agreements with such provisions. It was interesting to study the faces of the Kensho officials and the unionists after the showing of the grievance procedure film. They appeared suddenly to have found something for which they had been searching for a long time. There was not time in the meetings held for criticism or discussion of the film. It was evaluated only as an educational aid.

4. Opinion was divided on the question of improvement in labor relations. Three delegations reported an improved situation. Gifu and Ishikawa stated that the labor relations situation had deteriorated because of employer domination and misunderstanding and reported (really) an undue amount of political manipulation in the unions.

5. All prefectural delegations except Aichi reported that the unions were coming more frequently to the Labor Policy Section officials for guidance and aid, and this was again attributed to the labor education program and the recognition of the need felt by the unions. The Aichi delegation reported, however, that the use made of the Labor Policy Section was decreasing because of the good result of the labor education program.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

6. Use made of the local labor relations committee was reported on the increase in four prefectures. Disputes over the revised law was the reason given by Fukui. Three groups said it was due to better understanding of its function. Mie stated that more of the grievances were being settled in the workshop by regular shop steward proceedings, and Aichi said that labor disputes in 1949 were only half of those in 1948.

7. To the question regarding the trend in unpaid wages for the past 60 days four delegations said that business was getting worse and that unpaid wages were consequently on the increase. Mie reported that the trend had been reversed by a two million yen credit to industry for this purpose by the Prefectural Assembly. Ishikawa said that union stiffened resistance to the defaulting had steadied the situation there. One of the prefectural delegations reported that, whereas the average deferred wages were for a period of 39 - 40 days in firms where the workers were not organized, it was for only 29 - 30 days where the workers were organized.

8. There was hedging on the question of union dues and considerable inconsistency in the answers. In two cases the reply was that the dues paid were not decreasing except in places where the communications workers formed a considerable proportion of the whole. The Zentei split was apparently the factor. At several informal discussions the question of wage pressure was brought up. The feeling was expressed that union resistance or pressure would take the form of a fight to resist wage decreases and further dismissals. If the unions were agitated through political party manipulations there may be a wage crisis in the early spring.

9. That unemployment was increasing was the only point on which there was agreement. In the Zensen unions there is no activity directed toward unification of the labor front through the General Council of Japanese Trade Unions.

10. An hour devoted to general discussion between the delegates and Mr. Chiba of the Labor Education Section of the Labor Policy Bureau probably revealed what at this time Kensho officials are most engrossed in. Apparently the time has arrived for re-nomination of candidates to be appointed to the labor relations commissions. Since a union, in order to be eligible to nominate, must be a qualified union under the law, there remains the task of determining the eligibility of those unions desiring to participate in the selection. Mie Prefecture reported that they had accredited 150 out of the 225 unions already evaluated. The question was raised as to whether local unions only were allowed to nominate, or whether branch unions, federations, and national unions might participate.

11. Another problem baffling the Kensho officials is the matter of the feasibility of having the Labor Policy Section Chief acting as Executive Secretary of the Local Labor Relations Committee as is the case of Mie and Gifu. The latter prefectures maintain that there is an advantage in this system in that you have coordination of policy rather than having inconsistency of policy as is found in Tokyo, where (illustration not mine) we have Dr. Suehiro endeavoring to establish policy contradictory to that of the Labor Ministry.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

12. Furthermore, the Labor Relations Committees are demanding a budgetary set up independent of the Labor Policy Section. The committees wish to be as independent in their budgetary arrangement as they are in their structural organization. It was contended that the overtime worked, the special expenses involved, and the calibre of the committee members, calls for a considerable increase in the remuneration of committeemen if good people are to be held or recruited. There is no standardization of wages for this work among the prefectures. The Labor Ministry has recommended that certain standards be established but these have not been adhered to.

13. The reports of overcharging by auditors continue to come in. Fukui reports having called the financial and accounting officers of the unions into conference with the auditors. The latter made plain the information required and established a simple method of keeping accounts which reduced very considerably the time and expense involved.

14. Ishikawa, Toyama and Fukui reported having provided a two-day training course twice a year for the labor policy section officials. Gifu Prefecture reported that two hours were given to this training each week.

15. In the 600 unions in Gifu Prefecture 255 were reported a year ago as having labor management conferences. During the past year more than one hundred of these labor management conferences have split up into negotiation, grievance, and production committees.

16. It is obvious that the lack of support by national unions and the political emphasis placed on the programs of the prefectural federations have made difficult the setting up of educational programs in the very small unions. Some of these unions are difficult to locate, no registration being required. Some of the local educational officers suggest more use being made of leaflets outlining the subject matter of particular educational programs.

17. No teacher union problems were reported in Gifu. It was believed that interest in the local public employees' unions would die if the local public service bill, as now drafted, were passed.

18. Kensho officials appeared very cooperative in their endeavors to set up a satisfactory program. At every turn, however, there was evidence of their lack of an active (if any) labor relations and labor education program. The improvised attempts to put on a demonstration could not dispel the atmosphere of disinterest and apathy. Only 54% of the textile workers, it was estimated, were organized. Half of the organized had no working agreements, and approximately ten percent of these (estimates of the Kensho officials) had in their working agreements such a key feature as grievance procedure. Understanding of such matters as seniority rights was nil. The atmosphere of the Kensho building reflected the reason why. The governor of the prefecture had recently received a three-year suspended sentence for misappropriation of public funds. The Chief of the Economic Department, who controlled in feudal fashion the Labor Policy Section was formerly a member of the Kempei Tai. This latter official loomed over his own delegation in an enigmatic way during the first day of the conference. Throughout the following two days he appeared quite reconciled to the educational program, apparently concluding it was either useful or harmless. He stated

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

confidentially that he had had no comprehension of what was involved in a labor education program.

19. Most of the conferences held throughout the three days were begun late by a degree seldom exceeded even by the Japanese. All audiences gave the impression of being carefully selected except one where the Kensho group of about twenty-five gave a demonstration of how to conduct a union meeting. In this particular program no motions were permitted to originate from the floor though a rank and file member endeavored to so originate one. There was less evidence of understanding about the value of working agreements, about sources for help in educational programs, about the types of educational aids being prepared, and the existence of a quarterly program sponsored by the Labor Ministry, than in any prefecture contacted by this officer. Few of the union officers had ever heard of the educational phonograph records being produced. The grievance procedure film was shown in the imposing Kensho Building in a musty little basement room with a seating capacity of about fifteen persons. The latest in technical educational devices had reached Gifu but social organization has progressed little beyond the catecomb era.

20. The local government officials of Gifu travelled resplendently in a fleet of cabs that the Labor Ministry officials in Tokyo would surely have envied. The CIC detachment in Gifu informed me that there was positively no transportation provided by them for GHQ officials on duty. The 24th Infantry Regiment and the prefecture were very cooperative in this regard.

Clifford G. Robertson

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

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SOUTH KOREAN INTERIM GOVERNMENT
Seoul, Korea

PUBLIC ACT
NUMBER 4

16 May 1947

CHILD LABOR LAW

SECTION I. *Purpose.* The purpose of this Act is to regulate child labor and to prohibit, limit, improve and mediate conditions of child labor so as to protect children from harmful or dangerous occupation or heavy labor, guarantee healthy development of life and body as well as just compensation, and thus secure the welfare of society.

Rules and regulations necessary to implement this Act shall be issued and enforced in accordance with the terms of this Act by the Director of the Department of Labor, hereinafter referred to as "the appropriate Director".

SECTION II. *Definition of "Children".* For purposes of this Act the term "children" means children, both male and female, under the age of eighteen (18) years. In the computation of age, a child shall be considered one year old one full calendar year after date of birth.

SECTION III. *Prohibition or Limitation of Employment or Labor. a.* Employment of children under the age of twelve (12) years in any occupation or under any labor conditions is prohibited.

b. Children under the age of fourteen (14) years shall not be engaged or employed in any business or work listed below; *provided, however,* that the provisions of paragraph *a* of Section III of this Act shall apply to children under fourteen (14) attending public school.

c. Children under the age of sixteen (16) years shall not be engaged or employed in any business, work or occupation dangerous to life or limb or injurious to health or morals.

d. The provisions of paragraph *c* of Section III of this Act shall also apply to children under the age of eighteen (18) years.

e. The scope of occupations prohibited or limited by the several paragraphs of this Section is as follows:

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

(1) *Occupations Prohibited for Children under 14 Years.* Occupations in any of the following workshops or facilities (except assistance in or about the child's own home): (*a*) mill, (*b*) factory, (*c*) workshop, (*d*) mercantile or mechanical establishment, (*e*) store, (*f*) office, (*g*) office building, (*h*) restaurant, (*i*) bakery, (*j*) barber shop, (*k*) hotel, (*l*) apartment house, (*m*) bootblack or shoeshine stand or establishment, (*n*) public stable, (*o*) garage, (*p*) laundry, (*q*) place of amusement, (*r*) club, (*s*) occupation as a driver, (*t*) occupation in any brick or lumber yard, (*u*) occupation in the construction or repair of buildings, (*v*) occupation in the transmission of messages.

(2) *Occupations Prohibited for Children under 16 Years.* (*a*) Adjusting any belt to any moving machinery, (*b*) sewing or lacing machine belts in any workshop or factory, (*c*) oiling, wiping or cleaning machinery in motion or assisting therein, (*d*) operating or assisting in operating any of the following machines: (*1*) circular or band saws, (*2*) wood shapers, (*3*) wood jointers, (*4*) planers, (*5*) sandpaper or wood-polishing machines, (*6*) wood-turning or boring machinery, (*7*) picker machines or machines used in picking wool, cotton, hair or any other material, (*8*) carding machines, (*9*) paperlace machines, (*10*) leather-burnishing machines, (*11*) job or cylinder printing presses operated by power other than foot power, (*12*) boring or drill presses, (*13*) stamping machines used in sheet metal and tinware or in paper and leather manufacturing, or in washer and nut factories, (*14*) metal- or paper-cutting machines, (*15*) corner-staying machines in paper box factories, (*16*) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories, (*17*) steam boilers, (*18*) dough brakes or cracker machinery of any description, (*19*) wire or iron straightening or drawing machinery, (*20*) rolling mill machinery, (*21*) power punches or shears, (*22*) washing, grinding or mixing machinery, (*23*) calendar rolls in paper manufacturing, (*24*) laundering machinery, (*e*) occupation in proximity to any hazardous or unguarded belts, machinery or gearing, (*f*) occupation upon any railroad, whether steam, electric or hydraulic, (*g*) occupation upon any vessel or boat engaged in navigation or commerce, (*h*) occupation in, about or in connection with any processes in which dangerous or poisonous acids are used, (*i*) the manufacture or use of dangerous or poisonous dyes, (*j*) the manufacture or packing of paints, white or red lead, (*k*) occupation causing dust in injurious quantities, (*l*) the manufacture or use of compositions of lye in which the quantity thereof is injurious

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

to health, (*m*) occupation on scaffolding, (*n*) occupation in any distillery, brewery or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled, (*o*)occupation on or in connection with any dam, smeltery, reverberatory furnace, refinery, dressing and reduction plant, X-ray machinery, or any activity involving use of or exposure to any radioactive element or substance, (*p*) heavy work in the building trades, (*q*) occupation in any tunnel or excavation, (*r*) occupation in, about or in connection with any mine, coal breaker, coke oven or quarry, (*s*) assorting, manufacturing or packing tobacco, (*t*) operating any automobile, motor car or truck, (*u*) occupation in any bowling alley, pool or billiard room, (*v*) occupation upon the stage of any theatre or concert hall or in connection with any theatrical performance or other exhibition or show, (*w*) any other occupation dangerous to the life or limb, or injurious to the health or morals of such child.

(3) *Heavy Industry or Work Prohibited for Children under 18 Years.* (*a*) Occupation in, about or in connection with blast furnaces, docks or wharves, (*b*) occupation in the outside erection and repair of electric wires, (*c*) occupation in the running or management of elevators or lifts (unless equipped with suitable safety devices), (*d*) occupation in, about or in connection with hoisting machinery, or dynamos, (*e*) occupation in oiling or cleaning machinery in motion, (*f*) occupation in the operation of emory wheels or any abrasive, polishing or buffing wheel where articles of the baser metals or iridium are manufactured, (*g*) switch tending, (*h*) gate tending, (*i*) track repairing, (*j*) occupation as brakeman, fireman, engineer, motorman or conductor upon a railroad, (*k*) occupation as railroad telegraph operator, (*l*) occupation as pilot, fireman or engineer upon any boat or vessel, (*m*) occupation in or about any establishment wherein nitroglycerin, dynamite, dualin, guncotton, gunpowder or other high or dangerous explosives are manufactured, compounded or stored, (*n*) occupation in the manufacture of white or yellow phospherus or phosphorus matches, (*o*) occupation in any cement mill, (*p*) occupation in any hotel, theatre, concert hall, place of amusement, or any establishment where intoxicating liquors are sold, (*q*) occupation in, about or in connection with any race track or any gaming, betting or gambling establishment or enterprise. No female child under 18 shall be employed in any mine, quarry or coal breaker (except in the office thereof).

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

SECTION IV. *Prohibition of Burdensome Work.* No individual, group of individuals, or juridical person, hereinafter called "employer", employing children shall impose burdensome work upon such children, irrespective of the consent of the parties or the conditions of work. Employers shall give due regard to the physical development of such employees and shall permit proper rest. More especially, no night work or overtime work shall be imposed upon children; provided, however, that hours for night work may be determined for seasonal occupations by the appropriate Director. For purposes of this Act, with reference to burdensome work of children under twelve (12) years, the parents, guardian or custodian of such children, hereinafter referred to as the "person in parental authority", shall be deemed to be employers.

SECTION V. *Limitation of Working Hours.* Working hours for children under sixteen (16) years, including children under fourteen (14) years, shall not exceed six (6) days in any one week or seven (7) hours in any one day. Working hours for children under eighteen (18) years shall not exceed six (6) days in any one week or nine (9) hours in any one day) *provided*, that within the working hours prescribed by this Act the employer shall permit proper rest hours and meal hours in accordance with the character of the work or labor.

SECTION VI. *Employment Contract or Agreement. a.* All employment contracts of children (including collective agreements) shall be accompanied by a permit issued in accordance with this Act (including regulations issued by the appropriate Director pursuant to the authority granted in Section I of this Act). Such contract shall be legally effective from the date the permit is issued.

b. Any employment where the consideration for the work is an advance made to the employee or any other person prior to the work, or whereby the employee is required to engage in personal relations, is hereby prohibited notwithstanding any contract.

c. The term of an employment contract shall not exceed one year. When a contract is renewed a new permit shall be required.

SECTION VII. *Application for Permit.* Any employee who applies for a permit to enter into an employment contract in accordance with Section VI hereof shall present the application for such permit to the factory inspector who has jurisdiction over that district or the government official in charge of

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

the enforcement of this Act (hereinafter referred to as "supervising authorities"), in accordance with the following procedure:

a. The applicant and the person in parental authority shall be present in person.

b. The application shall contain the following items and be accompanied by the following documents:

(*1*) *Bonjuk* (permanent domicile), address, name, sex and date of birth of employee.

(*2*) *Bonjuk*, present address, name, occupation and relation to the employee, of the person in parental authority.

(*3*) Address, name (trade name or juridical name), occupation (or profession) of the employer.

(*4*) Duration of the employment contract, wage (in case of piece-work, the method and amount of compensation), nature and description of the work and work place, any special conditions connected with the contract, and whether the contract is a renewal contract and if so the period of renewal.

(*5*) Date of application.

(*6*) Written consent of the person in parental authority.

(*7*) Proof of age (an abstract of *Hojuk*, birth certificate, or similar certificate issued by the appropriate government official).

(*8*) School record or certificate, or *curriculum vitae*.

(*9*) Medical certificate.

(*10*) Labor contract, or preparatory agreement or letter of consent.

c. The application shall contain a statement, signed, sealed and sworn to by the parties and the person in parental authority, that they will not violate the provisions of this Act.

d. The application for renewal of an employment contract may omit all or part of the accompanying documents provided for in section *b*, items 6-10, of this Section VII.

e. When the name of the employer is changed, the application to

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

change the name of the employer in the permit may also omit all or part of the accompanying documents.

SECTION VIII. *Employment Permit*. *a*. Upon approval of the application the appropriate supervising authority shall, within thirty (30) days from the date of receiving the application, issue the permit herein described.

b. The permit may be revoked for illegality or fraud.

c. The permit shall be retained by the employer for the duration of the employment.

d. If the employer fails to retain the permit or to show it to the supervising authority or any other person, the employment pursuant to such permit shall be illegal.

e. The permit shall contain the following items:

(*1*) Address, name, sex, date of birth, and physical characteristics of the employee.

(*2*) Address, name, occupation, and relation to the employee, of the person in parental authority.

(*3*) Address, name (trade name or juridical person), occupation (or profession) of the employer.

(*4*) Duration of employment contract, wage (in case of piecework, method and amount of compensation), kind and nature of the work and work place, any special condition connected with the contract, and whether it is a renewal contract and if so the duration of the renewal.

(*5*) Date of receiving the application.

(*6*) Date of issuing the permit.

f. The permits shall be numbered in a single annual series, and the supervising authority shall state under seal that he examined the series and found it in accordance with this Act.

g. The permit shall be made in duplicate. One copy shall be given to the applicant and the other shall be kept by the supervising authority. When a new permit is needed because of the loss or defacement of a permit,

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

the party may apply for the reissuance of the permit.

h. When a party applies for reissuance, he shall state the permit number, date of issuance, and the reason for application. He shall apply in writing to the supervising authority, attaching a copy of the original, where available.

i. When the supervising authority examines the case and finds good reason to reissue, he shall compare the copy attached to the application with the original copy kept by the supervising authority and, if there is no discrepancy, he shall endorse under seal a verification on the copy. This shall constitute the reissuance.

j. In the case of application for renewal of permit and for change of name in the permit, the examination of the contents of the application and procedure for issuance may be simplified.

k. In the application of this Act to children employed by the head of a government office or public juridical person, the permit of employment of that organization shall be regarded as the permit prescribed in this Section.

SECTION IX. *Termination, Cancellation or Dissolution of the Employment Contract*. *a.* The employment contract shall be terminated or cancelled for any of the following reasons:

(1) The expiration of the term of the contract.
(2) The cancellation of the permit.
(3) The death, bankrupty, or dissolution of the employer.
(4) The disappearance of the enterprise establishment as result of a disaster.
(5) The confirmation of dissolution of the contract by consent of the parties.

b. A party may request the dissolution of the contract for any of the following reasons:

(1) When the other party does not fulfill the contract.
(2) When the employee is unable to work because of sickness or other physical hindrance.
(3) When the employee misbehaves and there is no hope of repentance.
(4) When the employee is absent without notice for more than twenty (20) days.
(5) When the employer requests burdensome labor or treats the

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

employee so cruelly that the employee cannot endure the employment, or when the employer does not fulfill his duties prescribed in this Act.

c. A request for dissolution of the contract must be answered in writing within twenty (20) days.

d. The employer shall, within sixty (60) days prior to the expiration of an employment contract, notify the employee whether he will agree to a renewal.

e. When the parties fail to reach agreement as to the dissolution of a contract, or when the reason for the request for dissolution by one party is considered to be improper by the other party, the matter may be submitted to arbitration by the supervising authority in accordance with regulations prescribed by the appropriate Director.

f. When a contract has expired or has been cancelled, the employer, stating that fact, shall return the permit to the supervising authority within seven (7) days after such expiration or cancellation.

SECTION X. *Employer's Duty to Employees. a.* Every employer who employs two or more children shall post and keep posted in a conspicuous place in every room where any child is employed, a list of the names, addresses, sex, age, nature of occupation and the date of commencement of employment of each child. He shall keep a duplicate copy as part of his records.

b. Every employer who employs five (5) or more children shall post and keep posted, in the same manner, the working regulations showing the weekly and daily working hours of each child, the hours of commencing and stopping work, the hours allowed for meals, and other important matters. The employer shall keep a copy as part of his records.

c. An employer who employs ten (10) or more children (hereinafter referred to as an "authorized factor") shall keep, as part of his records, the detailed plan for the education and protection of his employees.

d. An employer who provides a dormitory establishment shall post, in a conspicuous place in the dormitory, the employees' general schedule during non-working hours.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

e. The employer shall not request the child to stay in the dormitory, factory or in any designated place on a non-working day, holiday, or during non-working hours; *provided, however,* that proper supervision or restriction of behavior, for the sake of all the employees, may be imposed.

SECTION XI. *Physical Examination and Medical Treatment. a.* Irrespective of the nature of the work, the employer shall provide physical examinations at the beginning of the employment and at intervals of three (3) months thereafter by a physician designated by the supervising authority.

b. When physical examination discloses that any sickness or ill health is caused by such employment, the employer shall provide treatment and relief therefor, and shall report the results to the supervising authority.

c. All expenses necessitated by the provisions of this Section shall be borne in full by such employer.

d. The employer shall file in his records the reports of physical examinations.

SECTION XII. *Sick Leave, Pregnancy, Child-bearing and Nursing. a.* Employees shall be entitled to not less than two and one-half (2 1/2) days of sick leave per month at full pay (regular wage, allowance and other pay), which sick leave may be accumulated during the employment period. Employees may, in appropriate cases, be required to notify the employer ,in writing one day prior to the date of absence where the absence is expected to be for two days or more.

b. Pregnant employees shall be granted sixty (60) days leave without pay for purposes of rest, *provided, however,* that an employer shall be required to grant such pregnancy leave only in case the employee has been in his employ for at least six (6) months.

c. In case of child-bearing, a female employee shall be entitled to sixty (60) days leave with regular pay immediately before and after the child-bearing.

d. As to nursing required for the infant, appropriate facilities and opportunities shall be afforded to such women employees.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

e. Employees may be required to furnish documentary proof in case of any claim of absence due to sickness, pregnancy, or childbearing.

SECTION XIII. *Education, Sports and Recreation for Employees. a.* Authorized factories shall provide education, sports and recreation for employees under eighteen (18).

b. At least four (4) hours a week shall be devoted to general educational instruction not connected with the employment. At least two (2) hours a week shall be devoted to sports and recreation.

c. All the expenses and facilities necessitated by the provisions of this Section shall be borne or provided by the employer.

d. The detailed regulations for the education and recreation necessitated by this Section shall be prescribed by the appropriate Director in cooperation with the Director of the Department of Education and the Director of the Department of Public Health and Welfare.

SECTION XIV. *Issuance of Detailed Regulations by the Appropriate Director.* In addition to the special provisions for the detailed regulations in this Act, the appropriate Director shall enact enforcement regulations concerning the following matters:

(*a*) Form of application for employment permit for children (Section VII).
(*b*) Form of employment permit (Section VIII).
(*c*) Form of list to be posted (Section X).
(*d*) Form of working regulations (Section X).
(*e*) Form of report of the result of physical examinations (Section XI).
(*f*) Details of education and recreation in the authorized factories (Section XIII).
(*g*) Forms of report concerning arbitration (Section IX).
(*h*) Forms of report concerning violations (Sections XVII and XVIII).
(*i*) Any other matter requiring detailed regulations.

SECTION XV. *Appointment, Powers, Duties and Reports of the Supervising Authority. a.* The supervising authority shall be appointed by the appropriate Director. He shall be supervised primarily by the local administrative official, and secondarily by the appropriate Director. The organisation

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

of the supervising authority shall be determined separately by the appropriate Director.

b. The supervising authority shall have the power to issue orders, conduct investigations, and make dispositions necessitated by the provisions of this Act. In addition, he shall have the following duties:

(*1*) The investigation of local customs concerning the employment of children.

(*2*) The investigation of the maximum working hours of specific industries and enterprises, or generally.

(*3*) The investigation of working conditions and maximum and minimum wages.

(*4*) The inspection of industrial and commercial businesses.

(*5*) The inspection of facilities for, and practice concerning, education and recreation in authorized factories.

(*6*) Concerning matters of improvement of working conditions.

(*7*) Concerning other matters necessary for the enforcement of this Act.

c. The supervising authority shall, before the tenth of each month, report to the appropriate Director on the matters set forth in paragraph *e* of this Section. The supervising authority may, at any time, present his opinion concerning matters pertinent to his duties.

d. The foregoing report and opinions shall be presented through the local administrative officials.

e. Reports shall contain the following information:

(*1*) Name-list of employees.

(*2*) Disposition and results of violations.

(*3*) Results of inspection of businesses, industries, and authorized factories.

(*4*) Results of physical examinations.

(*5*) Other comments pertinent to duties of the supervising authority.

f. The supervising authority shall keep whatever records and files are necessary for the performance of his duties, and shall make such records and files available to the local administrative officials and the appropriate Director, upon their request.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

SECTION XVI. *Rights of Recovery. a.* Any person injured by the violation of this Act may recover from the offender such damages as he may sustain thereby. In any suit by or on behalf of any child illegally employed hereunder, contributory negligence, assumption of risk, or negligence by fellow employees shall not be a defense and may not be pleaded or proved either by way of defense or mitigation, nor shall misrepresentation of age by the person securing the employment or by the person employed be a defense or matter in mitigation.

This shall not apply in case of fraud or tort to gain the benefit of recovery.

b. Any person illegally employed hereunder shall be entitled to recover a sum equivalent to ten times the agreed amount of wages earned or ten times the legal minimum wage, whichever is greater.

c. In case the employer is other than a juridical person, all members of such employer-body shall be liable as employers under the provisions of this Section.

d. None of the provisions of this Section may be waived, and any release of any rights hereunder shall be ineffective to bar any recovery hereunder.

e. No suit may be maintained under this Section for any period of employment which occurred two years prior to the filing of the suit.

SECTION XVII. *Juvenile Delinquency. a.* When a child violates any provisions of this Act, or refuses to obey the order or report of, or permit investigation by the supervising authority, or makes any false statements, the supervising authority may take the following steps depending on the nature of the offense:

(*1*) Admonish and exhort the child to repent.
(*2*) Request that the schoolmaster and/or person in parental authority admonish the child and furnish a letter of guarantee.
(*3*) Request a written oath of repentance.
(*4*) Cancel the employment permit or reject the application.

The above steps may be taken either separately or jointly.

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b. In case the steps mentioned above do not correct the behavior of the child, such child shall be conducted forthwith before the juvenile court which has jurisdiction over that district; or, if there is no such court in that place, before any court or judicial officer having jurisdiction over offenses committed by children.

c. In the treatment of offenses committed by children, special care and caution shall be taken and a constant effort made to guide the child.

SECTION XVIII. *General Penalties. a.* Any person who permits, procures or suffers the violation of the provisions of Sections III and IV of this Act shall be punished by penal servitude not exceeding six (6) months or a fine of not less than one thousand won (₩ 1,000).

b. Any employer who violates the provisions of Sections V or VI-*b*, or who refuses to permit investigation by, or obey the order or report of the appropriate Director or the supervising authority, or makes any false statements, shall be punished by confinement of less than thirty (30) days or a fine of not less than five hundred won (₩ 500).

c. Any employer who wilfully or continuously violates any of the provisions of this Act shall be punished with penal servitude of not less than one year.

SECTON XIX. *Interim Provisions. a.* Any employer employing children in permitted occupations at the effective date of this Act shall, within sixty (60) days, apply for an employment permit, and may continue such permitted employment while the application is pending.

b. Where children over fourteen (14) years are employed in work prohibited or limited in Section III of this Act, on the effective date thereof, the employer or the supervising authority shall within sixty (60) days allocate them to permitted work consistent with the purpose of this Act.

c. If such allocation is impossible because of the nature of the work and the difficulty in providing other work, an application for a permit shall be filed in accordance with Section VII of this Act. The application may be granted on a temporary basis by special action of the appropriate Director, regardless of the provisions of Section III, *provided, however,* that such temporary employment shall not exceed one year.

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SECTION XX. *Repeal of Inconsistent Laws and Effective Date.* a. Ordinance Number 112 (*Regulation of Child Labor*), dated 18 September 1946, and all other ordinances, regulations or any order having the effect of law, inconsistent or in conflict with the provisions hereof, are hereby repealed.

b. This Act shall be effective thirty (30) days after the date of approval.

Duly enacted by the Korean Interim Legislative Assembly:

KIM KIU SIC
Chairman, Korean Interim
Legislative Assembly

APPROVED 16 May 1947:

ARCHER L LERCH
Major General United States Army
Military Governor in Korea

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L.B.

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HEADQUARTERS
UNITED STATES ARMY MILITARY
GOVERNMENT IN KOREA
Office of the Military Governor
Seoul, Korea

ORDINANCE
NUMBER 132

24 February 1947

TEMPORARY SUSPENSION OF ORDINANCE NUMBER 112

Pending action on the subject matters hereof by the Korean Interim Legislative Assembly and the enactment of an ordinance pursuant thereto, the following shall govern:

SECTION I. *Ordinance Number 112 Suspended in Part.* Ordinance Number 112, dated 18 September 1946 (*Regulation of Child Labor*) is hereby suspended until 1 June 1947; *provided, however,* that the hiring or employment of children under the age of 14 full years under contracts or agreements for hire or employment entered into on and after the effective date hereof is nevertheless prohibited.

SECTION II. *Effective Date.* This ordinance shall be effective on the date appearing hereon.

SEAL
USAMGIK

ARCHER L LERCH
Major General United States Army
Military Governor in Korea

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在朝鮮美國陸軍司令部軍政廳

法令第一三二號

法令第一一二號의一時停止

朝鮮過渡立法議院에서兒童勞働法規를審議하야法令을改正할때까지左에依함

第一條 法令第一一二號의一部停止

西紀一九四六年九月十八日附法令第一一二號(兒童勞働法規)는 西紀一九四七年六月一日까지停止함但그法令의施行期日以後履行契約에依하야滿十四歲未滿의兒童을雇傭함은從前에도禁止함

第二條 施行期日

本法令은公布日로부터有效함

一九四七年二月二十四日

朝鮮軍政長官

美國陸軍少將 아-치·엘·레-취

USAFIK 1947

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144—16

LABOR LEGISLATION

APRIL SUMMATION

1. The revised draft of the Labor Disputes Adjustment Bill was completed amd made public on 23 April. This bill, to be introduced in the May session of Diet, is intended to replace an act of the same name which has been on the law books since 1926 but has been a dead letter, only four cases ever having been considered under its provisions.

2. Public hearings on the new bill were held from 25 to 30 April with more than 20 labor union and employee representatives from all over Japan testifying. The hearings were the first in the history of Japan to give the persons directly affected an opportunity to participate in the formulation of law.

May SUMMATION

* * * * * * * * *

2. The Labor Legislation Committee presented its draft of a Labor Relations Adjustment Bill to the Ministry of Health and Welfare.

3. After public hearings 25-30 April the bill's permissive character was strengthened. Machinery for conciliation, mediation and voluntary arbitration is provided as a government service to both parties, who retain the primary obligation to adjust their differences. Restrictions with appropriate penalties are proposed as follows:

(1) Acts of disputes in specified public welfare works are to be disallowed until 30 days after mediation has been requested.

(2) Acts of disputes are to be disallowed on the part of police officers, firemen, those employed at prisons and officials and employees directly engaged in the processes of government administration.

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(3) Operation of safety installations at a factory, mine or other places of employment is not to be hampered at any time.

JUNE SUMMATION . 1. The Labor Disputes Adjustment Bill establishing machinery for conciliation, mediation and arbitration of labor disputes was approved by the Labor Legislation Committee on 31 May and by the Cabinet on 24 June for introduction into the Diet.

JULY SUMMATION

1. The Labor Disputes Bill was introduced in the Diet on 13 July.

Employers generally supported the bill while labor unions felt it was restrictive and presented several petitions to that effect to the Diet.

2. Labor Protection Bill. The Ministry of Health and Welfare announced that a Labor Protection Bill designed to consolidate and improve protective legislation contained in the Factory Act, the Mining Act, the Minimum Age for Industrial Employment Act and certain Allied ordinances would be introduced in the fall session of the Diet.

Public hearings on the projected legislation will be held in August.

AUGUST SUMMATION

1. The Labor Relations Adjustment Bill, formerly known as Labor Disputes Adjustment Bill, establishing conciliation, mediation and arbitration machinery, was reported out of committee to the House of Representatives.

Intensive labor union opposition, primarily because of prohibition on strikes by Government employees marked its discussion in the Diet committee. Unions also criticized the provision for a 30-day

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waiting period for strikes in public welfare enterprises. The Iron and Steel Workers' Union called a one-day national strike on 5 August in protest against the proposed legislation. Demonstrations by other unions were held in Tokyo subsequently.

PRESS RELEASE
23 April

Labor Bill to be Subject of Japan's First Public Hearings on Legislation.

For the first time in Japan's history open public hearings are to be held on pending legislation - the "Labor Disputes Adjustment Bill"is to be discussed at a hearing at the Welfare Ministry Building.

The hearings are to be sponsored by the Japanese Labor Legislative Committee after consultation with the Labor Division of ESS, SCAP and the CI & E.

* * * * * * * The bill sets up machinery for use in settling labor disputes. * * * * * * More than 20 trade union and business leaders are invited. * * * * * * * The Japanese Labor Legislative Committee was formed last October by Premier Shidehara in response to General MacArthur's instructions to "encourage the unionization of labor." It has already drawn up the Trade Union Law which was passed by the Diet.

CCD 16 May
Asahi Shimbun
News Item

Movement Against Labor Adjustment Bill

"The first united front in Kansai District was formed in Osaka, against the Labor Adjustment Bill while similar movement is under way in Kyoto, Hyogo and Shiga prefectures, by the Kansai District Council of the Japan Traffic Labor Unions as the center."

Press Comments
JIJI
July 13

Labor Relations Adjustment Bill and Security of Livelihood.

The Government will soon submit to Diet a Labor Relations Adjustment Bill, another important installment of labor legislation. In con-

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trast with Labor Union Bill which met with a favorable reception on the whole, the prospective bill on the adjustment of labor relations already is evoking a strong opposition on the part of the working classes.

The main reason for the opposition of the workers is that the bill proposes to restrict the right of the employees to conduct disputes, prohibiting disputes in certain cases.

The classes of personnel whose resort to disputes are to be prohibited, include (1) the members of the police force and (2) of the fire corps, (3) prison officials and employees, (4) officials engaged in the administration and judicial business of central and local governments, (5) officials of other public bodies, etc. Under Article 4 of the Labor Union Law persons belonging to the first three categories are prohibited from organizing themselves in labor unions. As far as these classes are concerned, the ban placed on their disputes may therefore seem quite reasonable, but the case of persons mentioned in the other items, it will be admitted, is more or less different, for the Labor Union Law gives them the right of combination. The Government will perhaps say that the prohibition in question is already anticipated in paragraph 2, Article 4, Labor Union Law. The matter is not however, quite as simple as it may appear.

* *

If disputes are to be restricted or banned for certain classes of employees, it follows, as of course, that adequate security be provided for the livelihood of the persons affected. In other terms, guarantee must be given for these classes that they shall not be treated worse than other classes of people. In regard to this important matter the government is not taking any positive steps, excepting the creation

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of joint management councils. This is not a very satisfactory attitude for the government must respect the rights of any class to their livelihood.

DAILY RADIO
15 August
Conf.

An estimated 15,000 government workers on 13 August staged a mass demonstration protesting Labor Relations Adjustment Bill now being considered by Diet. Government workers object particularly to provision which would deny them the right to strike.

ATIS Press
Mimpo
21 Aug

Labor Relations Adjustment Bill Passed in Lower House:

The bill is nothing but a measure to suppress the laboring class. Consequently, the laboring class unanimously opposed the bill. ------ Although the general public vehemently opposed the bill, the Liberals and Progressives ignored the voice of the people. *****Social Democrats attitude weak.***** Why did the Government and Government parties persist in pushing the bill through against the will of the people?

The Labor Relations Adjustment Law is closely related with the problems of war indemnities cancellations and with industrial adjustment and these three measures must not be separated from each oth

MAINICHI

14 Oct 46

Labor Relations Law Enforced October 13

The government on Sunday, October 13, enforced the Labor Relations Readjustment Law passed by the 90th Extraordinary Session of the Diet.

The enforcement of the law was hurried by the government in view o the consideration that the strife between capital and labor will be intensified further with the readjustment of enterprises in connection with the suspension of munitions industry indemnifications.

deliberated on by the general assembly. Standards of working conditions will be stipulated in this draft. It will probably be named the Labor

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LABOR STANDARDS BILL

Mainichi Shimbun
23 July

The Ministry of Welfare listened to both sides of the argument as presented by capital and labor, and then ordered the Labor Legislation Committee (RODO HOSEI SHINGIKAI) to draw up a draft bill for protection of labor, which will be presented to the Diet session in autumn. A subcommittee was formed consisting of 10 members. The committee will draw up a draft to be presented to the government by 5 September after being deliberated on by the general assembly. Standards of working conditions will be stipulated in this draft. It will probably be named the Labor

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Standard Law.

ATIS Press
8 Aug.

Labor Standard Bill Under Consideration.

A meeting of the Labor Legislation Committee was held at 1300 hours on 7 August in the council-room of the Epidemic Research Laboratory in Shiba. The council deliberated on the Labor Standard Bill.

After the draft of the bill prepared by a small committee under the chairmanship of Dr. Suehiro, was discussed, the final draft was set up. This draft is to be placed before the plenary meeting of the Labor Legislation Council for approval.

However, the draft, like the Labor Relations Adjustment Bill, is to be discussed further at a public hearing in order that the opinion of both labor and capital may be acquired. After that, the draft will be brought back to a plenary meeting of the Labor Legislation Council and be set up as the final draft.

AUGUST SUMMATION

2. The Ministry of Health and Welfare on 25 August made public the draft of a labor protection bill known as the Labor Standards Bill, prepared and passed by the Government Labor Legislation Committee representing employers, labor unions and the public.

Nippon Times - 28 August: Labor Standards Bill will be finished soon.

****To protect workers' personal rights, especially those of women, juveniles.

Nippon Times - 29 August - Editorial

ATIS Press Trans.- 26 August-Social Series No. 1053 - Full draft of bill.

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MAY SUMMATION . The Imperial Ordinance of 17 May setting up the Economic Stabilization Board established a Labor Division within that board to plan over-all planning of wages and salaries and labor force channeling. Labor policies set by the Board are to be executed by the Ministry of Health and Welfare.

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Advance
Press Release
15 July

Nippon Times
15 July

Japan's Labor Well Protected.

The recent public release by the Soviet member of the Allied Council for Japan setting forth recommendations for labor legislation implies that little in this field has been done and that a vitally important part of democratic legislation has been neglected. This is entirely contrary to the truth, which fact could not fail to have been known by anyone with the slightest familiarity with the existing situation -----according to the statement released by the ESS of SCAP, which embodies the Labor Division.

The statement continues: A Labor Advisory Commission, now in Tokyo on invitation of SCAP and composed of persons experienced in various phases of Labor administration, has been investigating and studying general Japanese labor conditions and laws for four months.

Its final reports on labor relations and protective legislation ----- will include a number of specific recommendations for improving and extending the present labor laws. On many features of labor legislation, however, the committee urges detailed study and public hearings before the final details of new laws are decided. This use of democratic processes, rather than detailed directives from SCAP, will assure that proper attention is given to the interests of employers and the general public as well as those of workers.

Labor Position Strong

The legal position of labor in this country is a strong one and laborers find real support for their organization and protection for their rights on the statute books.

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All bars to free organization of labor unions and to the legitimate activities of labor unions for the purpose of improving wages, hours, conditions of work and to rendering mutual assistance have been removed.

Equally important are the legislative measures defining the rights of labor and providing legal protection for labor.

Perhaps the most important labor legislation which has been put into effect since the beginning of the occupation is the Trade Union Law and its enforcement ordinance.

The Japanese government has under draft a Labor Disputes Adjustment Bill. This bill along with the proposed Labor Protection Bill and other measures already in various stages of active consideration will, if and when enacted into legislation by the Diet, go far toward completing and perfecting labor legislation in Japan. * * * * * * * * *

Virtually all suggestions by the Soviet member are already, in principle, wholly or in part, incorporated in existing legislation or in proposed legislation which has already passed the initial stages of government consideration and drafting. (The twenty-two suggestions offered by the Soviet member of the Council given in full in Press Release and in the Verbatim Minutes of the Allied Council for Japan, 10 July, 10:00 AM).

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144-15

Orientation Lectures on Labor Relations Legislation and Agencies

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I. THE PURPOSE OF LABOR RELATIONS LEGISLATION

Prepared by
John H. Harold
Labor Relations Officer

ECONOMIC AND SCIENTIFIC SECTION
LABOR DIVISION
G. H. Q.

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GOVERNMENT LABOR RELATIONS LEGISLATION AND AGENCIES

Purpose of These Lectures

It is in order at the outset to inquire why these series of lectures should be held at this time. A considerable amount of the time of you busy men is being consumed and your time cannot be wasted. Japan today, in its relation to Labor Relations Legislation and Agencies, stands, to a degree, in much the same position as our people in America did in 1935, immediately prior to the passage of the National Labor Relations Act. That Act did much to bring about industrial peace during a growing labor period in which our own American labor unions grew by leaps and bounds. A wave of organizational activity on the part of unions brought about a counter-wave of union busting activity by employers and resulting strikes. A society which had within itself the ability to meet changing conditions had its legislature pass the National Labor Relations Act and created the National Labor Relations Board to administer the Act.

Now, therefore, as conditions in Japan today are somewhat like they were in America during that period, it would appear to be helpful to all if we would examine the manner in which our society set up machinery to assist in the peaceful solution of labor disputes.

A Japanese Solution

It is important, however, to keep in mind that the experience of America need not be the ultimate end sought - it should not be viewed as the mountain peak of perfection at the end of the road toward industrial peace. Rather should our American experiences be a lamp post along the road Japan might follow, lighting the road and assisting the traveler to his <u>own</u> solution - a Japanese solution to a Japanese problem.

The Outline of the Lectures

With these few introductory remarks we can get along to the subject in hand. We shall attempt to cover in these lectures a study of the purpose of labor relations legislation - why governments bring such legislation into being; the specific organization and structure of the NLRB and New York State Labor Relations Board, and the procedural regulations of each; the organization and structure of the National War Labor Board and its procedural regulations; a study of what an unfair labor practice is in the States, what employer discrimination is; what we mean by company-dominated or employer-dominated unions, that is, non-autonomous unions; and what we mean by representation proceedings. We will further study how the rulings and judgments of the National Labor lations Board are enforced and what punishment follows for a failure to comply with such rulings.

Up to this point we will have been considering legislation and agencies that come to the aid of the worker in his efforts to organize and bargain collectively. The equivalent protection in Japan, in this respect, is found in your Trade Union Law and the responsibility therefore rests in in your Labor Relations Committees.

Later we can begin to consider those agencies that deal with the peaceful adjustment of labor disputes in general. In this respect, such procedures are outlined in your Labor Relations Adjustment Law. In America we have the U. S. Conciliation

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Service, the National Mediation Board, the various State conciliation and mediation boards and private conciliation and mediation agencies which seek to perform these duties.

You will see, gentlemen, that your committees have assumed the duties of more than five different agencies in the United States, and I hazard the guess that you will be very, very busy.

It is intended that each part of the discussion be related to the appropriate Japanese law and appropriate Japanese agencies so that we both may examine the existing procedures in Japan to appreciate what is needed. Perhaps our studies shall indicate certain organization steps necessary, certain budgetary or personnel requirements. You may resolve, too, that even this new legislation can or should be amended or new laws drafted.

I think we will all agree that the right of the working man to organize and to bargain collectively is good and necessary not only for the good of the working man but for the good of society as a whole. We would also conclude that it is the duty of society to provide for the peaceful solution of labor disputes without sacrificing the rights of the worker. Japan has chosen you gentlemen to do this important work. You can do it. Will you?

The Purpose of Labor Relations Legislation

Now, then, for the discussion for today. Let us study the purpose of labor relations legislation. As a starting point it would seem appropriate to examine certain American laws.

The National Labor Relations Act was passed by the American Congress in 1935. Primarily, it was created to assist labor to organize and to provide a method whereby workers could indicate their choice of bargaining representatives. The general beliefs , of those who sponsored and supported the Act on its way thru Congress were that labor peace based on a one-sided autocracy of employers has no solid foundation; that lasting labor peace in a political democracy can be obtained only when it is two-sided - i.e., based on a real labor democracy under which employers freely recognize unions of their workers' own selection and deal with them, in good faith and with a will to agree, on the basic terms of employment so vital to the workers' well-being; and that since the workers were too economically weak to organize and secure recognition from union-hating employers, they must be helped to help themselves by government restrictions on the anti-union tactics used by such employers.

This attitude is reflected in the Act itself. Let us read of the "Findings and Policy" of the National Labor Relations Act in Section One.

> "Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactures or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

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"The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

"Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

In order to implement this policy the Act further contained a clear definition of the rights of the employees. Sections 7 and 8 of the Act read as follows:

"Sec 7. Employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

"Sec. 8. It shall be an unfair labor practice for an employer--

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules and regulations made and published by the Board pursuant to section 6(a), an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided: That nothing in this Act, or in the National Industrial Recovery Act (U.S.C., Supp. VII, title 15, secs. 701-712), as amended from time to time, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require, as a condition of employment, membership therein, if such labor organization is the representative

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of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made.

(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a)."

Section Ten of the Act gave the National Labor Relations Board, created by the Act, the power to effectuate the policy of the Act:

"Sec. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

"(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

"(c) The testimony taken by such member, agent, or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint."

New York Labor Relations Act

In New York State, as in other states in America, we also have a Labor Relations Act and a Labor Relations Board. These are created by the States themselves.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

The New York State Labor Relations Act clearly illustrates that such legislation is created for the specific purpose of assisting workers to organize and that resultant equality of bargaining power is of distinct value to society. The "Findings and Policy" of this Act follows:

> "The economic necessity for employees to possess full freedom of association, actual liberty of contract and bargaining power equal to that of their employers, who are frequently organized in corporate or other forms of association, has long been sanctioned by public opinion, and recognized and affirmed by legislatures and the highest courts. As the modern industrial system has progressed, there has developed between and among employees and employers an ever greater economic interdependence and community of interest which have become matters of vital public concern. Employers and employees have recognized that the peaceable practice and wholesome development of that relationship and interest are materially aided by the general adoption and advancement of the procedure and practice of bargaining collectively as between equals. It is in the public interest that equality of bargaining power be established and maintained. It is likewise recognized that the denial by some employers of the right of employees freely to organize and the resultant refusal to accept the procedure of collective bargaining, substantially and adversely affect the interest of employees, other employers, and the public in general. Such denial creates variations and instability in competitive wage rates and working conditions within and between industries and between employees and employers engaged in such industries, and by depressing the purchasing power of wage earners and the profits of business, and tends (a) to produce and aggravate recurrent business depressions, (b) to increase the disparity between production and consumption, (c) to create unemployment with its attendant dangers to the health, peace and morale of the people, and (d) to increase public and private expenditures for relief of the needy and the unemployed.
>
> "When some employers deny the right of employees to full freedom of association and organization, and refuse to recognize the practice and procedure of collective bargaining, their actions lead to strikes, lockouts and other forms of industrial strife and unrest which are inimical to the public safety and welfare, and frequently endanger the public health.
>
> "Experience has proved that protection by law of the right of employees to organize and bargain collectively, removes certain recognized sources of industrial strife and unrest, encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions, and tends to restore equality of bargaining power between and among employers and employees, thereby advancing the interests of employers as well as employees.
>
> "In the interpretation and application of this article, and otherwise, it is hereby declared to be the public policy of the state to encourage the practice and procedure of collective bargaining, and to protect employees in the exercise of full freedom of association, self-organization and designation of representatives of their own choosing for the purposes of collective bargaining, or other mutual aid and protection, free from the interference, restraint or coercion of their employers.
>
> "All the provisions of this article shall be liberally construed for the accomplishment of this purpose.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

"This article shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health and peace of the people of the state. (As amended by Chapter 689 of the Laws of 1940.)"

Again, appropriate sections of that law define the rights of employees.

"704. Unfair labor practices. It shall be an unfair labor practice for an employer:

1. To spy upon or keep under surveillance, whether directly or through agents or any other person, any activities of employees or their representatives in the exercise of the rights guaranteed by section seven hundred three.

2. To prepare, maintain, distribute or circulate any blacklist of individuals for the purpose of preventing any of such individuals from obtaining employment because of the exercise by such individuals of any of the rights guaranteed by section seven hundred three.

3. To dominate or interfere with the formation, existence, or administration of any employee organization or association, agency or plan which exists in whole or in part for the purpose of dealing with employers concerning terms or conditions of employment, labor disputes or grievances, or to contribute financial or other support to any such organization, by any means, including but not limited to the following: (a) by participating or assisting in, supervising, controlling or dominating (1) the initiation or creation of any such employee organization or association, agency, or plan, or (2) the meetings management, operation, elections, formulation or amendment of constitution, rules or policies, of any such employee organization or association, agency or plan; (b) by urging the employees to join any such employee organization or association, agency or plan for the purpose of encouraging membership in the same; (c) by compensating any employee or individual for services performed in behalf of any such employees organization or association, agency or plan, or by donating free services, equipment, materials, office or meeting space or anything else of value for the use of any such employee organization or association, agency or plan; provided that, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

4. To require an employee or one seeking employment, as a condition of employment, to join any company union or to refrain from forming, or joining or assisting a labor organization of his own choosing.

5. To encourage membership in any company union or discourage membership in any labor organization, by discrimination in regard to hire or tenure or in any term or condition of employment: Provided that nothing in this article shall preclude an employer from making an agreement with a labor organization requiring as a condition of employment membership therein, if such labor organization is the representative of employees as provided in section seven hundred five.

6. To refuse to bargain collectively with the representatives of employees, subject to the provisions of section seven hundred five.

7. To refuse to discuss grievances with representatives of employees, subject to the provisions of section seven hundred five.

8. To discharge or otherwise discriminate against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this article.

9. To distribute or circulate any blacklist of individuals exercising any right created or confirmed by this article or of members of a labor organization for the purpose of preventing individuals so blacklisted or so named from obtaining or retaining employment.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

10. To do any acts, other than those already enumerated in this section, which interfere with, restrain or coerce employees in the exercise of the rights guaranteed by section seven hundred three."

In the same way as the National Labor Relations Board, the State Board is empowered to enforce the provisions of its act and to prohibit unfair labor practices.

It is to be pointed out that these boards have real authority, real power, and they have time and time again exercised their power in a forceful way. No one defies successfully the decisions of these boards.

A Viewpoint of a Committee of Congress

A United States Senate Committee on Education and Labor has this to say of the National Labor Relations Act:

> "A major objective of the bill is to encourage, by developing the procedure of collective bargaining, that equality of bargaining power which is a prerequisite to equality of opportunity and freedom of control. The relative weakness of the isolated wage-earner caught in the complex of modern industrialism has become such a common place of our economic, literary, and political vocabulary that it needs no exposition. This relative weakness of position has been intensified by the technological forces of driving toward greater concentration of business and cooperative activity among trade and industrial groups. With these objectives in mind, Congress enacted the Wagner Act, the National Labor Relations Act, enumerating therein the rights of labor, the activities of the employers which shall be considered infringements of those rights, and the machinery whereby the infringement of laborer's right may be prevented or remedied."

The National Labor Relations Board in its 1943 annual report, after eight years of existence, had this to say of its work:

> "The conclusion expressed by Congress in the Act, that protection of the right of employees to organize and bargain collectively would encourage the practice and procedure of collective bargaining is supported by the experience of the Board."

Thus we see that the National Labor Relations Act and the State Acts were purposely created for the specific reason of helping labor organize, so that it might bargain collectively on equal footing with employers.

The Japanese Law

An examination of your own Trade Union Law is pertinent here. Article 11 of that Act reads:

> "The employer shall be disallowed to discharge or give a discriminatory treatment to a worker for his being a member of a trade union, for having tried to form or join a trade union, or for having performed proper acts of a trade union law.
>
> "No employer shall make it a condition of employment that the worker must not join or must withdraw from a trade union."

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Article two of your same law requires that a trade union be autonomous--i.e., not employer dominated, not a company union.

Article six gives your committee the power and the duty to determine whether a union is in fact autonomous and your Imperial Ordinance Number 108, promulgated 27 February 1946 in Articles 2-8 inclusive prescribed the procedure looking to the disestablishment of a union if it is employer dominated.

Articles 11, 27 and 33 of the Trade Union Law give your committee the power and the duty to protect workers in the exercise of their right to organize.

Specific Cases

Now, then, essentially your powers and responsibilities in these respects are the same as the responsibilities of similar Boards in America. Although in subsequent lectures we will consider in detail the question of unfair labor practices and employer-dominated unions, it might be pertinent to pause here and illustrate how our Boards in one or two cases meet these responsibilities. In respect to a discriminatory discharge, the New York State Labor Relations Board stated in one case, in part, as follows:

> "It is hard to believe that the respondent (employer) would have discharged one of its best mechanics without first attempting to retain him by some adjustment of his wages. It is more likely, and we find that the discharge of Judski was intended as an example to the rest of the employees and was designed to discourage union activities. The discharge of the highest paid mechanic in the shop for union activities could readily serve as an effective deterrent to union activities of less skilled employees."

Needless to say, Mr. Judski was reinstated in his job by order of the Board and the employer also had to pay him for any money he lost in wages while he was out of work.

On the question of a company-dominated puppet union being used by an employer to defeat a free choice of union by the workers, the language of the same Board in another case is helpful.

> "The evidence shows that respondents (employers) did not wish to bargain with Local 306 because they did not like the terms presented in them. Having come to an understanding with a union that did not represent a majority of the employees, the employer proceeded to discharge that majority. The employer entered into a contract with the union that did not represent the majority of their employees and thereby attempted to preclude such employees from receiving employment at respondent's theatres unless they were to become members of the Empire Union and were to cease their affiliation with Local 306. The entrance into the contract itself clearly constitutes and interferes with the rights of their employees to organize and bargain collectively through representatives of their own choosing. A clearer violation of the express provisions of the Act could scarcely be presented."

Here was a case where an employer, afraid to deal with a bona-fide union, quickly made a contract with a puppet union granting that union a closed shop--that is, requiring that all his employees must be members of that puppet union. How could workers freely exercise their choice of union when the employer told them they must join the puppet union or be discharged?

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

In this case the Labor Board ordered the puppet union dissolved--forbid the employer to recognize or negotiate with it and declared void the contract the employer had made with the puppet union.

These are only two cases. Many more illustrations of the points involved will be referred to in later lectures devoted to unfair labor practices and company-dominated unions. It is enough now to illustrate that society gave the Board a purpose and the machinery thru which to execute that purpose, and time after time the American Labor Boards have forcefully served that purpose. Moreover, time after time Labor Unions have appealed to these boards and came prepared to prove specific violations of the law, and found the help they sought. Many times, where necessary, they have stimulated these boards to act when they were reluctant or slow to act.

In Conclusion

In America then the Act was created to help labor. It is in that respect purposely one sided. That is not to say that it is unfair or unjust. An allegation that an employer discriminated against an employee in regard to his union activity must be proved. It cannot be merely propaganda or loose talk. Appropriate and detailed procedures have been established so that the Labor Boards may be sure in their judgments, but once they find the law has been violated, then they never falter from their purpose of helping a worker.

Now why does such legislation result in industrial peace? It can be easily illustrated in part. If A, the employer, discharges B, the worker, because B, the worker, sought to organize a union or sought to lead the union in militant wage negotiations, then the worker has two alternatives. One, he can call all his fellow workers out on strike or can appeal to the Labor Relations Board--if he knows that the Labor Relations Board will compel the employer to rehire him and pay him any back pay he may have lost. In thousands of cases in America just that has happened and many, many strikes have been avoided because Labor had confidence that their Boards would protect them. In a broader sense the resultant equality of bargaining power results in the improvement of the welfare of a large segment of society and is thus a benefit to society as a whole. In America we have stated this latter purpose by enacting the laws we have discussed and also seeing that these laws were really enforced.

Now you have essentially the same law here. Your Diet has enacted in Section 11 and Section 2 of your Trade Union Law similar provisions protecting the rights of workers. This then is the law of Japan--this idea of helping workers to organize is not something the Communists, the Socialists, the Liberals or any other party thought up. It is the law of the Japanese people, all of the Japanese people.

You have been given the honor, duty and responsibility for enforcing it. How well will you meet that responsibility?

At our next meeting we will consider the purpose of legislation and agencies providing for the peaceful solution of labor disputes through conciliation, mediation and voluntary arbitration and then we will go on to study the internal structure and organization of the National Labor Relations Board, giving consideration to its size, its personnel, its volume of business and its procedures.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

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AMERICAN
LABOR RELATIONS LEGISLATION & AGENCIES

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Prepared by
John R. Harold
Labor Relations Officer

ECONOMIC AND SCIENTIFIC SECTION
LABOR DIVISION
G. H. Q.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

LABOR RELATIONS LEGISLATION AND AGENCIES

Introduction

Mr. Korb yesterday spoke of the work of the Department of Labor in America. From his discussions you can see how much time, money and effort is given by society--by government to the welfare of the worker. We have not sacrificed the advantages of a competitive capitalistic system nor do we intend to, yet much energy by labor and by government is solely devoted to see that the working man gets a good day's pay for a good day's work.

The theme of the present discussion is intended to show you the purpose and size of the American government's efforts in the dynamic, controversial field of labor relations--the relation of employer to Union in terms of wages, hours and working conditions.

It must be understood that we in America look upon our legislation and our government agencies in this field as an aid to our society. Laws are passed to help us, not to hurt us.

National Labor Relations Act

Of first importance in this respect is the National Labor Relations Act. We may profit by a brief study of that law, for Japan today, in its relation to Labor Relations Legislation and Agencies, stands, to a degree, in much the same position as our people in America did in 1935, immediately prior to the passage of the National Labor Relations Act. That Act did much to bring about industrial peace during a growing labor period in which our own American labor unions grew by leaps and bounds. A wave of organizational activity on the part of unions brought about a counter-wave of union busting activity by employers and resulting strikes. A society which had within itself the ability to meet changing conditions had its legislature pass the National Labor Relations Act and created the National Labor Relations Board to administer the Act.

Now, therefore, as conditions in Japan today are somewhat like they were in America during that period, it would appear to be helpful to all if we would examine the manner in which our society set up machinery to assist in the peaceful solution of labor disputes.

A Japanese Solution

It is important, however, to keep in mind that the experience of America need not be the ultimate end sought--it should not be viewed as the mountain peak of perfection at the end of the road toward industrial peace. Rather should our American experiences be a lamp post along the road Japan might follow, lighting the road and assisting the traveler to his <u>own</u> solution--a Japanese solution to a Japanese problem.

The Purpose of the Act

I think we will all agree that the right of the working man to organize and to bargain collectively is good and necessary not only for the good of the working man but for the good of society as a whole. We would also conclude that it is the duty of society to provide for the peaceful solution of labor disputes without sacrificing the rights of the worker.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Our best point of inquiry then should be a consideration of the purpose of labor relations legislation. As a starting point it would seem appropriate to examine certain American laws.

The National Labor Relations Act was passed by the American Congress in 1935. Primarily, it was created to assist labor to organize and to provide a method whereby workers could indicate their choice of bargaining representatives. The general beliefs of those who sponsored and supported the Act on its way thru Congress were that labor peace based on a one-sided autocracy of employers has no solid foundation; that lasting labor peace in a political democracy can be obtained only when it is two-sided--i.e., based on a real labor democracy under which employers freely recognize unions of their workers' own selection and deal with them, in good faith and with a will to agree, on the basic terms of employment so vital to the workers' well-being; and that since the workers were too economically weak to organize and secure recognition from union-hating employers, they must be helped to help themselves by government restrictions on the anti-union tactics used by such employers.

This attitude is reflected in the Act itself. Let us read of the "Findings and Policy" of the National Labor Relations Act in Section One.

> "Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce . . . causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.
>
> "The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.
>
> "Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.
>
> "It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Thus it was the declared policy of our people acting thru their Dict that employees should be assisted to be the equal of employers in economic bargaining and this for the good of society as a whole. In order to implement this policy, the Act further contained a clear definition of the rights of the employees. Sections 7 and 8 of the Act read as follows:

> "Section 7. Employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection."

> "Section 8. It shall be an unfair labor practice for an employer--

> "(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7.

> "(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: . . .

> "(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: . . .

> "(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

> "(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9 (a)."

Section 10 of the Act gave the National Labor Relations Board, created by the Act, the power to effectuate the policy of the Act:

> "Section 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in Section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."

State Laws

In New York State, as in other states in America, we also have a Labor Relations Act. These laws were created by the States themselves for the same purpose as the Federal Act--that is to help the working man to organize for his benefit and for the benefit of society. These State laws specifically state this to be their policy, specifically define what an employer is forbidden to do and the State further provides the means to assure that the law is enforced.

The National Labor Relations Board

The National Labor Relations Act created the National Labor Relations Board to enforce that Act. It is a Board composed of three men appointed by

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

the President with the consent of the Senate. Two of the three members constitute a quorum and the Board can function in the absence of one member. This Board has been given the responsibility of seeing that workers are not discriminated against in their efforts to organize and bargain collectively, that unions are free and autonomous and not puppet employer dominated. The Board has the further duty and power to provide means whereby workers can indicate, by secret ballot, their choice between two unions where necessary. This Board has nothing to do directly with the adjustment of labor disputes which concern wages, hours or working conditions. Other agencies of government consider those problems and we will discuss them in detail later.

Independent

The National Labor Relations Board is independent and non-partisan. It is not part of any other government agency and its personnel are taken from all walks of life, not alone from government employees. It administers its own business independently and has no obligation to report to the legislative or executive branch of the government, except that once a year it files an annual report. The three members of the Board cannot be removed by anyone except after an extensive hearing and then only for neglect of duty. It is truly independent.

The three members of the Board sit like judges trying each case on its merits. There are many, many other people to help the Board in its work. To relieve the Board members of all administrative problems there is an Executive Secretary. He is responsible for all the details of the functioning of the Board. In turn, the work of the Board is divided among an Administrative Department, Legal Department, Trial Examiners, Field Division and Information Department. The Board has 24 Regional Offices throughout the country.

The Legal Division is charged with the review and analysis of records in Board cases, the preparation of decisions at the Board's direction, the conduction of litigation in the Courts and the general direction of the field attorneys throughout the country.

The Trial Examining Division is composed of Trial Examiners who sit, to assist the Board, as judges in individual cases and prepare intermediate reports and recommendations for the final decision of the Board.

The Field Division, which directs the activities of Regional offices throughout the country, reviews and analyzes cases in the local region to assist the National Board and carries on liaison activities with other government agencies.

The Information Division makes available to the public necessary data concerning the work of the Board and publicizes its work, so that all the people may know of its activities.

Procedure

The Board has drafted, at length, careful detailed rules of procedure governing the manner in which individual cases are handled by it. These rules can be best illustrated by a supposed case in respect to a discrimination by an employer.

An Unfair Labor Practice

Suppose an employer learns that his workers are trying to organize a Union

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

in his factory. He does not want the Union to succeed and he knows that the workers are afraid of losing their jobs. He, therefore, finds out who is the leader in the Union drive and he discharges that person as a lesson to others not to join the Union. Now the Union believes that the worker was discharged because he was organizing a Union and that, therefore, the employer has violated the law.

Attorney for the Board

In America the Union would go to a regional office of the Labor Board. The Union and the discharged worker would tell their story to a Board attorney. This attorney is a trained, experienced man who knows the difference between a fact and propaganda. He, therefore, goes over the facts with the discharged worker and assists him in preparing to prove that the employer discharge the worker because he was organizing a Union. The employer will claim that he discharged the worker because he was incompetent.

The next step is for the Board Attorney to prepare a complaint in which he sets down in detail the allegations which will prove that the employer violated the law. Then the employer is given a copy of this complaint and he must answer it in writing. In all probability he will deny the allegations. So up to this point we have the worker charging that he was discharged for union activity and the employer saying that he was discharged for incompetence.

The Trial

Someone is mistaken. Who? Up to this point the parties to the dispute are only giving their own side of the case. Now, therefore, the Board in Washington, in order to assist itself in finding out who is telling the truth, appoints a trained person as a trial examiner. This person is just like a judge. He sits before all the parties and asks each to prove his side of the story. In all probability the employer has hired a very good lawyer to help him. However, the government recognizes that the worker oftentimes does not have the money necessary to hire a good lawyer so the government supplies one to him free. This person is the attorney for the Board who had helped the worker prepare his complaint. This man does nothing except handle cases like this and has had much experience in proving violations of the law by employers. He thus comes to the aid of the discharged worker and his Union and step by step, detail by detail, fact by fact, he proves before the Trial Examiner that the law was violated, that the employer fired the worker for Union activity. If the employer says he fired the man because he was incompetent, the Board attorney will bring out the fact that the man was an excellent worker for years, that he had been praised by the employer and promoted, and that it was not until the worker joined the union that the employer then for the first time thought him incompetent. All of these facts will tend to prove that the worker is telling the truth and that the employer is not.

Clear Decision

After everyone has had an opportunity to present, under oath, their side of the case to the Trial Examiner, he then makes up his mind and renders a report in writing with definite conclusions as to disputed facts and definite clear recommendations. These recommendations are forwarded to the Board in Washington and the Board, after reading the written record in the case and the recommendations of the Trial Examiner, renders a decision. This decision, too, is direct

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

and conclusive.

In this case it might be decided that as the worker was discharged because he tried to start a Union, it would order the employer to rehire him, and to pay him any wages he had lost by reason of the discharge.

If the employer refused to obey the decision, he would be held in contempt of court, heavily fined and perhaps sent to jail.

Puppet Unions

If the Union had complained that the employer had sponsored a puppet Union, an employer-dominated Union, this same experienced Board attorney would assist the Union in preparing facts to prove this allegation and, if in fact, the Union was a puppet of the employer, then the Board after a hearing and recommendation by the Trial Examiner would order the puppet Union dissolved. The Board would forbid the employer to bargain with it and would declare void any contract between the employer and the puppet Union.

Definite Decisions--Labor Peace

So it is to be seen that these labor Boards in America have real authority, real power, and they have time and time again exercised that power in a forceful way. No one defies successfully the decisions of these Boards. They may decide that a worker was unfairly discharged or they may decide that he was discharged for incompetence; they may decide that a union was a puppet Union or not a puppet Union, but one way or the other they make up their minds, point by point, fact by fact, conclusion by conclusion, and then they render decisions that are clear and decisive, that everyone can understand.

As much as 90% of the cases coming before these Boards are settled by agreement between the parties without the need of a Board decision, but this is so because the parties know, from the past record of the Board, that if they don't agree, the Board will decide their case quickly and definitely. In this way the public, society, knows where lies moral right; the parties observe the decision, or are compelled to, and many, many strikes are avoided.

Unfair Labor Practices

The phrase, "Unfair Labor Practices in America," has become common in use and it means any discrimination by an employer in respect to a worker's efforts to organize or bargain collectively. The statute defines these practices in Section 8 of the Law. The Board has made many decisions that help us understand, in specific cases, what is an unfair labor practice--what is discrimination by an employer.

We can consider a few here, but we must keep in mind that things are different in Japan than in America. What might be discrimination in America would not be discrimination in Japan, and also what would not be discrimination in America might be discrimination in Japan. Essentially, however, in both countries the law recognizes that employers and employer organizations have been more powerful than unions in their organizational stages. Many things that an employer does, although appearing harmless in themselves, when done in relation to an employee might be discrimination. This is so because the individual worker needs his job, and by reason of this need, is inclined to have to pay

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

attention to the employer's wishes or lose his job. The law and the Board tries to balance this position, so that a worker can feel free to join a Union without worry of losing his job. Labor history teaches us that when an employer wants to discourage a worker from joining a Union, he can think up many, many ways of doing it. The cases that have come before the Boards illustrate this point very clearly.

Specific Cases

The National Labor Relations Board has held that an employer violated the law by sponsoring a meeting of his employees and permitting leaders of one Union to talk at this meeting while another Union was seeking to bargain collectively with the employer. It held in another case that it was an unfair labor practice for an employer to call a meeting of the employees to discuss the management's and the Union's side of a dispute and to fail to invite the leaders of the Union to discuss their side of the case.

An employer may not show favoritism for an inside labor organization or for an independent Union as against a rival Union. He cannot permit supervisory employees to solicit membership in a union favored by him.

Many, many times the Boards have declared that any statement by an employer indicating his preference of one Union over another is an unfair labor practice.

An employer has been held guilty of discrimination if he helps organize an independent citizens committee to interfere with the formation of a Union; or if he contributes to a puppet Union or if he spies on his workers to see who is leading the Union movement; or if he speaks disparagingly of a union or its leaders.

The employer has been held guilty of discrimination if he fails to bargain collectively with a Union. Even giving a raise in wages to employees has been held to be discrimination if done at the time a Union is seeking to organize. Promoting non-union employees, demoting Union employees, changing the position of a union employee in favor of a non-union employee has also been held to be discrimination.

In respect to the refusal of the employer to bargain and a resultant strike, the Board said:

> "To put it concisely, those activities were employed to defeat the strike, to end the strike by breaking it, rather than by settling it through collective bargaining. As the strike was in the first instance directly caused by the respondent's refusal to bargain collectively in violation of Section 8, subdivision (5), and was thereafter perpetuated through further refusals, also in violation of that section, all of those activities must be regarded as contrary to Section 8, subdivision (1). While many, if not all, of those activities would likewise constitute unfair labor practices even though the strike and its continuation were not themselves the results of unfair labor practices, such a determination need not be made in this proceeding. Here, by its illegal refusal to bargain collectively, the respondent caused and perpetuated a strike, and consequently any activities on its part designed to end that strike by defeating it, in contrast to settling it by the method of collective bargaining, are in violation of Section 8, subdivision (1). Each step

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

taken so to defeat the strike constituted an assertion that the respondent would illegally continue to refuse to settle the strike through collective bargaining as provided by the Act--they were but the opposite faces of the same coin."

The employer has been forbidden to discharge a worker for joining a union. Sometimes an employer recognizes a Union that does not represent the workers. He may sign a contract with that union providing that all people that work for him must be a member of that Union and then he discharges those who are not members. This would also be held to be an unfair labor practice, although said to be done as a result of a contract. The New York State Labor Relations Board said in respect to this type of case the following:

"The evidence shows that respondents (employers) did not wish to bargain with Local 306 because they did not like the terms presented in them. Having come to an understanding with a union that did not represent a majority of the employees, the employer proceeded to discharge that majority. The employer entered into a contract with the union that did not represent the majority of their employees and thereby attempted to preclude such employees from receiving employment at respondent's theatres unless they were to become members of the Empire Union and were to cease their affiliation with Local 306. The entrance into the contract itself clearly constitutes and interferes with the rights of their employees to organize and bargain collectively through representatives of their own choosing. A clearer violation of the express provisions of the Act could scarcely be presented."

The employer, afraid to deal with a bona-fide union, quickly made a contract with a puppet union granting that union a closed shop--that is, requiring that all his employees must be members of that puppet union. How could workers freely exercise their choice of union when the employer told them they must join the puppet union or be discharged? In this case the Labor Board ordered the puppet union dissolved--forbid the employer to recognize or negotiate with it and declared void the contract the employer had made with the puppet union.

Thus the Board is zealous to see that no act of an employer can be construed as influencing the employee unreasonably in his efforts to organize and bargain collectively.

Representation Proceedings

In America our legislature through the National Labor Relations Act has also provided for elections among workers to determine whether they want a Union and if so, which among two or more Unions they prefer. Sometimes the CIO and the AF of L are contesting for the same group of workers; sometimes there is an independent Union in the picture; sometimes there is only one Union involved. In any event, the law provides that the workers involved shall have the right to vote in a secret election as to what Union they wish to join. The National Labor Relations Board conducts this election, and when it is concluded, it is generally the rule that the winning Union bargains for all the workers and the losing Union withdraws. A considerable degree of stability in labor relations results through this machinery, and the workers are assured a free choice of their bargaining representative.

Whether this is necessary or advisable for Japan today is for the Japanese

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

to say. It is enough to say here that if it is necessary or advisable, then the people of Japan have the facilities whereby they may amend the law to make it meet changing needs.

Remedies and Enforcement Procedures

In order to fulfill the purpose of the act, the Board issues appropriate orders which are enforced. When an employer has violated the law by making statements against a union or its leaders or otherwise improperly hindering the work of the Union in organizing, the Board will issue an order ordering the employer to cease and desist from such practices. Wherever affirmative action is necessary, such as reinstating a discharged worker, the Board will also order him reinstated and given back pay lost by reason of the discharge. Oftentimes the Board feels that the conduct of the employer has been such that its effect will continue even after the employer has ceased his illegal activities and for this reason the Board sometimes orders the employer to post on his company bulletin board notice to the effect that he will no longer continue such conduct, so that all his employees may see it and know that they are again free to organize without fear of discrimination. Sometimes the Board requires the employer to send such notices to each employee individually.

The employer may be compelled to withdraw recognition from a puppet Union, the puppet Union may be ordered disestablished and a contract between the employer and Union declared void.

Subsequent to an election and the choice by the workers of one Union, an employer has been ordered to bargain with that Union and has been forbidden to bargain with a Union not representing the majority of its employees. It has been held that the duty to bargain continues during a strike. The Board has further directed that when the parties have reached an agreement in negotiations, then the employer must put that agreement to writing.

When an employer refuses to comply with a Board order, he will be compelled to observe it by Court order. In one case dealing with a puppet Union, Justice Collins of the highest Court of New York State said:

> "The Act signalizes the progress of industrial democracy. It accords legal recognition to the principle that unionism is not only compatible with our free institutions, but that it stems from the ideal that in a democracy workers must be at liberty to organize for their mutual protection and welfare, that their organizations must be uncoerced and unintimidated by their employers, and that they must be permitted to speak through representatives of their own choosing, so that their voice is not an echo of their employer's voice. A ventriloquist or puppet union is deemed unhealthy not alone for the workers, but for a democratic society.
>
> "In sum, the Act is an implemented warning to employers to keep hands off the union aspirations and activities of their employees. No matter how remote the control, how indirect the domination, how devious the dictation, how subtle the influence, how circuitous the coercion, or how disguised the intimidation, if the absolute freedom of the worker respecting union activities is discouraged or abridged or interfered with, the Act bludgeons it."

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

In sustaining the Board's order in this case, the court emphasized the fact that the organization in question had been created by a supervisory employee working in collaboration with the company's president, who was his intimate friend. Rejecting the company's contention that the supervisory employee's sole purpose in bringing the organization into existence was for the benefit and in the interest of the employees themselves, the court said:

> "The evidence sustains the Board's finding that in conceiving and inspiring (this employee organization), Hanlon (the supervisory employee) was motivated by the interest of Company rather than by the welfare of the employees. The indications are that the real promoter was Company. Hanlon's intentions may have been of the best, and Booth's (the company's president) consent and interest may have issued from the goodness of his heart for the contentment of his employees. But it is employer influence, benevolent or malevolent, which the Act shuns and strives to avert."

Moreover, the Byrnes Anti-strikebreaking Act makes it a crime to use strikebreakers to interfere with picketing or to obstruct or interfere by force or threats with the right of workers to organize. A person who violates this law is subject to $5000 fine and two years in jail.

The Civil Liberties Act forbids any conspiracy intended to injure, oppress, threaten or intimidate any citizen in the free exercise of any right or privilege secured to him by the Constitution or laws of the United States. Since this right to organize is protected by the National Labor Relations Act, anyone who interferes with it may be subject to a $5000 fine and 10 years in jail under the terms of the Civil Liberties Act.

The Size of the Task

It would be well to appreciate the size of the National Labor Relations Board and the size and scope of its business.

In the year ending June 1945 the Board had 889 employees. A total of 9,543 new cases was filed with the Board. Representation cases numbered 6,140 and discrimination cases, 3,403. Company-dominated unions were disestablished in 205 cases, and 7,111 workers were reinstated to remedy discriminatory discharges. Back pay amounting to $2,284,593 was paid to workers who had been discharged by employers in violation of the law. The Board conducted 4,153 elections with 1,126,501 workers voting in these elections. The Board spent $2,590,577 in salaries for its personnel, $418,240 for traveling expenses for its personnel. Its printing bill came to $213,971, and its total expenses to $3,598,992. Yet this is not the complete picture for many states, in addition, have the same kind of law and the same kind of Board. In New York State, in one year, 1760 cases were filed, 900 of which concerned charges of discrimination. Over 25,000 people voted in worker elections conducted by the Board in that State. Much of the same work is going on in other States. All of this work must be done by your committees as well as the work prescribed by your Labor Relations Adjustment Law which will be discussed later.

The Japanese Law

An examination of your own Trade Union Law as it now stands is pertinent. Article 11 of that Act reads:

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

"The employer shall be disallowed to discharge or give a discriminatory treatment to a worker for his being a member of a trade union, for having tried to form or join a trade union, or for having performed proper acts of a trade union.

"No employer shall make it a condition of employment that the worker must not join or must withdraw from a trade union."

Article 2 of your same law requires that a trade union be autonomous--i.e., not employer dominated, not a company union.

Article 6 gives your committee the power and the duty to determine whether a union is in fact autonomous, and your Imperial Ordinance No. 108, promulgated 27 February 1946, in Articles 2-8 inclusive, prescribes the procedures looking to the disestablishment of a union if it is employer dominated.

Articles 11, 27, and 33 of the Trade Union Law give your committee the power and the duty to protect workers in the exercise of their right to organize. Essentially you have the same law as we do to protect workers against discrimination in their right to organize and bargain collectively. Your Labor Relations Committees have been set up to administer your law. Already two local committees in Japan, in Nara and in Ishikawa, have found that an employer violated the law, and the cases have been handed to the procurator.

It will be interesting to see how your other committees meet their responsibilities under your law. Remember that the Trade Union Law is the law of Japan; this idea of helping workers to organize is not something the Communists, the Socialists, the Liberals or any party thought up. It is the law of the Japanese people, all of the Japanese people. I know you government employees, servants of the people as you are, will be most anxious to do your part to see that the will of the people, the desires of the people of Japan, are fulfilled.

And yet, it should be remembered that your committees not only have to serve the purpose outlined in your Trade Union Law, as discussed up to this point, but they also have the additional duties presented by your Labor Relations Adjustment Law--that is the work of conciliation, mediation and arbitration.

Conciliation, Mediation, Arbitration

In America we have special agencies other than the National Labor Relations Board dealing with the questions of conciliation, mediation and arbitration. We have the United States Conciliation Service, the National Mediation Board, special industry mediation boards appointed by the President from time to time, various state mediation boards and also private mediation and arbitration associations.

The purpose that government plays in this picture can be best illustrated by quoting from the Mediation Law of the State of New York.

"It is hereby declared as the public policy of this state that the best interests of the people of the state are served by the prevention or prompt settlement of labor disputes; that strikes and lockouts and other forms of industrial strife, regardless where the merits of the controversy lie, are forces productive ultimately of economic waste;

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

that the interests and rights of the consumers and the people of the state, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the state. . . "

It is to the best interest of workers, capital, government and everyone, that strikes be reduced to a minimum without any sacrifice of the rights of the working man. For this reason government makes great efforts to bring about the peaceful solution of labor disputes.

United States Conciliation Service

Foremost among these efforts in America is the work of the United States Conciliation Service. This service is run by a Director in Washington who has under him over 250 trained conciliators. These men have no other duties except to assist in labor disputes and to assist the parties to come to an agreement. Their time is taken up only with this assignment and they stand ready to go anywhere in America to help solve a dispute. These men are carefully chosen, are completely impartial and have developed the ability of giving both sides to a controversy confidence in them. Many times capital and labor have been at an impasse that seemed impossible of solution to the contestants, and these conciliators have stepped into the picture and brought about a solution. Sometimes a new face, a fresh viewpoint will bring new thoughts or a new approach to a solution and the problem will be settled. Sometimes parties have been committed to a position, and they cannot retreat from it without losing face, and a conciliator can provide a medium through which both sides can retreat a little without having their own people lose faith in them. In many ways this conciliation service has helped bring about comparative labor peace.

In the year ending June 30, 1945, the Service handled over 25,000 cases and in general, 95% of the matters they handled are settled without a strike or any stoppage in production.

It should be pointed out that the conciliator has no power to order anyone to do anything. He must depend on his ability to bring the parties to agreement because both parties want an agreement if the meeting ground can be found. The duty of a conciliator is to assist collective bargaining. He has neither power nor desire to take the place of collective bargaining. The weapons of a conciliator are clarification, suggestion, and good will by which he endeavors to have management and labor reach an agreement. The essence of this technique is to have both parties feel that they have solved the problem themselves.

Conciliation can be sought in the early stages of negotiation, and it is best by all means to bring a conciliator into the picture before a strike takes place. Oftentimes when a conciliator cannot completely settle a dispute, he can narrow the differences down to one or two items and the parties may be willing to mediate or arbitrate on those two points.

Mediation

The National Mediation Board was created by the President in 1934 to deal with the railroads exclusively. This Board, when a dispute arises, tries to

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

bring the parties to agree to arbitrate. If they cannot do this, the President then appoints an emergency board to mediate--that is, to investigate the facts and report thereon. This gives the government an opportunity to bring the facts out into the open for all the peoples of a country to see. Then the mediators make a recommendation. Neither party to this dispute is bound to accept this recommendation, but by this time it has the power of public opinion behind it. The President has on many occasions, in different industries, appointed such Boards. The various State governments, also have their own mediation boards to assist in the handling of local disputes.

Arbitration

Arbitration in America is always and only by prior agreement of the parties. It is always voluntary. In many cases the parties themselves provide for the arbitration of any disputes arising between them for a given period of time. Most Union contracts provide that during the life of the contract all disputes shall be settled by arbitration. Sometimes one man is agreed to as the arbitrator for a given industry for the life of the contract between the Union and employers. Rarely, however, do Unions agree to arbitrate the terms of a new contract. The services of the United States Conciliation Service are available in the field of arbitration as well as the State mediation bodies, for both organizations have panels of arbitrators from which the disputant may select one or more arbitrators.

Often private organizations with the public interest in mind provide procedures for arbitration. The American Arbitration Association has extensive facilities that are made available to employers and Unions. Again, however, the parties voluntarily choose to arbitrate.

Many municipalities also endeavor to establish conciliation, mediation, and arbitration procedures and in nearly every community there are one or more persons held in high repute whose aid is often solicited to resolve a pending dispute. Certain individuals in America have achieved a reputation as arbitrators in labor disputes, and their services are much sought after.

The Japanese Law

Your Labor Relations Adjustment Law will soon be promulgated. Under it you have specifically provided for conciliation, mediation and arbitration. It will be necessary for each of the committees in the prefectures to establish adequate office personnel to see that the details of administration concerning these duties are competently handled. It will also be necessary for these committees to seek out in each community persons of high character and repute whose impartiality is unquestioned. These people may well become the backbone of labor relations peace in your community. Both labor and capital may learn to seek their advice and accept their judgments. A good conciliator in a community can accomplish much of the work that has been set before the Labor Relations Committees by the Labor Relations Adjustment Act.

Conclusion

Although we still have strikes in America and will continue to have them, they are rarely caused by the employer's discrimination against workers. Labor generally has learned to depend on and get protection from government in this regard. Labor has seen to it that our Labor Boards serve their purpose.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Many other strikes on wages, hours and working conditions are avoided by the competent efforts of government in providing conciliation, mediation and arbitration. Although our big strikes get newspaper headlines, we have thousands upon thousands of Union agreements being negotiated between employers and Unions without any work stoppage.

Labor in Japan has quickly organized. For the most part, however, workers are not covered by Union contracts. Unions will want to get these contracts, and many, many strikes will result if government--if you--do not, to the best of your ability, see that the Trade Union Law and the Labor Relations Adjustment Act are effectively administered.

In order to accomplish this, it will be necessary that you have:

1. Adequate administrative personnel for your Committees who understand the purpose of your Labor Relations Laws and are in sympathy with it, recruited from all walks of life, not only government employees.

2. Independent prefectural labor relations committees staffed by personnel who have the confidence of labor, capital and the public. The neutral members must be truly neutral.

3. Adequate finances for the committees, so that people on these committees and working for them may devote their full time to the work of the committees and be in a position to afford to do nothing else.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

144-13

WELFARE MINISTRY
IMPERIAL JAPANESE GOVERNMENT

DRAFT OF THE LABOUR STANDARD BILL

August 6, 1946

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

TABLE OF CONTENTS

Chapter I - General Provisions

Chapter II - Labour Contract

Chapter III - Wages

Chapter IV - Working Hours, Recess, Holidays, and Annual Vacation with Pay

Chapter V - Safety and Sanitation

Chapter VI - Women and Minor Workers

Chapter VII - Apprenticeship

Chapter VIII - Accident Compensation

Chapter IX - Rule of Employment

Chapter X - Dormitory

Chapter XI - Organization of Inspection

Chapter XII - Miscellaneous Regulations

Chapter XIII - Penal Regulations

CHAPTER I

GENERAL PROVISIONS

Principle of Working Conditions

Article 1 - Working conditions must be that which is enough to meet the needs of the Worker who lives a life worthy of a Human Being.

Working conditions must not be reduced on the score of the standards fixed by this law.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Decision of Working Condition

Article 2 - The Worker has the right to decide the working condition on the equal position with the employer.

The worker and the employer must observe the stipulations of collective agreement, rule of employment and labour contract, and discharge their respective duties faithfully.

Equal Treatment

Article 3 - No person shall discriminate against any worker by reason of nationality, race, creed or social status in wages, working hours and other working conditions.

Equal Wages for Equal Labour

Article 4 - The employer shall pay equal sum of wages indiscriminative of sex for the labour of equal skill.

Prohibition of Forced Labour

Article 5 - Unless special provisions are enacted by the law, no person shall force workers to work against will or under threat of punishment.

Guarantee for the Exercise of Civil Rights

Article 6 - The employer must give the worker necessary time to exercise franchise and other civil rights or to execute public duty.

Scopes of Applicable Enterprises

Article 7 - This law applies to each of the items of enterprises listed below. However, it does not apply to any enterprise employing only the members of the same family.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

1. Enterprises engaged in the manufacture, rebuilding, improving, repairing, cleaning, sorting, packing and decoration of goods, finishing, tailoring for the purpose of selling, destruction or breaking up, and alteration of material. (This included industries which generate, transform, and transmit electricity, gas and various forms of power and also, water-works.)

2. Mining, sand mining, stone cutting and other gravel or mining enterprises.

3. Engineering, construction, and building, remodeling, maintenance, repairing, renovation, wrecking, dismantling of structure and those enterprises engaged in preparatory work for the above enterprises.

4. Enterprises engaged in the transportation of freight and passengers by roads, railroads, street-car lines, cable lines, vessels and airplanes.

5. Enterprises handling freight at docks, on vessels, at jetties, piers, railway stations, and warehouses.

6. Enterprises engaged in the cultivation of land or reclamation of waste land, planting, cultivating, harvesting or crops, timber cutting, and other agriculture and forestry enterprises.

7. Enterprises engaged in the breeding of animals, catching, gathering and breeding of marine animals and seaweed, and other enterprises such as live-stock raising, sericulture and fisheries.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

8. Enterprises engaged in the selling, delivery, storage, and leasing of commodities and barbershops.

9. Banking, insurance, agency, brokerage, bill collection, information and advertising enterprises.

10. Motion-picture production and showing cinematography, stage and other show enterprises.

11. Postal, telegraph, and telephone services.

12. Enterprises engaged in education, research and investigation.

13. Enterprises engaged in the treatment and care of the sick and feeble.

14. Hotel, restaurant, snack bar, service trade, and recreation hall enterprises.

15. Enterprises engaged in incineration, cleaning and butcher.

16. Office of legal person and other corporation defined by ordinance.

Definition

Article 8 - In this law, the worker is defined regardless of the kinds of occupation as one who is employed in the above mentioned enterprises and receives wages, allowances and other income therefrom.

Article 9 - In this law the employer includes one who employs the worker and anyone who acts on behalf of the employer in relation to the worker.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Article 10 - In this law, the amount of the average wage is defined as the quotient obtained by dividing the total amount of wages for a period of three months preceding to the day on which the calculation of average wage became necessary by the number of labour days.

When there is a fixed day for closing the wages account, the period of the preceding clause shall be calculated from the last fixed day.

The total amount of wages of the 1st clause includes wages, allowances, bonuses and every other payment to the worker as renumeration of labour which are paid periodically within three months period.

For the worker who has been employed for less than three months, the period of 1st clause shall be the period of his or her employment.

CHAPTER II

LABOUR CONTRACT

Contract Violating This Law

Article 11 - Labour contract which defines working conditions inferior to the standard of this law is invalid as far as such conditions are concerned; in this case those conditions which became invalid are replaced by the standard of this Law.

Period of Contract

Article 12 - Labour contract other than those without any set period or those requiring a definite period for the completion of a project, shall not be concluded for a period longer than three years.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Clarification of Working Conditions

Article 13 - On employing a worker, the employer must clarify the wages, working hours and other working conditions stipulated in the rule of employment, before the worker is engaged in work.

Employers who are not required to have rule of employment must clarify working conditions in the same manner prescribed in the preceding clause.

When the working conditions promised before the worker is engaged in work is different to the real fact, the worker may require to cancel the labour contract.

In the case aforesaid, the employer must bear necessary expense for the worker who has changed residence for the work to return home.

Ban on the Contract of Indemnity

Article 14 - The employer is prohibited to make a contract which fixes in advance either the sum payable to the employer for breach of contract, or the amount of indemnity for damage.

Restriction on the Off-Set Contract

Article 15 - The employer must not off-set more than one-third of the wages at each wage payment for the advanced wages, indemnity or other claim to the worker. This shall not apply when the employer requires indemnity for the worker who was accused concerning the work.

Deposit

Article 16 - The employer must not make a deposit contract or a contract to keep the savings-notes, concomittant with the labour contract.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

To keep the deposit cominitted by free will in custody, the employer must define the method of keeping and releasing and must obtain the sanction of administrative office thereabout.

Restriction Concerning the Dismissal of Workers

Article 17 - The employer shall not dismiss a worker injured, or taken ill while on duty for the period of treatment and 30 days thereafter; nor shall discharge a woman pregnant or who has given child birth for the period of vacation stipulated in Article 62 and for 30 days thereafter. However, this shall not apply when the employer pay expiry compensation stipulated in Article 78.

Dismissal Notice

Article 18 - When the employer wishes to cancel the labour contract he must give at least 30 days advance notice or pay dismissal allowance equivalent to 30 days average wage. This does not apply when the continuance of the enterprise is made impossible by reason of some natural calamity or when the employer wishes to hold the worker responsible for the dismissal.

The employer must obtain the approval of the administrative office on the reason or responsibility when he wishes to cancel the labour contract on the basis of the latter part of the preceding clause.

The period of advance notice stipulated in clause 1 excludes the period during which the worker is temporarily suspended because of lack of work. However, this provision does not apply

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

when the worker receives wages during the period of suspension.

Article 19 - The preceding Article shall not apply to those workers who come under any item of the following:

1. Workers who are employed daily.
2. Workers who are employed for a period no longer than two months.
3. Workers who are employed in a seasonal work for a period no longer than four months.
4. Workers on probation.

The preceding clause shall not apply when the worker who comes under 1, above, are employed for more than a month consecutively, or when the worker who comes under 2, or 3, above, is employed for more than the period fixed by each item, or when the worker in probation is employed for more than 14 days.

Certificate of Employment

Article 20 - When the worker on the occasion of retirement requests a certificate stating the period of employment, the kind of occupation, the position in the enterprise and wage, the employer shall present him one without delay.

The employer shall not insert in the certificate what the worker does not require, nor tack on any secret sign.

The employer shall not send any communication to impede the employment of the worker.

The Return of Money and Other Valuables

Article 21 - Upon the worker's death or his dismissal, the em-

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

ployer shall complete the payment of wages, and return whatever reserves, bonds, savings and other funds and valuables belonging to the worker, within 3 days of the claimant's request.

If the claims to the wages and valuables described above are disputed, the employer shall pay or return the amount remaining undisputed within the period fixed in the previous clause.

CHAPTER III

PAYMENT OF WAGES

Article 22 - Wages must be paid in cash, on a definite day, and at least once a month.

When otherwise stipulated by the law, collective agreement, or by rule of employment the employer may pay the wage not in cash.

Emergency Payment

Article 23 - When the worker requires money for emergency use such as childbirth, disease, accident or other cases which will be defined by ordinance in detail, the employer shall pay the accrued wages before the day of payment.

Rest-Day Allowance

Article 24 - For the rest-day caused by reason for which the employer is responsible, the employer shall pay allowance equivalent to 60 percent of the worker's average wage.

Guarantee in Piece Work System

Article 25 - When a certain kind of worker is employed in piece work the employer must assure the worker of a fixed sum of wage proportionate to the working hour.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

The scope of the worker described in the foregoing clause shall be fixed by ordinance.

Minimum Wage

Article 26 - When a competent office considers it necessary, it can fix minimum wage for the worker employed in certain enterprise or in certain occupation.

Article 27 - Wage Boards shall be established in the central administrative office and in necessary Local administrative offices to investigate matters pertaining to wages.

The members of the Wage Board shall be appointed by the competent office in same number among the representatives of Labour and management, and experienced neutral persons. The representatives of labour and management shall be appointed based on the recommendations of both parties.

Article 28 - When the competent office wishes to fix the minimum wage it must require the investigation of the Wage Board thereupon.

When the Local administrative office wishes to fix minimum wages it must obtain the sanction of competent Minister.

To give sanction of the foregoing clause, the competent Minister must require the investigation of the Wage Board thereupon.

Article 29 - When the minimum wage is fixed, the employer must not employ a worker with less wage than the minimum wage. However, this shall not apply to handicapped workers or other cases which will be defined by ordinance.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

CHAPTER IV

WORKING HOURS, RECESS, HOLIDAYS AND ANNUAL VACATION WITH PAY

Working Hours

Article 30 - The employer shall not employ the worker more than eight hours a day (including recess) or forty-eight hours a week.

The employer may employ the worker more than eight hours on a special day or forty-eight hours in a special week when the average working hours of four weeks to not exceed forty-eight hours in a week.

Article 31 - The employer may extend the working hours described in the preceding Article under the sanction of the administrative office in case of accidents and other unavoidable temporary need within t the limit of the necessity. However, when the necessity is so urgent that there is not time enough to obtain the sanction of the administrative office, the employer must report to that effect and ask ex post facto approval.

When the administrative office considers it should not be approved in the foregoing case, it is authorized to require the employer to give the worker recess or holiday corresponding to the prolonged hour during the future working hours.

Recess

Article 32 - The Employer shall provide recess totaling at least forty-five minutes for those who have worked more than six hours, and at least one hour for those who have worked more than eight hours.

The forementioned recess must be given to all workers at the

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

same time. However, this provision shall not apply when the employer receives sanction from the administrative office.

The employer shall allow the workers to use the recess described in the first clause as they please.

Holidays

Article 33 - The employer must provide one holiday at least per week to the worker.

The stipulation in the foregoing clause does not apply to employers who provide four or more holidays per month.

Overtime Working and Working on Holidays

Article 34 - The employer may extend the working hours or employ workers on holidays despite the stipulation on working hours and holidays if he reaches an agreement with the trade union when there is a union at the working place, or with persons representing the majority of the workers when ther is none and submits the written agreement to the administrative office. However, this does not apply to jobs injurious to health as specified by ordinance such as underground labour.

Wages for Overtime Work, Work on Holidays and Midnight Labour

Article 35 - When the employer extended the working hour, or employed the worker between 10 P.M. and 5 A.M. or on a holiday, he shall pay increased rate wages by 25 percent at least of the normal wages.

Computation of Working Time

Article 36 - The working time as stipulated by this Law shall be summed up regardless of change in working places.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

In underground labour the whole period from the time the worker enters into the pit-mouth and to the time the worker goes out of the pit-mouth including recess is deemed as the working hours.

Annual Vacation With Pay

Article 37 - Workers who have been employed continuously for a year and were present over eighty percent of the whole working days can require from the employer six days annual vacation with pay consecutively or separately.

Workers who have worked continuously for two or more years can require from the employer an increased annual vacation with pay amounting to one day per year in addition to the annual vacation specified in the foregoing clause. However, the total accumulated vacation with pay shall not exceed 20 days.

The employer shall grant vacation with pay to the workers who require in accordance with the above two clauses in the season for the period in advance. However, when the required season prevents the normal operation of the enterprise, the employer is authorised to change the season.

Period of sick leave because of injury or illness contracted on duty shall be deemed to be present in applying clause 1.

Special Regulation for Stores and Traffics

Article 38 - In applying the stipulations concerning working hours, recess and holidays to the stores and traffics, special Regulations shall be made, within the limit special circumstances require them.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Exception

Article 39 - Stipulations concerning working hours, recess and holidays shall not apply to workers engaged in agriculture, forestry, live-stock raising, fisheries, marine transportation, entertainment, hospital, hotel and the like, or to any worker engaged in business or intermittent labout whatever the enterprise may be.

CHAPTER V

SAFETY AND SANITATION

Prevention of Accident and Disease

Article 40 - The employer must take necessary measures to prevent accident resulting from machinery, tools and other equipment of gas, steam, dust and other material.

Article 41 - Concerning the establishment of its annex where the workers are accomodated the employer must take necessary means for ventilation, lighting, illumination, heating, rest, emergency escape, and other facilities necessary for the maintenance of health, good morale and life of the workers.

Article 42 - The standard of measures to be taken by the employer in accordance with the preceding two Articles will be stipulated by ordinance.

Safety Equipment

Article 43 - The machinery and tool requiring dangerous work shall not be transferred, rented, or installed unless the safety equipment prescribed by ordinance are installed.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

When the competent Minister considers the machinery and tool require particularly dangerous work, he may order those concerned to get special permission from administrative office before they go to manufacture, alter, or install them.

Efficiency Test

Article 44 - The machinery and tool mentioned in clause 2 of the foregoing Article must not be operated unless it passes the efficiency test given by the administrative office after the lapse of period specified by ordinance.

The efficiency test of the foregoing clause may be trusted to others whom the competent Minister designates.

Ban on Manufacture of Harmful Products

Article 45 - Yellow phosphorous matches and other harmful products determined by ordinance must not be manufactured, sold, imported, or kept in possession for the purpose of sale.

Ban and Restrictions on Dangerous Work

Article 46 - The employer shall not allow unexperienced workers to clean, oil, examine, or repair the dangerous part of any machinery or transmission apparatus while in motion, or to put on or to take off the driving-belts or ropes of any machinery or transmission apparatus in motion, or to handle the derrick driven by power, nor to perform any other dangerous work.

The employer shall not allow workers who have not the necessary skill to engage in a specially dangerous work.

The scope of work and the degree of experience and skill in the two foregoing clauses will be decided by ordinance.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Safety and Sanitation Education

Article 47 - On employing a worker the employer shall provide necessary health and safety education for the operation concerned.

Ban and Restrictions on the Employment of Sick Persons

Article 48 - The employer shall restrict or stop the work of workers who have contracted a contagious disease, or taken ill which the work will aggravate the condition.

The kind and degree of the sickness which should be banned or restricted by the foregoing stipulation is determined by ordinance.

Health Examinations

Article 49 - The employer who is engaged in industry, mining, and other enterprise designated by ordinance shall give the worker physical examinations at the time of employment and also at definite periods.

From the results of the physical examination described in the foregoing clause, the employer shall take necessary measures to safeguard the workers' health such as shifting the worker to another job, or shortening his work hours.

Safety Supervisor and Health Supervisor

Article 50 - Any employer engaged in industry, mining, and other enterprises designated by ordinance shall appoint a safety supervisor for the prevention of accident and a health supervisor for the preservation of health.

The qualifications and duties of the safety supervisor and sanitation supervisor will be determined by ordinance.

The administrative office is authorized to order an increase

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

in the number of, or a change in the safety and sanitation supervisors when they deem it necessary.

Supervisory Administrative Method

Article 51 - When the employer decides to construct, move or remodel a building, its annex and installation, where the workers are to be accomodated, he must make a plan which complies with the standard of accident prevention, ventilation, lighting, illumination, heating, rest, emergency escape, and other safety and sanitation measures which are fixed by this Law and submit it to the Administrative office fourteen days prior to the start of projects.

The administrative office is authorized to stop the beginning of work on the project or to order to change the project when it recognizes the project as being inferior to the standard of safety and sanitation.

Article 52 - The administrative office is authorized to order the employer to stop the use of part or the whole of or to alter the building, its annex, installation and material, and to make other necessary changes to prevent accidents if it recognizes these as violating safety standards.

In case of the foregoing clause the administrative office is authorized to order the workers necessary matters concerning matters it has ordered the employer.

Article 53 - When the representative of the Trade Union if there is one or the majority of the workers if there is no Trade Union insists that there are facts violating the safety and sanitation standard stipulated by this Law, the administrative office shall investigate the facts, and shall take measures described in the first clause of the preceding Article if it considers it necessary.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

CHAPTER VI

WOMEN AND MINOR WORKERS

Minimum Age

Article 54 - Minors under 15 years of age shall not be employed as workers. However, this does not apply to minors who are over fourteen years old and have graduated from national school or have completed courses equivalent or higher.

Regardless of the rules in the preceding clause, minors over 12 years old may be employed in enterprises engaged in agriculture, forestry, live-stock raising, fishery, stores and other enterprises or occupations defined by ordinance, within the limit that the work does not hinder the school attendance.

Regardless of the rules in the first clause, minors under 15 years may be employed in motion picture film production or other entertainment upon permission of the administrative office in accordance with the stipulation of ordinance.

Faculty of the Minor Worker

Article 55 - The parent or the guardian shall not make a labour contract in place of the minors.

In making thellabour contract, minors are not required to get the assent of the parent or the guaddian.

The parent or the guardian and the administrative office are authorized to cancel the contract for the future if they consider it unfair to the minor.

Article 56 - The parent of the guardian shall not receive as proxy the wage or other income earned by the minor.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Working Hours and Holidays

Article 57 - The employer shall not employ minors under 18 years or women overtime or on holidays specified by an agreement under Article 34.

Minors under the category described in the second and third clause of Article 54 shall not be employed more than 7 hours a day including their school hours.

Midnight Labour

Article 58 - The employer shall not employ minors under 18 years or women between the hours of 10 P.M. and 5 A.M.

When the competent Minister deems it necessary, he may change these hours to 11 P.M. and 6 A.M. specifying the area and the season.

When the work is done in shifts, the employer may employ these workers till 10:30 P.M. regardless of the provisions of clause 1, or from 5:30 A.M. regardless of the stipulation of the preceding clause under the sanction of the administrative office.

The three foregoing clauses shall not apply when the employer extends the working hour by the stipulation of Article 31, and to hospital, telephone and other enterprises which will be defined by ordinance.

Exception to the Working Hour Regulations

Article 59 - During a temporary need, the employer with the permission of the administrative office, is allowed to employ the minors over 15 years for a period not exceeding 2 hours per day or six hours per week, in addition to the working hour stipulated in Article 30 and Article 31. However, this overtime shall not

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

exceed 100 hours per year.

Restrictions and Bans on Dangerous and Harmful Jobs

Article 60 - The employer shall not allow minors under 18 years and women to engage in the dangerous jobs specified in Article 46, nor in the conveyance of heavy weight goods specified by ordinance.

The employer shall not employ minors under 18 years of age in work involving the handling of poisons, powerful drugs or other injurious substances, or explosives, combustible or inflammable goods, or in work in places where dust and powder, or harmful gas and rays are generated, in places of high temperatures and pressures, or other dangerous and injurious places.

The preceding clause may be applied to women over 18 years of age.

The scope of the work described in the second clause and the scope of application by the preceding clause will be decided by the competent Minister.

Ban on Underground Labour

Article 61 - The employer shall not employ minors under 18 years of age or women in underground labour.

Before and After Childbirth

Article 62 - The employer shall not employ a woman for 6 weeks before childbirth when she requests rest days during that period.

The employer shall not employ women within 7 weeks after childbirth. However, when the woman requests employment after 5 weeks, it is permissable to assign her to a job that a doctor pronounces unharmful to her.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

When the pregnant women require, the employer shall change her to a lighter job.

Nursing Period

Article 63 - Women nursing a baby less than one year old may obtain nursing time twice a day, each within the limit of thirty minutes during the working hours, besides the recess mentioned in Article 32.

The employer shall not work the women during the nursing time mentioned in the preceding clause.

Menstruation Leave

Article 64 - The employer shall not keep a woman working on jobs injurious to menstruation if she requests a menstruation leave.

The scope of the job mentioned in the preceding clause will be determined by ordinance.

Fare for Returning Home

Article 65 - The employer shall bear the necessary fare in case minors under 18 years of age or women wish to return home within 15 days after dismissal or retirement. However, that does not apply if minors under 18 years of age or women were dismissed for their own commitments and if the employer receives authorization from the administrative office after explaining the grounds for dismissal.

CHAPTER VII

APPRENTICESHIP

Ban of the So-Called Apprentice

Article 66 - The employer shall not exploit the apprentice,

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

pupil, student or other minors under whatever name he may call them, on the score of indoctrinating skill.

The employer shall not employ the minor who purports to learn the skill in a job which has no relation to learning the skill.

Employment of the Minor Who Purports to Learn the Skill

Article 67 - Employment of the minors who purport to learn the skill are permitted only when those who have the special skill or other qualification which will be specified by ordinance fulfil the conditions stipulated in Article 68.

Article 68 - The employer who wishes to employ minors who purport to learn the skill must first decide on the numbers, method of indoctrination, period of contract, working hours, wage standards, method of payment and lodging. Then he must obtain authorization from the administrative office on these matters; this is the same when he wishes to make changes in the above items.

When the same employer employs minors who purport to learn the skill, he must report to an obtain a certificate of the administrative office.

The employer must have the minor who purports to learn the skill carry the certificate mentioned in the foregoing clause on his person at all times.

Article 69 - On giving the authorization mentioned in the foregoing Article, the administrative office can make a special stipulation of the period of contract, working hours, payment of

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

wages, minimum wages, lodging, and ban and restriction on dangerous or injurious work, if it considers them necessary for the learning of the skill.

Article 70 - When the administrative office made the special stipulation of the foregoing Article, it may extend the annual holidays with pay for the minors who purport to learn the skill to 12 working days instead of the 6 stipulated in Article 37, clause 1.

Article 71 - When the employer of the minors who purport to learn the skill loses his qualifications or violates the terms of the authorization the administrative office may cancel the authorization mentioned in the Article 68.

CHAPTER VIII

ACCIDENT COMPENSATION

Medical Compensation

Article 72 - Incase a worker is injured or falls ill which on duty, the employer shall furnish medical treatment, or bear the necessary expenditure for treatment.

The scope of illness contracted while on duty as stipulated in the preceding clause shall be decided by ordinance.

Non-Duty Compensation

Article 73 - For a worker who is unable to work because of medical treatment described in the previous Article, and who does not get paid, the employer shall pay non-duty compensation equivalent to 80% or more of the worker's average wages during the period of the worker's medical treatment.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Compensation for Physical Handicaps

Article 74 - For a worker who was infured or fell ill while on duty and is physically handicapped when he recovers, the employer must pay handicap compensation according to the extent of the worker's handicap; the amount of which shall be more than the amount of the average wage multiplied by the number of days fixed in the annex table.

Exceptions to Non-Duty and Physical Handicap Compensations

Article 75 - For a worker who was injured or fell ill on duty because of some serious personal fault, the employer is not obligated to pay the whole or part of the non-duty and physical handicap compensation when he receives the approval of the administrative office on the fact.

Compensation for Bereaved Families

Article 76 - When a worker dies on duty, the employer shall pay compensation equivalent to 1080 days' average wage of the worker to the bereaved families or persons who were dependent on the worker's income at the time of the workers death.

Funeral Rites Compensation

Article 77 - When a worker dies on duty the employer shall pay funeral rites compensation equivalent to 45 days' average wage of the worker to the person handling the funeral rites.

Expiry Compensation

Article 78 - In case a worker who receives compensation by

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Article 72 fails to recover from the injury or illness in three years from the date of his first medical treatment, the employer may discontimue the compensation prescribed in this Law after paying an expiry compensation equivalent to 1460 days' average wage of the worker.

Compensation Rights

Article 79 - Compensation rights shall not be changed by the worker's resignation.

Compensation rights shall not be transferred or forfeited.

Relation to Other Laws

Article 80 - The employer is exempted from compensation within the limit of the amount when the person eligible for compensation receives damage indemnity under the Civil Code, or when he is eligible for payment under the Sickness Insurance Law or the Pension Insurance Law, for the same reason.

When the employer pays compensation he is exempted within the limit of the amount from the damage indemnity under the Civil Code.

Investigation and Arbitration

Article 81 - Persons who have objections concerning to the recognition of the injury, illness, or death on duty, to the amount of compensation, or to other matters pertaining to the compensation may require the investigation and arbitration thereabout to the administrative office.

When there is a request in accord with the preceding clause or the administrative ofice deems it necessary, it must investigate or arbitrate in the case.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

The administrative office is authorized to require a medical examination or autopay when the office deems it necessary for the investigation or the arbitration.

Details on Compensation

Article 82 - Details concerning compensation payment other than those described in the preceding ten Articles shall be decided by ordinance.

CHAPTER IX

RULE OF EMPLOYMENT

Responsibility of Drawing Up and Submitting the Rule of Employment

Article 83 - Employers who employ more than ten workers continuousle shall draw up Rules of Employment on the following items and submit it to the administrative office. This is the same when he alters the Rule of Employment.

1. The time to begin and end work, recess, holidays, vacations, and matters pertaining to the change of the shift when the workers are employed in two of more shifts.

2. Method of decision, computation and payment of wages, date of closing the account and payment of wages; method of supervision in the case of piece work or con-

the promotion in

wages.

3. Matters pertaining to dismissal.

4. When there are retirement allowances and other allowances, bonuses, minimum wages, matters pertaining to such items.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

5. When the employer lets the workers bear the cost of food, working equipment and other expense, matters pertaining to such items.

6. When there is a regulation concerning safety and sanitation, matters pertaining to the regulation.

7. When there is a regulation concerning accident compensation, and relief for the illness out of duty, matters pertaining to the regulation.

8. When there is a regulation concerning official commendation and sanctions, matters pertaining to the kinds and degrees of them.

9. When there is other regulations which are applicable to all workers, matters pertaining to such regulations.

When the employer deems it necessary, he may separate the items concerning wages, safety and sanitation, and accident compensation and make respective rules of them.

Procedures for Making Rules of Employment

Article 84 - In making the Rules of Employment, the employer shall ask the opinion of the Trade Union when there is one at the working place concerned, and if not, a person representing the majority of the workers.

The employer must attach a document to prove the opinions mentioned in the above clause to the Rule of Employment when he submits it in accordance with the preceding Article.

Restrictions on Sanctions

Article 85 - When deduction of wage is to be stipulated as sand-

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

tions in the Rules of Employment, the amount of deduction shall not exceed half of one day's wage for a single violation and shall not exceed ten percent of the total wages for all violations during a payment period.

Supervision

Article 87 - Labour contract which stipulates conditions inferior to the standard fixed in the Rules of Employment are invalid as far as such denditions are concerned.

In this case conditions which became invalid are substituted by the Standard fixed in the Rules of Employment.

CHAPTER X

DORMITORY

Autonomy of the Dormitory Life

Article 88 - The private life of the workers in dormitory attached to the working place is one which the workers themselves regulate.

The employer shall not interfere in the selection of the dormitory leader, room leader, and other leaders necessary for the autonomy of the dormitory life.

Article 89 - The employer shall make a Rule of Dormitory covering the following items and receive approval of the administrative office.

1. Matters pertaining to arising, retiring, leaving the premises, and staying out over night.
2. Matters concerning daily functions.
3. Matters concerning meals.
4. Matters related to safety and sanitation.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

5. Matters concerning the management of buildings and equipment.

The employer must obtain the consent of the representative of the majority of the workers living in the dormitory concerning the matters which come under the items 1 to 4 of the preceding clause.

The employer shall attach a document to prove the above mentioned consent when he requires the approval of the administrative office.

Purveyance of the Dormitory

Article 90 - The employer shall not give a third party a contract for the purveyance of the dormitory. However, this rule shall not apply when the third party is a cooperative purveyor or other non-commercial body.

Equipment, Safety and Sanitation of the Dormitory

Article 91 - The standard of emergency escapes, maximum accomodations, sleeping facilities, and other things necessary for the prevention of accident, good morale and sanitation of the dormitory attached to a working place will be fixed by ordinance.

CHAPTER XI

INSPECTION ORGANIZATION

The Organization of the Inspection Organ

Article 92 - The inspection organ to enforce this Law consists of the competent Minister, the administrative office and the inspectors.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

The organization of the administrative office and the qualifications of the inspector shall be fixed by ordinance.

The inspectors are appointed or dismissed by the competent Minister concerned with labour.

When the competent Minister seeks to dismiss an inspector, he must obtain the approval of the Limitation Committee for Inspectors which is established by ordinance.

Authority of the Inspectors

Article 93 - The inspector is authorized to inspect working places, dormitories and other attached buildings, and examine records and documents, and question the employer or the workers.

The inppector is authorized to make a medical examination of the worker afflicted with disease which obliges the employer to ban or restrict the job of the worker.

The inspector may collect without cost the necessary amount of samples or ingredients of the manufactured products for the purpose of conducting examinations of harmful products, the production of which has been banned.

In the case of the three aforementioned clauses the inspector must bear identification to indicate his authority.

Article 94 - In the enforcement of this Law and other Laws for the protection of the workers, the inspector is authorized to exercise functions of a judicial police.

Article 95 - When the establishment, its annex and equipment in which the workers are working, and the materials are below the standards and there are imminent threat to damage the safety and health of the workers, the inspector can immediately excercise the authority v vested to the administrative office under Article 52.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

Responsibilities of the Inspector

Article 96 - The inspector must not reveal any patent or other confidential information he learns in the course of his work.

This applies even after the inspector resigns from his position.

CHAPTER XII

MISCELLANEOUS REGULATIONS

Dissemination of Laws and Regulations

Article 97 - The employer shall inform the workers of the gist of this Law and ordinances based on this Law, and the Rule of Employment; he shall display of post them on conspicuous places in the dormitory.

Workers' Roster

Article 98 - The employer shall prepare a workers' roster at each working place and must enter the worker's name, age, personal history, working conditions and other matters as prescribed by ordinance without delay on each occasion of employment, dismissal, and other changes, and have the worker sign on the roster.

Wage Ledger

Article 99 - The employer shall prepare wage ledgers at each working place and must enter the basic facts for the calculation of wages, the amount of wages, and other matters prescribed by ordinance at each payment without delay.

Preservation of Records

Article 100 - The employer shall keep the roster of workers, wage ledgers and important records on employment, dismissal, acci-

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

dent compensations, wages and other important matters concerning labour relations for a period of three years.

Reporting

Article 101 - When the administrative office requires concerning the execution of this Law, the employer or the worker must appear or report without delay.

Free Proof of the Census Registers.

Article 102 - Workers or worker aspirants may obtain proof of their census register from registration officials or their alternates free of cost.

The same applies when the employer wishes to obtain a proof of the census register of workers or worker aspirants.

Application to Government and Public Organizations

Article 103 - This Law and ordinances based upon this Law apply to Government, prefectures, cities, towns, villages, and other corresponding communities.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

ANNEX TABLE

Table showing degree of physical handicap and amount of compensation. (Table showing classification of physical handicaps omitted.)

Degree	Compensation (Average Wage)	
1	1,620	days
2	1,430	"
3	1,270	"
4	1,110	"
5	950	"
6	810	"
7	680	"
8	540	"
9	410	"
10	320	"
11	240	"
12	160	"
13	110	"
14	50	"

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

HEADQUARTERS
UNITED STATES ARMY MILITARY
GOVERNMENT IN KOREA
Office of the Military Governor
Seoul, Korea

ORDINANCE
NUMBER 112

18 September 1946

REGULATION OF CHILD LABOR

SECTION I. PURPOSE. THE PURPOSE OF THIS ORDINANCE IS TO REGULATE CHILD LABOR IN ACCORDANCE WITH HUMANITARIAN, ENLIGHTENED PRINCIPLES ACCEPTED BY CIVILIZED NATIONS THROUGHOUT THE WORLD, SO AS TO ENABLE THE CHILDREN OF KOREA TO ATTAIN MATURITY PREPARED FOR THE RESPONSIBILITIES OF CITIZENSHIP IN MODERN SOCIETY.

SECTION II. CHILDREN UNDER FOURTEEN. NO CHILD UNDER 14 FULL YEARS OF AGE SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT OR IN CONNECTION WITH ANY PUBLIC OR PRIVATE INDUSTRIAL OR MERCANTILE UNDERTAKING OR ENTERPRISE.

As used herein, *public or private industrial or mercantile undertaking or enterprise* is defined to include any: *(1)* mill, *(2)* factory, *(3)* workshop, *(4)* mercantile or mechanical establishment, *(5)* house or home manufactory or workshop, *(6)* store, *(7)* office, *(8)* office building, *(9)* restaurant, *(10)* bakery, *(11)* barber shop, *(12)* hotel, *(13)* apartment house, *(14)* bootblack or shoeshine stand or establishment, *(15)* public stable, *(16)* garage, *(17)* laundry, *(18)* place of amusement, *(19)* club, *(20)* occupation as a driver, *(21)* occupation in any brick or lumber yard, *(22)* occupation in the construction or repair of buildings, *(23)* occupation in the distribution, transmission or sale of merchandise, *(24)* occupation in the transmission of messages.

This provision shall not be effective with respect to presently existing contracts or agreements of hire or employment of children between the ages of 12 and 14 full years, until the 15th day of February 1947; the hiring or

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

employment of children under the age of 14 full years under new contracts or agreements for hire or employment is, however, prohibited on and after the date appearing hereon; and all existing contracts or agreements of hire or employment of children under the age of 12 full years are hereby abrogated, and the continued employment of any such children on or after the 30th day after the date appearing hereon is hereby prohibited.

SECTION III. EMPLOYMENT OF CHILDREN UNDER FOURTEEN DURING SCHOOL HOURS. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION TO EMPLOY, PERMIT OF SUFFER TO WORK ANY CHILD UNDER 14 FULL YEARS OF AGE IN ANY BUSINESS OR SERVICE WHATEVER DURING ANY OF THE HOURS WHEN THE PUBLIC SCHOOLS OF THE DISTRICT IN WHICH THE CHILD RESIDES ARE IN SESSION, IF SUCH CHILD IS REQUIRED TO ATTEND AT ANY SUCH SCHOOL.

SECTION IV. CHILDREN UNDER SIXTEEN. NO CHILD UNDER THE AGE OF 16 FULL YEARS SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT OR IN CONNECTION WITH ANY PUBLIC OR PRIVATE HEAVY INDUSTRIAL OR HARMFUL UNDERTAKING OR ENTERPRISE.

As used herein, *public or private heavy industrial or harmful undertaking or enterprise* is defined to include any of the following: (*1*) adjusting any belt to any moving machinery, (*2*) sewing or lacing machine belts in any workshop or factory, (*3*) oiling, wiping or cleaning machinery in motion or assisting therein, (*4*) operating or assisting in operating any of the following machines (*a*) circular or band saws, (*b*) wood shapers, (*c*) wood jointers, (*d*) planers, (*e*) sandpaper or wood-polishing machinery, (*f*) wood-turning or boring machinery, (*g*) picker machines or machines used in picking wool, cotton, hair or any other material, (*h*) carding machines, (*i*) paperlace machines, (*j*) leather-burnishing machines, (*k*) job or cylinder printing presses operated by power other than foot power, (*l*) boring or drill presses, (*m*) stamping machines used in sheet-metal and tinware or in paper and leather manufacturing, or in washer and nut factories, (*n*) metal or paper cutting machines, (*o*) corner staying machines in paper box factories, (*p*) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories, (*q*) steam boilers, (*r*) dough brakes or cracker machinery of any description, (*s*) wire or iron straightening or drawing machinery, (*t*) rolling mill

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

machinery, *(u)* power punches or shears, *(v)* washing, grinding or mixing machinery, *(w)* calendar rolls in paper manufacturing, *(x)* launderirg machinery; *(5)* occupation in proximity to any hazardous or unguarded belts, machinery or gearing, *(6)* occupation upon any railroad, whether steam, electric or hydraulic, *(7)* occupation upon any vessel or boat engaged in navigation or commerce, *(8)* occupation in, about or in connection wtth any processes in which dangerous or poisonous acids are used, *(9)* the manufacture or use of dangerous or poisonous dyes, *(10)* the manufacture or packing of paints, white or red lead, *(11)* occupation causing dust in injurious quantities, *(12)* the manufacture or use of compositions with dangerous or poisonous gases, *(13)* the manufacture or use of compositions of lye in which the quantity thereof is injurious to health, *(14)* occupation on scaffolding, *(15)* occupation in any distillery, brewery or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled, *(16)* occupation on or in connection with any dam,smeltery, reverberatory furnace, refirery, dressing and reduction plant, x-ray machinery, or any activity involvirg use of or exposure to any radioactive element or substance, *(17)* heavy work in the building trades, *(18)* occupation in any tunnel or excavation, *(19)* occupation in, about or in connection with any mine, coal breaker, coke oven or quarry, *(20)* assorting, manufacturing or packing tobacco, *(21)* operating any automobile, motor car or truck, *(22)* occupation in any bowling alley, pool or billiard room, *(23)* occupation upon the stage of any theatre or concert hall or in connection with any theatrical performance or other exhibition or show, *(24)* any other occupation dangerous to the life or limb, or injurious to the health or morals, of such child.

SECTION V. CHILDREN UNDER EIGHTEEN. NO CHILD UNDER THE AGE OF 18 FULL YEARS SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT OR IN CONNECTION WITH ANY PUBLIC OR PRIVATE UNDERTAKING OR ENTERPRISE WHICH IS DANGEROUS TO LIFE, OR INJURIOUS TO HEALTH OR MORALS.

As used herein, *public or private undertaking or enterprise which is dangerous to life or limb, or injurious to health or morals* is defined to include any of the following: *(1)* occupation in, about or in connection with blast furnaces, docks or wharves, *(2)* occupation in the outside erection and repair of electric wires, *(3)* occupation in the running or management of elevators or lifts (unless equipped with suitable safety devices), *(4)* occupation in, about or in connection with hoisting machinery, or dynamos, *(5)* occupation in oiling

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

or cleaning machinery in motion, *(6)* occupation in the operation of emory wheels or any abrasive, polishing or buffing wheel where articles of the baser metals or iridium are manufactured, *(7)* switch tending, *(8)* gate tending, *(9)* track repairing, *(10)* occupation as brakeman, fireman, engineer, motorman or conductor upon a railroad, *(11)* occupation as railroad telegraph operator, *(12)* occupation as pilot, fireman or engineer upon any boat or vessel, *(13)* occupation in or about any establishment wherein nitroglycerine, dynamite, dualin, guncotton, gunpowder or other high or dangerous explosives are manufactured, compounded or stored, *(14)* occupation in the manufacture of white or yellow phosphorus or phosphorus matches, *(15)* occupation in any cement mill, *(16)* occupation in any hotel, theater, concert hall, place of amusement or any establishment where intoxicating liquors are sold, *(17)* occupation in, about or in connection with any racetrack or any gaming, betting or gambling establishment or enterprise.

SECTION V. FEMALE PERSONS UNDER TWENTY-ONE. NO FEMALE PERSON UNDER 21 FULL YEARS OF AGE SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN OR ABOUT ANY: *(1)* MINE, *(2)* QUARRY, *(3)* COAL BREAKER, EXCEPT IN THE OFFICE THEREOF, *(4)* OR IN OILING OR CLEANING MACHINERY WHILE IN MOTION.

SECTION VII. MAXIMUM WORK HOURS: CHILDREN UNDER 16. NO CHILD UNDER THE AGE OF 16 FULL YEARS SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT, OR IN CONNECTION WITH ANY ESTABLISHMENT OR OCCUPATION: *(1)* FOR MORE THAN SIX DAYS IN ANY ONE WEEK, *(2)* NOR MORE THAN FORTY-EIGHT HOURS IN ANY ONE WEEK, *(3)* NOR MORE THAN EIGHT HOURS IN ANY ONE DAY, EXCLUSIVE OF LUNCH HOUR, *(4)* OR BEFORE THE HOUR OF 7 O'CLOCK IN THE MORNING OR AFTER THE HOUR OF 7 O'CLOCK IN THE EVENING. THE PRESENCE OF SUCH CHILD IN ANY ESTABLISHMENT DURING WORKING HOURS SHALL BE *PRIMA FACIE* EVIDENCE OF HIS EMPLOYMENT THEREIN.

THIS PROVISION SHALL NOT BE EFFECTIVE UNTIL THE 15th DAY OF FEBRUARY 1947.

SECTION VIII. MAXIMUM WORK HOURS: PERSONS UNDER 18. NO CHILD UNDER THE AGE OF 18 FULL YEARS SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT OR IN CONNECTION

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

WITH ANY ESTABLISHMENT OR OCCUPATION: *(1)* FOR MORE THAN SIX DAYS IN ANY ONE WEEK, *(2)* NOR MORE THAN FIFTY-FOUR HOURS IN ANY ONE WEEK, *(3)* NOR MORE THAN TEN HOURS IN ANY ONE DAY, *(4)* OR BEFORE THE HOUR OF 6 O'CLOCK IN THE MORNING OR AFTER THE HOUR OF 10 O'CLOCK IN THE EVENING.

THIS PROVISION SHALL NOT BE EFFECTIVE UNTIL THE 15th DAY OF FEBRUARY 1947.

SECTION IX. WAGES FOR PIECE WORK. NO PERSON UNDER THE AGE OF 18 FULL YEARS SHALL BE EMPLOYED, PERMITTED OR SUFFERED TO WORK IN, ABOUT OR IN CONNECTION WITH ANY ESTABLISHMENT OR OCCUPATION IN WHICH THE AMOUNT OF HIS WAGES IS DETERMINED BY THE NUMBER OF ARTICLES, FINISHED OR SEMI-FINISHED, WHICH HE PRODUCES, UNLESS SUCH METHOD AND AMOUNT OF COMPENSATION HAVE BEEN APPROVED IN ADVANCE IN WRITING BY THE DEPARTMENT OF LABOR OF THE GOVERNMENT OF KOREA.

SECTION X. LIMITATION ON DURATION OF CERTAIN CONTRACTS OF EMPLOYMENT. NO CONTRACT OR AGREEMENT FOR THE EMPLOYMENT OF PERSONS UNDER THE AGE OF 18 FULL YEARS SHALL BE MADE OR BE ENFORCEABLE FOR A PERIOD EXCEEDING SIX MONTHS FROM THE DATE OF THE CONTRACT OR AGREEMENT.

SECTION XI. SICK LEAVE. PREGNANCY AND NURSING. SICKNESS NOT EXCEEDING TWO WEEKS SHALL NOT BE DEEMED CAUSE FOR THE TERMINATION OF ANY CONTRACT OR AGREEMENT OF ANY PERSON UNDER 21 FULL YEARS OF AGE. ALL EMPLOYEES UNDER THE AGE OF 21 FULL YEARS SHALL BE ENTITLED TO NOT LESS THAN TWO AND ONE-HALF DAYS OF SICK LEAVE PER MONTH AT FULL PAY, WHICH MAY BE ACCUMULATED TO THIRTY DAYS PER YEAR. EMPLOYEES MAY BE REQUIRED TO FURNISH DOCUMENTARY PROOF IN CASE OF ANY CLAIM OF ABSENCE EXCEEDING TWO DAYS, DUE TO SICKNESS. PREGNANT EMPLOYEES UNDER THE AGE OF 21 FULL YEARS SHALL BE GRANTED NINETY DAYS LEAVE WITHOUT PAY (EXCEPT THAT PAY SHALL BE GIVEN FOR ACCRUED REGULAR SICK LEAVE) FOR PURPOSES OF NORMAL CONFINEMENT, *PROVIDED, HOWEVER,* THAT SUCH PREGNANCY LEAVE SHALL BE REQUIRED TO BE GRANTED ONLY IN CASE SUCH EMPLOYEE HAS BEEN IN THE

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

EMPLOY OF THE EMPLOYER FOR AT LEAST ONE YEAR. WHERE INFANTS ARE BROUGHT TO THE PLACE OF EMPLOYMENT BY WOMEN EMPLOYEES UNDER THE AGE OF 21 FULL YEARS, APPROPRIATE OPPORTUNITIES SHALL BE AFFORDED FOR REASONABLE NURSING REQUIREMENTS FOR SUCH INFANTS.

SECTION XII. EDUCATION AND RECREATION FOR CHILDREN UNDER 16. AT LEAST 6 HOURS AND 2 HOURS, RESPECTIVELY, OF THE AUTHORIZED WORKING TIME DURING EACH WEEK, OF ANY CHILD UNDER THE AGE OF 16 FULL YEARS, EMPLOYED IN ANY AUTHORIZED ESTABLISHMENT OR OCCUPATION, SHALL BE DEVOTED TO EDUCATIONAL INSTRUCTION NOT CONNECTED WITH SUCH EMPLOYMENT, AND TO RECREATION AND PHYSICAL EXERCISE, AT FULL PAY, *PROVIDED, HOWEVER*, THAT THIS PROVISION SHALL BE APPLICABLE ONLY IN ENTERPRISES IN WHICH NOT LESS THAN FIFTEEN CHILDREN UNDER THE AGE OF 16 FULL YEARS ARE EMPLOYED.

SECTION XIII. PROHIBITIONS ON RESTRAINT OF MOVEMENT OF EMPLOYEES. NO EMPLOYEE SHALL BE REQUIRED TO REMAIN WITHIN ANY DORMITORY, FACTORY, FACTORY GROUNDS OR OTHER FIXED PLACE OR AREA DURING ANY NON-WORK DAY OR HOLIDAY; NOR DURING ANY NON-WORK HOURS, *PROVIDED* THAT EMPLOYERS MAY, SUBJECT TO THE SUPERVISION OF THE DEPARTMENT OF LABOR, ANNOUNCE REASONABLE CURFEWS FOR SUCH EMPLOYEES UNDER THE AGE OF 18 FULL YEARS WHO LIVE IN DORMITORIES MAINTAINED BY SUCH EMPLOYERS.

SECTION XIV. PHYSICAL EXAMINATIONS. ALL PERSONS UNDER THE AGE OF 18 FULL YEARS, EMPLOYED IN ANY AUTHORIZED ESTABLISHMENT OR OCCUPATION, SHALL BE REQUIRED TO UNDERGO A PHYSICAL (INCLUDING DENTAL) EXAMINATION, AT THE BEGINNING OF THEIR EMPLOYMENT IN ANY SUCH ESTABLISHMENT OR OCCUPATION, AND AT INTERVALS OF SIX MONTHS THEREAFTER, BY PHYSICIANS AND DENTISTS PROVIDED BY THEIR EMPLOYERS AND APPROVED BY THE DEPARTMENT OF LABOR. THE EXPENSES OF SUCH EXAMINATION, AS WELL AS OF ANY TREATMENT, OPERATION OR APPLIANCES NECESSITATED BY THE NATURE OF THE EMPLOYMENT, SHALL BE BORNE IN FULL BY SUCH EMPLOYERS.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

SECTION XV. EMPLOYMENT CERTIFICATES. No person under the the age of 21 full years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation described in this ordinance (or in supplementary regulations issued by the Department of Labor pursuant to Section XIX hereof) unless the person, firm or corporation employing such individual procures and keeps on file, and accessible to any inspector of factories or other authorized official charged with the enforcement of this ordinance, the employment certificate as hereinafter provided, issued to such child; and keeps two complete lists of the names together with the ages of all boys under 16 full years of age and all girls under 18 full years of age employed in or for such establishment or in such occupation, one on file and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed. Such inspectors and officials may require that the employment certificates and lists provided for herein be produced for their inspection.

On termination of the employment of a child whose employment certificate is on file, such certificate shall be returned by the employer within two days to the official who issued same, with a statement of the reasons for the termination of said employment.

Employment certificates shall be in the form prescribed by the Department of Labor and shall be issued only by officials authorized by the Director of the Department of Labor in writing. Where possible, such authorized officials shall be the local school authorities in the city, town or village in which the child is to be employed. Such employment certificates shall be issued only upon the application in person of the parent or guardian or custodian of the child desiring such employment; *provided*, that no person authorized to issue employment certificates shall have authority to issue such certificate for any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer or employee.

The person authorized to issue an employment certificate shall not issue such certificate until he has received, approved and filed the following papers, duly executed: *(1)* The written pledge or promise of the person, firm or corporation to employ the child legally and also the written agreement to return the employment certificate within two days after the termination of such employment, as hereinabove provided; *(2)* The school record of such child, properly filled out and signed by the appropriate school officials; *(3)* A

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

certificate signed by a physician appointed by the official authorized to issue such employment certificate, stating that such child has been examined by him and, in his opinion, has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to be employed in any of the occupations or processes in which a child between 14 and 16 full years of age legally may be employed, (*4*) Evidence that the child is 14 full years old or upwards, which shall consist of one of the following proofs of age and shall be required in the order herein designated as follows: (*a*) a duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, which certificate shall be *prima facie* evidence of the age of such child; (*b*) a duly attested transcript from the family register (*kong-chuk*) showing the place and date of birth of the child; (*c*) a passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child; (*d*) in case none of the above proofs of age can be produced, other documentary evidence of age which shall appear to be satisfactory to the official issuing the certificate (aside from the school record of such child or the affidavit of parent, guardian or custodian), may be accepted in lieu thereof; (*e*) in case no documentary proof of age of any kind can be produced, the official issuing the certificate may receive and file an application signed by the parent, guardian or custodian of the child for physicians' certificates. Such application shall contain the name, alleged age, place and date of birth, and present residence of the child, together with such further facts as may be of assistance in determining the age of such child, and shall contain a statement certifying that the parent, guardian or custodian signing such application is unable to produce any of the documentary proofs of age hereinabove specified. Such application shall be filed for not less than sixty days for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, the official issuing the certificate may direct such child to appear thereafter for physical examination before two physicians officially designated by him, and in case such physicians shall certify in writing that they have separately examined such child and that, in their opinion such child is at least 14 full years of age, such official shall accept such certificates as sufficient proof of the age of such child for the purposes of this provision. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be sufficient for the purposes of

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775015

this provision as to the age of such child. The official issuing the certificate shall require the evidence of age specified in subdivision (*a*) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto a certificate of the parent, guardian or custodian showing that no evidence of age specified in any preceding subdivision or subdivisions or this provision can be produced. Such certificate shall contain the age, date and place of birth, and present residence of such shild, and shall be signed, sealed and affirmed in the presence of the official authorized to issue the employment certificate.

No employment certificate shall be issued until the child in question has personally appeared before and been examined by the official issuing the certificate, nor until such official, after making such examination, has signed and filed in his office a statement that the child can read intelligently and write legibly simple sentences in the Korean language; and has complied with all existing educational requirements for children of his age, and that, in his opinion, the child is 14 full years of age or upwards.

Every such employment certificate shall state the name, sex, date and place of birth and place of residence of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and shall contain a statement of the proof of age accepted and shall certify that the papers required by the foregoing provisions have been duly examined, approved and filed, and that the child named in such certificate has appeared before the official issuing the certificate and has been examined.

Every such certificate shall be signed, in the presence of the official issuing the same, by the child in whose name it is issued. It shall show the date of its issue. A record giving all the facts contained on every certificate issued shall be kept on file in the office issuing the same, and also a record of the names and addresses of the children to whom certificates have been refused, together with the names of the schools which such children should attend and the reasons for refusal.

No employment certificate shall be issued to any child required to attend school unless, during the twelve months previous to applying for such certificate, he has attended such school for at least 130 days.

The blank certificate and other papers required in the issuing of