International Labour Conference

FOURTEENTH SESSION
GENEVA, 1930

FORCED LABOUR

Item I on the Agenda

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International Labour Office
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I

Preliminary Observations

The Governing Body decided at its Thirty-seventh Session, in November 1927, to place upon the Agenda of the Twelfth (1929) Session of the International Labour Conference the question of Forced Labour, with a view to a first discussion in accordance with the double-discussion procedure of the Conference.

The Twelfth Session accordingly had before it a Grey Report on Forced Labour which had been prepared by the Office with the assistance of the Committee of Experts on Native Labour, and which concluded with a draft Questionnaire.

After a preliminary general discussion which took place at the sixth and seventh sittings on 3 June 1929, the question was referred to a Committee of 36 members (12 from each group). The Committee sat on eleven occasions between 1 and 15 June, and reported to the Conference on that date. The Workers' Group in the Committee felt themselves unable to agree with the majority of the Committee on certain points, and, whilst taking full part in the discussion and adoption of the Committee's Report, submitted also a Minority Report to the Conference. The two Reports give a full account of the arguments put forward in Committee. They are reproduced below in extenso.
Report of the Committee on Forced Labour to the Twelfth Session of the Conference

The Committee on Forced Labour began its session on 1 June, and held eleven sittings between that date and 15 June. Its officers, elected at its first and second sittings, were: Chairman: Mr. Jules Gautier (French Government Delegate); Vice-Chairmen: Mr. Lambert-Ribot (French Employers' Delegate), who requested that he might be replaced during his absence by Mr. Le Neveu, and Mr. Besteiro (Spanish Workers' Delegate); Reporter: Mr. Schrieke (Netherlands Government Delegate).

(1) The history of the appearance of the question of forced labour before international opinion and international bodies is recounted at length in the Grey Report, but it is both useful and necessary to recall briefly to the attention of the Conference the manner in which the subject was suggested to the International Labour Office, and in which its subsequent study has been carried out.

The first reference to forced labour as an evil to be feared, to be repressed if possible and in any case to be limited and regulated, appears in the texts of the Mandates—documents drawn up by specially constituted bodies and later approved by the Council of the League of Nations as laying down guiding principles for the administration of areas under mandate. These documents, in so far as they relate to the “B” and “C” types of mandate, lay down rigid restrictions as to recourse to forced labour and as to the payment of adequate remuneration to forced workers.
The subject next came into the international sphere when the League of Nations decided upon an enquiry into slavery in the post-war world, and created the Temporary Slavery Commission to carry out that enquiry. The report of the Commission was equally condemnatory of forced labour, and when finally in 1925 and 1926 the Assembly adopted the Convention on Slavery, an Article was inserted therein condemning in general terms recourse to forced labour as liable to "have grave consequences." Regulation of forced labour was purposely omitted from the Convention. The Reporter of the Commission of the Assembly which dealt with the matter (Viscount Cecil of Chelwood) stated on a later occasion in the British House of Lords that the details of regulation were matters which the International Labour Office was much better equipped to consider. In the previous year (1925) the Norwegian Delegate to the Assembly had called attention to the useful work which could be done by the International Labour Office "in bringing about better conditions for native labour," and on this occasion (1926) the Assembly adopted a Resolution requesting the Council of the League to inform the Governing Body of the adoption of the Slavery Convention and to draw its attention to the "importance of the work undertaken by the Office with a view to studying the best means of preventing forced or compulsory labour from developing into conditions analogous to slavery."

As to the Office itself, its representation on the Mandates Commission and the Temporary Slavery Commission had already necessitated a considerable study of forced labour, as well as of other labour questions arising from consideration of conditions in areas under Mandate. Further, the application of Article 421 of the Treaty of Peace, which provides for the extension of the execution of ratified Conventions, with considerable elasticity, to colonies, protectorates and other non-self-governing pos-
sessions, had compelled the Office to pursue its studies of colonial labour. At its request the Governing Body established in 1926 a Committee of Experts on Native Labour to assist the Office in what was clearly a heavy and difficult task. Needless to say the Office made every endeavour to obtain the best advice possible, and it was able to secure men of proved ability and experience in regard to all important colonial areas, so that the practice and the views of all the Colonial Powers can be placed at its disposal.

The Committee of Experts, consulted as to which of the labour conditions found in colonial and similar areas were most suitable for, or which demanded most urgently, international consideration, was unanimous in indicating forced labour and long-term contract labour. Further, when examining the draft of the Report on Forced Labour prepared by the Office, the Committee was again unanimous in requesting the Governing Body, by resolution, to place the question on the Agenda of the Conference at an early date.

These preliminary observations on the history of the question in the Assembly and Council of the League, and in the Office and the Governing Body, will serve at once to illustrate the importance of the subject and to explain the detailed care devoted to it by the present Committee on Forced Labour.

(2) The Chairman in his opening remarks evoked a broad spirit of humanity and justice in the consideration of the extremely delicate and complex problems which the Committee was called upon to discuss. That spirit was remarkably maintained during the whole of the debates. Though questions of a highly controversial nature were constantly suggested by study of the draft Questionnaire prepared by the Office, which the Committee took as the basis of its deliberations, the ruling motive in the mind of every member was clearly a desire to secure
an amelioration in the lot of peoples subject to the burden of forced labour, and particularly of those whose progress towards civilisation is as yet little advanced.

Throughout its discussions, the Committee did not lose sight of the fact that its task was not to prepare a Convention, but to draft a Questionnaire, and that this Questionnaire should be as complete and as precise as might be possible in order to cover all cases upon which experience shows that it is necessary to know the opinion of the Governments (who are entirely free to make the replies which they think fit) and thus to obtain for the assistance of the Conference, when the terms of the Convention are discussed, the most complete information possible on forced or compulsory labour and the very varied methods which may be employed for its suppression or its limitation and regulation.

The Committee has therefore been led to consider the subject in detail and to examine all possible cases. The Reporter considers that, since the question is entirely new, and since the League of Nations has emphasised its importance, it is essential to inform the Conference of the principal points of view expressed, and the reasons which have led to the adoption or rejection of certain questions. He considers that to do so will perhaps tend to shorten the debates in the Conference itself, and further will permit the Governments to understand more completely the meaning of the questions asked. The Reporter hopes that for these reasons the Conference will excuse the somewhat unusual length of this Report.

A. — Proposal for a Draft Convention

(3) The proposal of the Office for a Draft Convention and not a Recommendation, on this matter was not, questioned. On the other hand, whereas the draft question
on this point prepared by the Office asked the Governments whether they considered advisable a Convention "to limit and regulate" the use of forced labour, there were a number of members of the Committee who wished to give the Governments the opportunity to state whether or not they were prepared to go even further and to support a Convention for its abolition.

The Committee therefore adopted unanimously a new text of Question 1, which is intended to give the Governments the fullest opportunity of stating their views clearly and unambiguously on this matter. The general feeling of the Committee that in their replies the Governments should further be given occasion to state the reasons why, in their view, the immediate suppression of forced labour might not be possible, was not expressed in the text of the question, but it was suggested that the Office in sending out the Questionnaire might refer to the Committee's desire in this respect, with the object of securing that the Conference of 1930 should be fully informed.

The text of Question 1 finally adopted reads:

1. Do you consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms?
   If so, do you consider that a period of transition is necessary before such suppression can be fully carried out?
   If you do not consider it possible to adopt a Draft Convention, the object of which would be to suppress the use of forced or compulsory labour in all its forms, or if you consider that suppression is possible, but that a period of transition is necessary:
   Do you consider that the International Labour Conference should adopt a Draft Convention the object of which would be to limit and regulate the use of forced or compulsory labour?

_The Working of Article 421_

(4) As the Conference is aware, Article 421 of the Treaty of Peace provides a certain degree of elastiticy
in the application of Conventions adopted by the International Labour Conference to colonies, protectorates and non-self-governing possessions. The drafters of that Article recognised that between advanced industrial States and those where industrial development is just beginning there are vast differences, particularly in regard to the advantage or possibility of the application of legislation regulating labour conditions.

But in the present case, where the kind of labour under consideration is found most commonly (though not quite exclusively) in the very colonies, protectorates and other non-self-governing possessions mentioned in Article 421, the Committee felt that the circumstances justifying the application of this Article, namely, the vast differences of industrial development mentioned above, did not exist. On the contrary, it was considered that the application of Article 421 would be inimical to the often expressed desire of the Committee to secure the total abolition of forced labour as early as possible, and to the successful application of any Convention which might be adopted, either for its suppression or for its limitation and regulation.

At the same time, the Committee recognised that the exceptional treatment of a Convention on Forced labour in regard to this Article raised complex and difficult problems the solution of which it was not prepared to suggest, and in order to call the attention of Governments to the matter and to obtain their opinions thereon for the next Session of the Conference, it adopted unanimously the text of the following new Question:

2. Do you consider that such a Convention should be drafted in such a way that its ratification by a State should imply, for the colonies and protectorates of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Peace?
(5) The suggested definition of forced labour given in the draft Questionnaire was finally adopted as it stood, but it gave rise to a certain disquietude in the minds of some members of the Committee. The circumstances of long-term contract labour were recalled. As has been often observed, a worker may enter voluntarily upon a long-term contract and then find that he was mistaken as to the nature and conditions of the work he is called upon to perform, or, that he was wilfully deceived by the recruiter. It was suggested therefore that a more satisfactory definition of forced labour might be attained if, in addition to postulating the possibly non-voluntary character of the forced worker’s entry upon his task, the fact that he cannot withdraw himself from it voluntarily be also part of the definition. Otherwise, it was asserted, much forced labour would escape from the scope of a Convention on the subject.

The general truth of the criticism of long-term contracts implied in this proposal was not denied at the moment ¹, but it was felt that to bring the whole very complex question of contracts within the scope of a possible Convention on Forced Labour would raise almost insuperable difficulties. It was noted also that the International Labour Office was at present engaged, with the assistance of the Committee of Experts, in a study of contracts, and that the question would in all probability come before the Conference at an early date. The mover of the amendment, with those who had supported it, withdrew their proposal on the understanding that they should later put forward a Resolution concerning contract labour.

¹ But see (6) below.
A second proposal was intended to specify, more clearly than the original was thought to do by the mover, the exception of convict or penal labour from the scope of forced labour, as the term is used in the Report and Questionnaire, and, at the same time, to secure that such convict or penal labour, if not carried out under Government supervision and control (that is, if farmed out to private employers), should be considered to be a form of forced labour and so to be condemned. This amendment was lost by 15 votes to 14.

The words “under menace of any penalty” in the English text and “sous la menace d’une peine quelconque” in the French text, gave rise to further suggestions. A motion to add “or obligation” after “penalty” was rejected as being possibly too wide. The further suggestion was made that “penalty” in English might be interpreted in a strict sense to mean punishment inflicted by a court of justice. The Committee was unanimous in holding that any penalty or punishment, inflicted by any person or body whatever, is intended to be meant by the use of the word “penalty” here.

As has been stated, the text finally unanimously adopted is that of the draft Questionnaire. It reads as follows:

3. Do you agree with the following definition of forced or compulsory labour for the purposes of such a Convention:

“All work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily”?

The Question of Contract Labour

(6) After the disposal thus of the question of a definition, the Committee returned to the subject of the possible coercive elements in long-term contracts. Any analogy
between forced labour and such contracts was forcibly
denied by one member of the Employers' Group, who
pointed out that in the Dutch East Indies every care was
taken to ensure that workers understood the terms of their
contracts before signing them, and who declared that in
any well-administered colony no contract implying a real
constraint should be possible. Other speakers referred to
the difficulty of ensuring the understanding of contracts
by workers unable to read and write and unacquainted
with the conditions of the labour they would be called
upon to do. Emphasis was laid upon the impossibility
of their changing their employment if conditions were not
suitable for them, and this fact was put forward in support
of the thesis that long-term contracts implied an element
of coercion.

The Resolution, put forward and supported in the main
by the Workers' Group, was adopted by 18 votes, nem. con.; its terms are given below under the heading “Pro-
posal for a Resolution”.

Exemptions from the Scope of the Term
“Forced Labour”

I. Emergency cases

(7) Little difficulty was experienced by the Committee
in accepting the draft question asking whether Govern-
ments agreed to except emergency cases from the scope
of any proposed Convention. Some minor amendments
were made, and the following text was adopted unani-
mosely:

4. Do you consider that cases of emergency (force majeure)
should be outside the scope of the Convention?
If so, do you approve of the following definition of "cases
of emergency":
"A case of emergency, for the purposes of this Convention, is the event of war and any occurrence which endangers the existence or the well-being of the whole or a substantial part of the population, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and so on"?

II. Minor village services

(8) A second possible exception was the subject of much more difficulty. The original question proposed to leave out of the scope of a Convention minor village services which "may be considered to be normal obligations" incumbent upon the members of village communities and not constituting forced or compulsory labour in the sense of the Convention. Some members of the Committee wished to give the question a less definite form, and to ask Governments merely whether such minor services "may be continued", leaving out that part of the original question, which suggested that these minor services should be considered to be outside the scope of any Convention on Forced Labour. The supporters of this proposal considered that, on the contrary, these services should be treated as forced labour subject to the stipulations and regulations laid down in other cases. They were, it was alleged, liable to abuse; chiefs, and the administrative officials who in some cases exercised the powers of chiefs, occasionally used their authority in these matters to exact far more than was traditional or customary, sometimes for their own personal benefit.

A compromise was found in the insertion in the text of phrases limiting the work or services here mentioned to those which are traditional and customary among the peoples concerned, and excluding new impositions on the part of the authorities, which, it was suggested, should be included in the kinds of forced labour elsewhere treated in the Questionnaire:
5. Do you consider that village services of a kind which have been traditional and customary amongst the local inhabitants, and which are performed within the close proximity of the village by the people who live in it, may be considered to be normal obligations incumbent upon the members of the community and not constituting forced or compulsory labour within the sense of the definition given in Question 3 above?

Compulsory Labour in Self-Governing Countries

(9) A question intended to refer to the possible act of a self-governing people which might wish to impose compulsory labour upon itself in certain eventualities had been inserted in the original Questionnaire. The case which the Office had in mind in posing this question was that of the Bulgarian law on compulsory service, and Mr. Bobochewsky, Bulgarian Government Delegate, explained the nature and scope of this law to the Committee. Certain members expressed objections to the inclusion of the question, considering it of little practical importance, and it was rejected by 16 votes to 14.

The Authorities Responsible for Recourse to Forced Labour, and the Question of the Delegation of Powers to Subordinate Authorities

(10) Numerous cases of the abuse of forced labour, some of which are referred to in the Grey Report, appear to arise when powers to exact it are left, with inadequate control or none at all, to subordinate authorities. A question was therefore proposed by the Office asking Governments whether, in their view, the responsibility for all recourse to forced labour should not lie always with the highest possible authorities. In view of the existing practice in certain British colonies, the question suggested
that the highest authorities need not necessarily be those of the area concerned, but some higher authority of the metropolitan power itself.

Some members of the Committee wished, in fact, to restrict the question to this latter point, and though two members drew attention to practical difficulties in the matter the general sense of the debate tended to strengthen the proposed question in this direction, with the result that in the text of the question finally adopted the order in which the metropolitan authorities and the authorities in the territory concerned were mentioned was reversed. The Committee adopted the following text:

6 (a). Do you consider that the authority responsible for any recourse to forced or compulsory labour should be an authority of the metropolitan country, or, when that is not possible, the highest central authority in the territory concerned?

(11) The object of the preceding question is to consult the Governments as to whether the high authority responsible for all recourse to forced labour may not, whilst still retaining its entire responsibility, delegate to lesser authorities powers for the utilisation of forced labour for local public purposes. As was pointed out, it might be inconvenient, if not impossible, to refer every single case of proposed forced labour to the highest authority. The draft Questionnaire therefore put a question suggesting the limitation of the powers which might be delegated in this respect to minor and local authorities to a number of defined cases of work of interest to the local community concerned.

The Workers’ Group, however, that their fear that to leave minor authorities too free a hand in authorising forced labour might lead to abuses should be expressed, and desired in consequence to pose a question in the following form, which was adopted by 12 votes to 9:
6 (b). Do you consider that, where higher authorities delegate to subordinate authorities the right of authorising forced labour for local public purposes, this practice should cease?

(12) There still remained the question of the carrying out of works by forced labour under the control of the local or minor authorities, and a further question was therefore adopted:

6 (c). Do you consider that the competent authority should define precisely, in so far as this has not already been done, the conditions under which forced or compulsory labour should be carried out under the control of minor and local authorities, and that these conditions should, in regard to the category of persons liable, the maximum duration for any individual, working hours, payment, indemnities, and inspection, be not more onerous than those indicated in this Questionnaire for putting into execution forced labour imposed by the competent authority itself?

Criteria justifying Recourse to Forced Labour

(13) The question concerning the responsible authority thus being decided upon, the Committee discussed the criteria which, it is suggested, should be satisfied before any recourse should be had to forced labour. These, as presented in the draft question prepared by the Office, appeared to some members of the Committee to be possibly too drastic. In particular the Belgian Government Delegate wished to introduce such elasticity as would permit recourse to compulsory cultivation, either of foodstuffs necessary in order to avoid famine, or of crops for export the sale of which would permit the purchase of foodstuffs and assist in the general progress of the population concerned. This matter, it may be recalled, was discussed in the Temporary Slavery Commission, and in the Sixth Commission of the Assembly of the League on the occasion of the adoption of the Slavery Convention,
and both bodies refused to entertain the possibility of forced cultivation, except as a precaution against famine, declaring that it was liable to lead to the precise abuses which the Slavery Convention was intended to combat. The Committee of Experts on Native Labour, when examining the draft Questionnaire, had seen no reason for differing from the view of the earlier Commissions, and the present Committee apparently took the same view. With minor verbal alterations the first two paragraphs of the question were adopted *nem. con.*

An amendment to paragraph (iii) with the same intention, namely, to consult Governments on the possibility of compulsory cultivation, moved also by the Belgian Government Delegate, was rejected by 17 votes to 12, and a further amendment asking for opinion on what was held by the mover to be a better system of wage-fixing than is often found in colonial areas was withdrawn as being inopportune in this connection.

The amended text finally adopted comprises a reservation rendered necessary by the subsequent adoption of a new question (Question 12). The text reads as follows:

7. Do you consider that the competent authority, before permitting any recourse to forced or compulsory labour except the compulsory labour mentioned in Question 12, should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates of wages ruling in the area concerned for similar work or service; and

(d) that the work or service under consideration will not lay upon the present population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work?
Some of these criteria (paragraphs a, b, and d) were repeated later, it will be noticed, in connection with the particular kind of compulsory labour which is exacted in the form of, or in lieu of, a tax (see (18) below).

**Forced Labour for Private Individuals**

(14) A logical sequel to the first criterion adopted in Question 7 is the total prohibition of forced labour for private employers or for other bodies than the community in general. In inserting a question on this point the Office and the Committee of Experts had but followed the opinions expressed by the Temporary Slavery Commission and in the Slavery Convention.

An amendment to delete that part of the question which appeared to presuppose if only for a limited time the continued existence of forced labour for private employers was rejected by 18 votes to 9, the majority evidently taking the line that, where this type of forced labour did exist, it might be impossible to abolish it immediately. The text finally adopted was that of the draft Questionnaire. It is:

8. Do you consider that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community?

Are you of opinion that where such forced or compulsory labour exists, every effort should be made to bring it to an end as soon as possible?

Are you further of opinion that a time limit for such abolition should be fixed, and if so, what time limit would you propose?

**Forced Labour for Chiefs**

(15) There is one case which might sometimes be construed as forced labour for private individuals, but which is traditional and customary among many primitive
peoples, who perform sometimes a considerable amount of obligatory labour for their chiefs. Some of this is clearly in reality performed in the general interest; much of it is not, and it was pointed out that these traditional rights of chiefs tend in practice not only to be exercised by administrative officials, but also to be extended by them beyond the more simple and elementary needs of a primitive tribe or clan.

That colonial policy which takes advantage of the presence of any constituted authority which may be found existing, and which strengthens that authority where it seems to be necessary, demands that precaution be taken that the influence of chiefs over their people should not be lessened without serious reasons, and it was considerations of this kind which prompted the British Government Delegate to move for the insertion of a supplementary question worded as follows:

9. Do you consider that, where tribal chiefs are left in possession of traditional rights in regard to compulsory labour, Administrations should ensure that such labour should be directed to public purposes and that the conditions under which it is carried out should be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative authorities, in so far as this is possible having regard to the necessity of maintaining the traditional authority of the chief over his people?

This new question was adopted by 15 votes to 14.

Duties of Officials in Regard to Labour for Private Employers

(16) In direct connection with the abolition of forced labour for private employers, a question was proposed in the draft Questionnaire relative to the part to be played by officers of the Administrations in regard to the recruiting of labour. This question relates to an exceedingly
difficult problem. As pointed out in the Grey Report, “advice” or “encouragement” from an official tends very easily to be understood by its recipient as a command, and the object of the question was to examine within what limits the encouragements of officials should be restrained, in order to avoid anything in the form of constraint.

Objection was taken in the Committee to the first idea expressed in the question, namely, the assumption that “it is the duty of officials to encourage the populations under their charge to engage in some form of labour.” This duty was, however, vigorously defended by some members of the Government Group: encouragement was not only permissible, but highly desirable. It should take the form of education in the use of new tools, in the art of cultivation, and so on. Governmental action influenced working habits and methods in all countries, and there was no reason to suppress its usefulness here. A motion to delete the words referring to the duty of the officials to encourage, and a further motion to a similar effect were defeated, and the question was adopted as it stands in the Grey Report.

10. Do you consider that whilst it is the duty of officials of the Administration to encourage the populations under their charge to engage in some form of labour, they should not be permitted to put constraint upon them to work for private employers?

Concessions Giving Rights over Labour

(17) The abolition of forced or compulsory labour for private employers seems to entail logically the abolition of the rights sometimes granted to concessionnaires (individuals or companies) to exercise compulsion in one form or another in order to obtain the products they sell or utilise, and the Committee adopted the following text without discussion or opposition:
11. Do you consider that no concessions granted to individuals or companies should permit any form of compulsion for the obtaining of the products which such individuals or companies utilise or in which they trade; and that, where such concessions already exist, (a) they should not be renewed except in such a way as to terminate any arrangements of this kind, and (b) every effort should be made to change, in the same way and as early as possible, existing concessions which are not yet due for renewal?

**Forced Labour as Tax, or in Lieu of Tax**

(18) The Netherlands Government Delegate instanced a case of forced labour which was not of the ordinary type, and which in his view was not fully covered by the existing Questionnaire. He referred to forced labour exacted as a tax or in lieu of a tax. There were areas where money could hardly be said to exist, and there the people must contribute their share for the general good by doing work the utility of which is within their comprehension, and which they can carry out in their usual environment and under conditions to which they are accustomed. Clearly some of the criteria previously suggested for recourse to forced labour of any kind were applicable also here, and he proposed to repeat them in the text of the new question he put forward.

It was suggested by those who opposed the new question that the kinds of services most frequently exacted as tax were those indicated in Question 12 of the original Questionnaire (minor village services), but a number of members insisted that this was not always the case, and that certain minor services were frequently carried out by traditional and customary work which was in no sense regarded by the villagers as forced labour.

A compromise was arrived at by the acceptance on the part of the mover of words asking the Governments whether this form of compulsory labour should not be abolished, and the new question was voted in the following form:
12. Do you consider that, where forced or compulsory labour is demanded as an equivalent to or a substitute for a tax, this practice should be abolished as soon as possible, and that until it is abolished the competent authority should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service?

(b) that the work or service is of present or imminent necessity?

(c) that the work or service under consideration will not lay upon the present population concerned too heavy a burden having regard to the labour available and its capacity to undertake the work?

(d) that the workers while performing their work remain in the neighbourhood of their homes?

(e) that the execution of the work or the rendering of the service shall be directed by the local authorities in accordance with the exigencies of religion, social life and agriculture?

It will be noted that the effect of this amending question is to make quite clear that those of the criteria laid down in Question 9 above which are applicable to this form of forced labour should be satisfied here also, and that two further criteria (Nos. d and e above) of the highest importance to village life are added.

_Safeguarding Forced Workers_

I. _By laws and regulations_

(19) A general question, intended to suggest that strict regulations, accompanied by the compiling and recording of statistics, were necessary to secure the satisfactory execution of forced labour, when recourse should be had to it, was the occasion of an exceedingly interesting debate. The question itself was adopted, with an amendment, in the following form:
13. (a) Do you consider that in any area where forced or compulsory labour still exists, complete and precise regulations should be adopted, in so far as this has not already been done, in regard to the organisation of this labour, and that such regulations should provide for the compiling and recording of statistics concerning it, in particular as regards the organisation of work and the hours of work and the method of payment of wages?

(20) The Workers' Group, however, took the view that the adoption of complete and precise regulations was in itself an inadequate protection for the workers, and proposed, in the first place, a question tending to secure that the utmost publicity should be given to such regulations. Though certain members pointed to the difficulty, in some cases, of carrying out the translation and printing suggested, the Committee adopted by 20 votes to 1 the following text:

13. (b) Do you consider that in any territory where forced labour exists the legal provisions or administrative orders governing its application should be printed (and freely exhibited) by the competent authority in such one or more native languages as will convey its import to the workers concerned and the population from which the workers are to be drawn; and that copies of such printed matter should be made available, at cost price, to the workers or others?

II. By freedom of association

(21) In the second place, the view was strongly held by the Workers' Group that the only really effective safeguard against the abuses of forced labour lay in the existence of trade unions. Laws might be adopted, but, unless there were pressure from the persons interested in their application, they tended to be of no effect. It was therefore essential that workers subject to forced labour should be in a position to make their wishes known and to assist in the application of the laws on
the matter, and this they could only attain if they enjoyed the right freely to organise themselves in trade unions.

The Workers therefore proposed the following new question:

Do you agree that it is indispensable to grant freedom of trade union organisation to the working population of the territories covered by a Forced Labour Convention?

The objections raised to this proposal were of two kinds. It was pointed out by certain members of the Employers’ Group that the question of freedom of association in general had already been before the Conference, that no agreement had been reached concerning it, and that it seemed dangerous or at least inopportune to re-introduce the question to the Conference in connection with forced labour. In the second place, it was argued that as forced labour for private employers seemed likely to be entirely abolished, there could only remain for consideration in this respect the relations between forced workers and the Administrations of the territories concerned. The question of freedom of association of Government employees was even more complex and difficult than that of freedom of association in general.

In reply, it was stated that the public works of colonies were frequently conceded to private firms, and that therefore the second of the above arguments was untenable. Moreover, the increasing movement towards solidarity of interest between the workers of the metropolitan countries and those of dependent areas—a movement to be encouraged as far as possible in the interests of world peace and understanding—would be seriously impeded if the colonial workers were unable to organise. The Workers’ Group then proposed a new text, which might meet some of the objections raised:
Do you consider that, in order to facilitate the abolition or limitation of forced labour, it would be useful to encourage, or at least not to hinder, the efforts made by the workers to organise themselves freely in the territories which are at present subject to a system of forced labour?

On a vote by roll-call, this proposal was, however, defeated by 21 votes to 12, with one abstention.

III. By the hearing of complaints

(22) At a later stage in the proceedings an amendment aiming at securing a further safeguard for forced workers was introduced by a member of the Workers' Group. It suggested an additional criterion which should be satisfied before recourse should be had to forced labour, in the form of the setting up of definite machinery by which "forced workers would be able to present to the authorities any grievances arising out of their terms of labour and to negotiate thereon."

This proposal also was lost, by 18 votes to 11.

IV. By inspection

(23) The Committee adopted the following question concerning the inspection of the conditions of forced labour without discussion or opposition:

14. Do you consider that the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and that, in the absence of such an inspectorate, other adequate measures should in all cases be taken to assure that the regulations governing the employment of forced labour are strictly applied?
V. By penalties for the illegal exaction of forced labour

(24) The numerous cases in which forced labour has been exacted without legal authority, or in excess of legal prescriptions, had suggested the insertion in the draft Questionnaire of a question as to whether action of this kind should not be considered a penal offence. An amendment was adopted suggesting that such offences should be visited by adequate punishment, and the text adopted without opposition reads:

15. Do you consider that the illegal exaction of forced labour should be punishable as a penal offence, and that the penalties should be really adequate?

Exemptions from Forced Labour

(25) The draft Questionnaire proposed two questions concerning limitations as to the class of workers upon whom forced labour might be imposed, and as to the number of such workers who might be taken from a given community.

The Committee did not consider the first of these questions, which asked merely whether forced labour might not be exacted only from adult able-bodied males, to be sufficiently detailed, and a number of amendments were added suggesting in the first place an age limit, and in the second place the express exception of certain categories of persons.

The text finally adopted, by 22 votes to none, reads:

16. Do you consider that only adult males of not less than 18 years of age should be called upon for forced or compulsory labour, subject to the following limitations and conditions;

(a) Prior determination by a Government medical officer that the persons concerned are not suffering from any conta-
gious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) Exemption for persons already bound by a contract of employment;

(c) Exemption for school teachers and pupils;

(d) The maintenance in each community of the number of adult able-bodied men indispensable to family and social life;

(e) Respect for conjugal and family ties?

(26) The second question dealt with an allied matter which has been the subject of much discussion in recent years. Here again the Committee wished to place the matter before the Governments in a much more detailed form than the draft Questionnaire proposed, with the object of securing more precise information. Several amendments were carried without opposition, and the question as finally adopted is as follows:

17. Do you consider that from any given community no more than a fixed proportion of the resident able-bodied males should be taken at any one time for forced or compulsory labour which entails their sleeping away from their homes?

Do you consider that this proportion should be regulated according to the seasons, and the work which must be done by the persons concerned on their own behalf in their locality, and, generally speaking, that the economic necessities of the normal life of the community in question should be respected?

Do you consider, finally, that this proportion should be prescribed, and what proportion do you suggest?

The Regulation of Forced Labour

I. Its duration

(27) The discussion on the question concerning the period for which forced labour might be exacted from an individual worker revealed few differences of opinion. The amendments proposed by members of the Workers' and of the Government Groups tended in each case to
limit the possible burden on forced workers, and were adopted with little or no opposition. The Committee wished to make clear that the maximum periods mentioned in the question were to be taken to mean the maxima for the sum total of all kinds of forced labour, whether the ordinary type, or that imposed as a tax or in lieu of a tax.

The question finally adopted reads:

18. Do you consider that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds should not exceed 60 days in any one period of 12 months, including the time spent in travelling to and from work;

or in exceptional cases where workers have to be brought from a considerable distance, 6 months in any one period of 24 months, it being understood that in this period will be included the time employed in the work contemplated in Question 12, and that any two such periods occurring in consecutive terms of 24 months should be separated by an interval of at least 3 months?

In cases where workers have to be brought from a considerable distance, do you consider that the individual worker who has served in any one year for a longer period than the normal maximum of 60 days fixed above, or than any lower maximum which may be fixed, should be exempt from further forced or compulsory labour for a number of years equal to the number of times the normal maximum which he has so served?

Do you consider that the normal maximum period for which any individual may be taken for the work or service contemplated in Question 12 should not exceed 30 days in any one period of 12 months?

II. Measures of habituation

(28) Two problems arise in regard to the habituation of forced workers to new circumstances. The first dealt with by the Committee is concerned with changes of climate and food when workers are moved from one area to another; the second touches upon their training and habituation to unaccustomed forms of work. As the Grey Report shows, neglect of precautions in these.
matters has in the past led to exceedingly serious results, and the Committee directed its efforts so to amend the questions proposed as to indicate as clearly as possible the information sought from the Governments.

The questions adopted are:

19. Do you consider that forced workers should not, except in cases of special necessity, be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health?

When such transfer cannot be avoided, do you consider that, on competent medical advice, measures of gradual habituation to the new conditions of diet and of climate should be adopted?

Do you consider that in no case should the transfer of workers be permitted unless all necessary measures for the accommodation and health of the workers can be strictly applied?

Do you consider that, in cases where forced workers are required to perform regular work to which they are not accustomed, measures should be taken to assure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and the increase or amelioration of diet which may be necessary?

III. Hours of work

(29) The question concerning hours of work proposed by the Office and the Committee of Experts asked for the opinion of the Governments with regard to the eight-hour day and the 48-hour week for forced workers. The British and South African Government Delegates proposed to delete that question and to replace it by:

Do you agree that the normal working hours of forced workers should not exceed any legal maximum applicable to voluntary workers?

This proposal was supported by the British Employers’ Delegate, who pointed out that it was premature to endeavour to regulate this matter for forced labour when the question was not yet settled for free labour,
and that the Washington Convention on the subject itself permitted a longer week in some Eastern countries. The proposal was carried by 16 votes to 13.

(30) For the rest, the Committee accepted that part of the original question which asked whether overtime should be paid for at rates higher than the rates for normal working hours, and that a weekly day of rest should be provided for, and adopted as the question on this point:

20. Do you consider that the normal working hours of forced workers should not exceed any legal maximum applicable to voluntary work, and that the hours worked in excess of that maximum should be remunerated at rates higher than the rates for the normal working hours?

Do you consider that a weekly day of rest should be provided for and that this day should coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned?

(31) With regard to transport workers, however, where the draft Questionnaire made the same query concerning the 8 and 48 rule, the Committee found no difficulty and the original text was adopted:

21. In the case of forced transport workers, do you consider that the normal daily journey should correspond to an average eight-hour working day, it being understood that account shall be taken not only of the distance covered, but also of the nature of the route, the season of the year, the weight to be carried and all other relevant factors, and that where hours of journey in excess of eight per day are exacted they should be remunerated at rates higher than the normal rates?

IV. Wages

(32) The international texts so far adopted on the question of forced labour provide always that "adequate remuneration" should be paid for it. The draft Ques-
tionnaire therefore asked for the approval of the Governments on this point. In addition, the further questions proposed called attention to certain matters, to which reference had been made in the Grey Report, concerning the methods of payment sometimes adopted, and the deductions from wages sometimes made.

The amendments adopted were all intended, so far as a Questionnaire can be used to this effect, to improve the conditions of forced workers. The Belgian Workers' Delegate proposed to ask whether wages should be paid always in cash; the British Workers' Delegate amended the question so as to ask whether forced workers recruited in one district and working in another, where possibly the wage rates were different, should be paid at rates not less than those ruling in the district where the higher rates were paid. Both these proposals were adopted without opposition.

An amendment to that part of the question which asked whether wages should be paid to forced workers individually and not to their tribal chiefs or other authorities was, however, lost. The British Government Delegate, in proposing it, recalled the fact that in many territories under British rule administration was carried on as far as possible through existing tribal authorities, and that at times tribal law and custom did not accord with the direct payment of wages to individual members of the tribe, but the majority of the Committee supported the view that payment to others than the individual workers was a frequent occasion for abuse, and that the object of a future Convention on forced labour should be to try to remedy such abuses, not to perpetuate them.

The text adopted reads then as follows:

22. Do you consider:

(a) that forced or compulsory workers, including transport workers, should in all cases be paid in cash at rates not less
than those ruling for similar kinds of work either in the district in which they are employed or in the district from which they are recruited, whichever may be higher?

(b) that the wages should be paid to the workers individually and not to their tribal chiefs or other authorities?

(c) that the days necessary for travelling to and from the workplace should be counted for the purpose of payment as working days?

(d) that deductions from wages should not be made either for the payment of taxes or for special food, clothing or accommodation supplied to the worker for the purpose of maintaining the worker in condition to carry on his work, nor for the supply of tools?

V. Workers' Compensation

(33) The anxiety of the Committee to call the attention of Governments to the desirability of securing improvements in the condition of forced workers was nowhere better illustrated than in the debates on the question on the provision of compensation for accidents, indemnification for sickness and the maintenance of the dependants of dead or incapacitated forced workers. The amendments proposed were adopted without opposition in all cases with one exception, when a single negative vote was given.

Consequently the following detailed question resulted at last from the Committee's discussions:

23. Do you consider:

(a) that any laws relating to workmen's compensation for accidents or sickness arising out of the circumstances of their employment shall be equally applicable to forced as to voluntary labour?

(b) that the laws providing compensation for the dependants of dead or incapacitated workers should be equally applicable to all labour whether forced or voluntary?

(c) that the competent authority or any authority employing forced workers should be obliged to ensure their subsistence when an accident or illness renders such workers totally or partially incapable of providing for themselves?
(d) that when the forced worker is not living at his own home no distinction should be made as to whether or not the accident or illness was caused by his work?

(e) that in the case of permanent incapacity, total or partial, the right to an indemnity calculated according to the degree of incapacity should be ensured?

(f) that the competent authority should take measures to ensure the maintenance of dependants of an incapacitated deceased forced worker?

(g) that any existing laws or administrative orders concerning compensation or indemnification for sickness, injury to, or death of forced workers should be printed, exhibited and offered for sale by the competent authority, in the manner provided for in the case of the laws and orders concerning forced or compulsory labour?

VI. Special precautions for work of long duration

(34) The following questions are self-explanatory. They were all adopted by the Committee without opposition:

24. (a) Do you consider that when forced workers, other than forced transport workers, are compelled to remain for considerable periods for works of construction or maintenance at workplaces, measures should be taken to assure their health and to guarantee the necessary medical care, and that in particular (i) they should be medically examined before commencing the work and at fixed intervals during the period of service, (ii) an adequate medical staff should be provided with the dispensaries and hospital accommodation necessary to meet probable eventualities, and (iii) the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils and, where necessary, of housing and clothing should be assured?

(b) Do you consider that, when the work is prolonged, definite arrangements should be made to ensure the subsistence of the family of the forced worker, in particular by facilitating the remittance, by a safe method, of part of the wages to the family at the request of or with the consent of the worker?

(c) Do you consider that the journeys of forced workers to and from the workplaces should be at the expense and under the responsibility of the Administration, which should facilitate
them by making the fullest use of all available means of transport?

(d) Do you consider that it is necessary to ensure the repatriation of forced workers at the expense of the competent authority in case of illness or accident causing incapacity to work of a certain duration?

(e) Do you consider that any forced worker who may wish to remain as a free worker at the end of his period of forced labour should be permitted to do so without losing his right to repatriation free of expense to himself?

(f) Do you consider that the competent authority should satisfy itself of the possibility of adequately taking all the measures indicated in this Question before permitting any recourse to forced or compulsory labour?

VII. Special provisions concerning forced porterage

(35) The only difficulty raised by the draft Questionnaire in regard to the special provisions concerning forced porterage was that of the possibility of medical examination. The Workers' Group wished to insist on the medical examination of workers prior to their being taken as forced porters, but the majority of the Committee followed the opinion of Government Delegates who had pointed out that such medical examination was in some cases very difficult, if not absolutely impossible to provide, and the Workers' amendment was defeated. The question as originally drafted was then adopted:

25. When recourse is had to forced or compulsory labour for the transport of persons or goods (porters, boatmen, etc.) do you consider that the competent authority should promulgate regulations determining, inter alia, (a) that only adult males, medically certified where medical examination is possible, to be physically fit, shall be employed on this work, (b) the maximum load, (c) the maximum distance from their homes to which these workers may be taken, (d) the maximum number of days per month or other period for which they may be taken, (e) the persons entitled to demand this form of forced labour and the extent to which they are entitled to demand it?
In this connection, what maximum load do you suggest, what maximum distance from their homes to which these workers may be taken, and what maximum number of days per month or other period for which they may be taken?

(36) The Committee finally adopted three questions asking whether Governments agreed in condemning resort to forced labour for certain purposes and the employment of forced workers in a certain class of works.

Compulsory Cultivation.

As has been stated, unsuccessful efforts were made in the earlier debates of the Committee so to amend the question concerning the criteria which should be satisfied before recourse is had to forced labour as to render compulsory cultivation possible. On this point, the Office and the Committee of Experts had inserted a question in the original draft tending to seek the opinion of the Governments on the thesis already approved by the Temporary Slavery Commission and the Sixth Committee of the Assembly of the League in 1925 and 1926, namely, that compulsory cultivation should be permissible only as a precaution against famine.

The Belgian Employers' Delegate proposed to amend this question also as to suggest that compulsory cultivation should be permissible in other cases. It was necessary, he urged, to introduce in native agriculture products the harvest of which was not so strictly dependent on seasonal influences, and which, on the other hand, would permit those who exported them to buy necessary foodstuffs. To support his argument, he instanced the success of native agriculture in Uganda, the Gold Coast and certain French colonies. He thought that similar results might be obtained by persuasion, but that this method might take two or three generations, and in Africa such a delay was dangerous. The British Government Delegate, in
reply, stated that Uganda and the Gold Coast were just those dependencies in the British Empire in which cultivation and production were most free from any kind of European control or direction. The French Workers' Delegate stated also that the compulsion imposed on French peasants during the war had failed both in practice and as an educative measure. The amendments were rejected.

The Workers' Group then put forward the suggestion that, even as a measure of precaution against famine, other methods than compulsion might be found possible. This idea was inserted in the last paragraph of the question, which was adopted in the following form:

26. Do you consider that recourse should be had to compulsory cultivation solely as a method of precaution against famine or a deficiency of food supplies, and always under the condition that the food or produce shall, in lieu of wages, remain the property of the individuals or the community producing it?

Do you further consider that in no case should compulsory cultivation be imposed to promote the production of crops for export or as a measure of education?

Do you consider that it would be possible to devise measures of precaution against the contingencies indicated in the first paragraph of this question otherwise than by the introduction of a system of forced labour?

Forced Labour as Collective Punishment

(37) A second case in which, it was suggested, forced labour should not be employed, was put forward by the British Workers' Delegate. It was the practice in certain areas, he stated, that when the perpetrators of some crime could not be found, and when it was certain that they were being hidden by their co-villagers, a penalty was inflicted upon the whole village, and this penalty might take the form of forced labour. He considered that such penalties were often excessive, and that to
impose forced labour in such cases implied great injustice. Other methods of collective punishment (e.g. fines) were available, and if the system be retained at all, they, and not forced labour, should be made use of. The Committee agreed, and by 21 votes to none the following question was added to the Questionnaire:

27. Do you consider that "collective punishment laws" under which an entire community may be punished for misdemeanours committed by some of its members should contain no provision for forced or compulsory labour by the community as one of the methods of punishment?

**Underground Work**

(38) The Committee adopted by 33 votes to none a new question, proposed by the British Workers' Delegate, asking whether the Governments agreed that forced workers should never be employed underground. The mover supported his suggestion not only on the ground that such work was arduous and often dangerous, but on the well-known fact that amongst many primitive peoples underground work is regarded with peculiar terror. The text adopted was:

28. Do you consider that forced labour should not be used for work underground?

(39) A new question was put forward by the Worker's Group asking Governments whether it would not be advantageous if a Permanent Committee on native labour were created in connection with the International Labour Office and the Governing Body. To such a Committee, it was suggested, might be confided the examination of the annual reports forwarded to the Office in the future by Governments which had ratified Conventions on labour questions affecting primitive or backward peoples (as,
for example, a Convention on Forced Labour). The proposed Committee might also be charged with the study of other questions of the same nature, and with receiving, examining and reporting upon petitions.

The French Workers' Delegate, who moved the proposal, stated that its object was principally to permit a permanent and competent body to follow the development of native labour questions in the Organisation. He agreed with the Chairman in considering that the creation of the Committee would in no way interfere with the working of Article 408 of the Treaty of Peace and with the activity of the present Article 408 Committee of Experts. To a question whether the overseas countries directly concerned would be represented on the Committee he replied that the Governing Body in appointing the members would doubtless take that matter into consideration.

He accepted also a suggestion from the German Government Delegate that the Committee should be one of experts, reserving, however, the right of the Governing Body, if it so decided, to appoint a member of each of its Groups to the Committee.

He recalled the wording of a statement issued by the employers, according to which it was the duty of colonising powers to assure the exploitation of the wealth of colonial territories for the well-being of the world at large. As a counterbalance to that view, he suggested an equally international supervision of the conditions of this exploitation. The Workers' Group did not however go so far as to propose that: their suggestion was limited to endeavouring to give the International Labour Organisation the means of following as carefully as possible the application of all future Conventions which might relate to native labour. He was supported by other members of the Workers' Group who advanced, inter alia, that the Governing Body had already created a Committee of Experts on Native Labour, and that the question now was merely
one of extending the functions of that Committee and making it permanent.

The view that the matter was too important to be hastily decided was put forward by the Delegate of the Nicaraguan and Liberian Governments, who thought also that the terms of the question were too vague in regard to the "other duties" to be confided to the proposed Committee.

When the question came to the vote (the mover having accepted minor amendments) the first paragraph was defeated by 18 votes to 14, and a vote upon the succeeding paragraphs was rendered unnecessary.

B. — Proposals for Recommendations

(40) The Committee adopted six questions asking Governments whether they considered that Recommendations might not be adopted by the Conference concerning matters closely allied to or affecting the general problem of forced labour.

Of those, the first two given below were the subject of a declaration on the part of the French Employers' Delegate, who expressed the view of his Group that they dealt with questions of an economic nature, which were not directly concerned with forced labour and which appeared to be outside the scope of the International Labour Organisation. They were adopted by 11 votes to 7 and 12 votes to 9 respectively, certain amendments having been made to the second.

The third, fourth and fifth were adopted without opposition. The sixth, however, was debated at considerable length. The British Government Delegate was in favour of it, provided he were assured that the movement of workers referred to therein was understood to mean movement within the same administrative areas. His
Government would insist on the right to restrict, if it were considered advisable, movement to outside areas. The Indian Government Delegate concurred. The Swedish Workers’ Delegate was opposed to restrictions on the movements of workers, regarding them as economic evils, and the South African Workers’ Delegate supported the proposal on the ground that restrictions on movement were employed at times in order to favour certain industries at the expense of others. The text of this question was adopted by 15 votes to 11.

The six questions tending to the possible adoption of Recommendations are:

I.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to important matters in connection with the economic development of as yet undeveloped areas with a view to avoiding such pressure upon the populations concerned as may amount to compulsion to labour?

If so, do you consider that the Recommendation should set out that the amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the populations, are factors which should be taken into consideration in connection with economic developments, and, in particular, when deciding upon:

(a) increases in the number and extent of industrial, mining and agricultural undertakings in the areas;

(b) the non-native settlement which is to be permitted, if any;

(c) the granting of forest or other concessions, with or without a monopolistic character?

II.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating resort to indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, particularly by:
(a) imposing taxation on populations on a scale dictated by the intention of compelling them to work for the benefit of private enterprises;

(b) rendering difficult the gaining of a living in complete independence by workers by unjustified restrictions as to the possession, occupation or use of land;

(c) extending abusively the generally accepted meaning of vagrancy;

(d) adopting pass laws which would result in giving the workers in the service of others a position of advantage as compared with that of other workers?

III.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to the necessity of so regulating demands for forced or compulsory labour as not to imperil the food supply of the community concerned?

IV.

Do you consider that the International Labour Conference should recommend, in regard to forced or compulsory labour imposed upon men, that every care be taken that the burden of that labour is not passed on to women and children?

V.

Do you consider that the International Labour Conference should recommend that every possible effort should be made to reduce the necessity for recourse to forced or compulsory labour for the transport of persons or goods and that, in particular, such recourse should be prohibited when and where animal or mechanical transport is available?

VI.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating restrictions based on the voluntary flow of labour to other employment, or to certain areas or industries?
C. — PROPOSAL FOR A RESOLUTION

Resolution on Contract Labour

(41) The occasion of the discussion of this Resolution, and a summary of the discussion itself are given above. (See § 6.) The Conference will recall that the Netherlands Workers' Delegate has submitted a draft Resolution to the same effect as the above. The Committee on Forced Labour was informed of Mr. Kupers' text by the Chairman of the Selection Committee, and referred it to its Drafting Committee. The latter noted that the two texts were inspired by the same motives and that their terms were similar. The Committee on Forced Labour adopted the following text by 18 votes to none:

The Committee, considering that even the suppression of forced labour will not abolish all forms of compulsion to labour of which workers can complain, and particularly in connection with long-term contracts;

Requests the Conference to instruct the International Labour Office to undertake all necessary studies on all the other cases of compulsion to labour with a view to the question of their complete abolition being placed on the Agenda of one of the next Sessions of the International Labour Conference with the shortest possible delay.

(42) In concluding this report of its work, the Chairman and Reporter of the Committee cannot refrain from observing that, in its view, the procedure of the Conference which entails the discussion in Committee of the details and drafting of a Questionnaire is hardly calculated to secure the best results. The advantage of having before it a Questionnaire is that the whole subject under discussion is therein usefully divided, and debates are kept within reasonable bounds. But these advantages

1 See Provisional Record, No. 1, p. v.
might be obtained by other means, without involving the important disadvantage that the Committee, with the text of a draft Questionnaire before it, is inevitably led to discuss the minutiae of drafting and to attempt to do work which, it is generally admitted, is best done by a relatively small group.

It is understood that the procedure to which the Committee refers was adopted only tentatively by the Conference, as an experiment. The Chairman and the Reporter venture to ask, therefore, whether the time has not arrived for the Conference to reconsider the question.

15 June 1929.

(Signed) JULES GAUTIER,
Chairman.

J. J. SCHRIEKE,
Reporter.

Minority Report of the Workers'
Members of the Committee on Forced Labour.

The Workers' members of the Committee on Forced Labour have felt it necessary to separate from the majority on this Committee by reason of differences which have arisen upon certain questions which they feel are fundamental. They have reserved the right to ask the Conference to revise a certain number of the decisions taken by the majority, and it is with this intention that they submit the present Report to the Conference.

There is no doubt that the Twelfth Session of the International Labour Conference is called upon only to decide whether the question of Forced Labour is to be placed on the Agenda of the next Session, and if so to
adopt a Questionnaire. But it cannot be denied that the drafting of such a Questionnaire, though it does not bind the Governments, may nevertheless influence their replies. The absence or the presence of a certain question may have direct or indirect effects upon the character and the bearing of the international regulations which it is proposed to adopt.

The disagreement of the Workers' Group with the majority of the Committee is due in the first place to the tendency itself of the draft Questionnaire which is presented to you by the Majority Report, and further to certain points which we feel are of the highest importance: freedom of association, the eight-hour day, forced labour for revenue purposes, and the creation of a system of control.

I.

The Workers' members of the Committee must first of all recall the fact that they have in the strongest manner declared themselves in favour of the suppression of forced or compulsory labour of every kind.

This idea is found in Question 1 of the draft Questionnaire which is submitted to you. It is supported by a number of considerations which we wish to recall.

Some of these are of a humanitarian nature. They correspond to the general obligations laid down for States Members of the League of Nations by Articles 22 and 23 of the Covenant of the League of Nations, and concern the well-being and development "of peoples not yet able to stand by themselves" and to the "just treatment of the native inhabitants in territories under their control".

Forced labour has resulted, and will continue to result everywhere it is practised, in such abuses that its suppression is an imperative duty for civilised countries. We do not wish in this Report to go over all the evidence
concerning the effects of this survival of slavery. The Grey Report of the International Labour Office gives sufficient convincing evidence to demonstrate clearly the moral impossibility of perpetuating this system.

It is vain to endeavour to invoke the necessity of forced labour for educative purposes. To say that forced labour is a factor in the progress of native peoples and that it has an educational value is a statement that does not stand the light of investigation.

Again to claim that it is an economic necessity is an error from many points of view. This is proved by the unhappy experiences of too many colonial territories. The efficient development of these territories is compromised, not aided, by the use of forced labour.

Without dilating further on these considerations, we wish here to emphasize the fact that the question before the Conference is not entirely untouched, and that the reply to be given to it has already been determined by certain principles now embodied in international law, with which the Conference cannot put itself in contradiction.

These principles are affirmed, as far as regards the territories placed by the Treaty of Peace under mandate, by the following two texts:

B Mandates: "The Mandatory . . . (3) shall prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration".

C Mandates: "The Mandatory shall see . . . . that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration."

No doubt these two obligations are only strictly binding on the various Mandatory Powers and for the territories under their administration. We would observe that it is unbelievable that these Powers, which possess
other territories in full sovereignty, will refuse to apply to them the same principles. If such measures have been found applicable in territories under mandate, is it not reasonable to believe that they are equally applicable in neighbouring territories where identical conditions exist?

These principles of international law have been extended by the activities of the League of Nations. It will be remembered that the Temporary Slavery Commission was charged by the Council with studying the question of forced labour, in the following terms: "(4) Systems of compulsory labour, public or private, paid or unpaid. (5) Measures taken or contemplated to facilitate the transition from servile or compulsory labour to free wage labour or independent production."

If it be admitted that the suppression of forced labour can neither be absolute nor immediate, if it be considered that the transition from servile conditions of work to free paid labour calls for transitional measures, the aim to be achieved is none the less its disappearance.

The value, then, of the Draft Conventions or Recommendations which the Conference may adopt will be judged by the fact that they prepare the way, or they do not prepare the way, for the suppression of forced labour.

The tendency of the draft Questionnaire submitted to the Twelfth Session of the Conference does not admit of a fully satisfactory reply to this question. Not only—except in the two first paragraphs at the beginning—is no true indication found that the aim to be achieved is the suppression of forced labour, but the proposed restriction is absolutely insufficient. Rather, it must be stated, the Questionnaire tends towards a kind of codification of forced labour. The international regulation which it suggests could not be satisfactory: it would embody, besides vague and insufficient solutions, so many exceptions that the abuses to be suppressed could be perpetuated. Truly efficient guarantees, have, on the
other hand, been omitted from the draft Questionnaire. If the Conference adopts it in its present form, it will not respond to the hopes that have been placed in it, nor to the mission which has been confided to the Conference by the Assembly and the Council of the League of Nations.

II.

The Workers' Group will bring before the Conference the amendment which it submitted to the Committee, where it was rejected, to insert in the Questionnaire the principle of the freedom of association. It seems to us impossible that this decision should not be reconsidered. On the one hand we are told that the end which justifies even the worst methods of colonisation is to raise the cultural and economic level of backward or primitive peoples. On the other hand, these people are refused an effective element of development and defence.

We realise that in the diversity of colonial conditions the application of the right of association does not appear everywhere under the same aspect. We do not confuse the possibilities of developing it in colonial countries which, open to the modern economic system, have already achieved a certain progress, with the position in primitive territories. But it seems to us nevertheless that the freedom to organise should be allowed for in the Convention, and therefore included in the Questionnaire, both because it is recognised to be urgently necessary in certain cases, and because in others it would constitute a safeguard for the future.

The formation of trade unions is an essential guarantee of the protection which the International Labour Organisation has the aim of developing in the world. So much the less should the Conference forget that the principle
of the freedom of association is expressly laid down in the Labour Part of the Peace Treaties.

The Conference cannot pass over in silence possible refusals to grant this right to native workers. We therefore repeat our amendment as follows:

Do you consider that a definite procedure should be established to allow forced workers, as well as all other native workers, to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them?

III.

The Workers' Group cannot consent to Question 9, which allows tribal chiefs the right of using forced labour. Question 9 is a contradiction of Question 8 which the Conference should not support.

The Workers' Group asks for the suppression of Question 9.

IV.

The majority of the Committee adopted an amendment which completely transforms Question 18 of the draft Questionnaire of the Office, which has become Question 20 of the draft of the Committee.

The following is the original text which the Workers' Group asks the Conference to re-establish:

Do you agree that the normal working hours of forced workers should not exceed eight per day and forty-eight per week and that hours worked in excess of these should be remunerated at rates higher than the rates for the normal working hours?

The draft adopted by the majority of the Committee is inacceptable. It would suppress an elementary guarantee for forced workers. It cannot be maintained that the hours of labour of forced workers should be based on the maximum legal hours of free workers. No comparison
is possible between the two cases; the one is contractual, the other is not.

In exacting forced labour from natives, the competent authorities have the duty of protecting their health and life against the effects of this work: that is the sense of all the proposed regulations. Now, the Conference is asked to renounce one of the surest of these safeguards, to leave the door open to all kinds of arbitrary decisions, to forget that in the majority of cases of the application of forced labour it is a question of natives unaccustomed to work, very often physically weak and for whom an excessive duration of the working day may have consequences so much the worse in that the climate does not allow as great efforts as those possible in countries of the temperate zone.

Moreover, the majority of the Committee has fallen into a strange contradiction with itself. Having suppressed the mention of the eight-hour day in Question 20, it has re-established it in Question 21, for which it has accepted without change the text as drafted by the Office (Question 19 of the proposed draft Questionnaire). The Conference cannot do otherwise than correct this serious error.

V.

The majority of the Committee have adopted an amendment providing for the insertion of a question (No. 12) relative to forced labour required as the equivalent to a tax or to replace this tax. We ask the Conference to delete this text.

To admit the principle of forced labour for revenue purposes would certainly lead, not to limiting the cases where forced labour could be used, but to increasing them. By it alone all the proposed regulations could be rendered useless.
We note, moreover, that the Committee has adopted the text of Section III of the draft Questionnaire of the Office, of which the following are the two first paragraphs:

Do you consider that the International Labour Conference should adopt a Recommendation deprecating resort to indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, particularly by:

(i) imposing taxation on populations on a scale dictated by the intention of compelling them to work for the benefit of private enterprises?

The idea thus laid down is plainly in contradiction with Question 12.

VI.

Our last remark deals with the refusal of the majority of the Committee to accept the insertion of the following questions:

Do you consider that it would be advantageous to create a permanent committee on native labour in connection with the International Labour Office?

Do you consider that the reports adopted by virtue of Article 408 on the Convention concerning native labour should be sent to this Committee?

Do you consider that it should be charged with the study of other problems created by native labour?

We place this amendment before the Conference asking it to say in agreement with us that without the creation of an effective control system, so much the more indispensable since it is a question of distant territories concerning which information is scarce and difficult to obtain, the regulations proposed would not be in keeping with the work of justice and humanity which the International Labour Conference should realise as its aims.

(Signed) L. JOUHAUX,
Reporter.
Discussion in the Conference of the two Reports.

The Conference discussed the two Reports reproduced in the preceding pages in its eighteenth and nineteenth sittings of 17 and 18 June 1929 respectively, and in its twenty-third and twenty-fourth sittings of 20 June.

The principal feature of the discussion was the expression by speakers of the Workers' Group of their fear that the Questionnaire as drafted appeared to presuppose rather the continuance of forced labour, with international agreement and regulation to give it countenance, than its suppression, which was the real aim to be achieved. The greater part of the debates therefore turned on the amendments to the Questionnaire and the new questions proposed in the Minority Report.

*Question 9*, which the Minority Report proposed to delete, was adopted unanimously by the Conference in an amended form, put forward by one of the British Government Delegates.

*Question 13 (c)* was proposed by the Minority to suggest an additional safeguard for forced workers, reinforcing those provided by the legislative regulations mentioned in 13 (a) and 13 (b). It was adopted in the Conference by 61 votes to 26.

In *Question 20* the Minority proposed to return to the original text as given in the draft Questionnaire prepared by the Office, which asked whether the Governments considered that the working hours for forced workers should not exceed eight per day and 48 per week. In the Committee this text had been modified to suggest that
the hours of forced workers should not exceed any legal maximum applicable to voluntary workers. The Conference restored the original text by 52 votes to 29.

*Question* 29 is new. A motion to insert a question somewhat to the same effect had been lost in Committee. The Minority re-moved the question in full Conference, which adopted it by 59 votes to 49.

The further proposal of the Minority to delete *Question* 12 was not accepted by the Conference, the question being retained by 52 votes to 36.

With the above amendments the Questionnaire contained in the Report of the Committee was adopted, and the Conference then decided by 101 votes to 15, i.e. by the two-thirds majority required under Article 6 (5) of the Standing Orders and Article 402 (3) of the Treaty of Versailles, to put the question of *Forced Labour* on the Agenda of the Fourteenth (1930) Session of the Conference for a second and final discussion.

With a view to preparing this final discussion the Questionnaire adopted by the Twelfth Session of the Conference is submitted herewith to the Governments for their consideration and replies. The grouping of the questions under suitable headings, and certain minor amendments of pure form, are the work of the Office.
QUESTIONNAIRE

A. — QUESTIONS TENDING TO THE ADOPTION OF A DRAFT CONVENTION

General

1. Do you consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms ?

If so, do you consider that a period of transition is necessary before such suppression can be fully carried out ?

If you do not consider it possible to adopt a Draft Convention, the object of which would be to suppress the use of forced or compulsory labour in all its forms, or if you consider that suppression is possible, but that a period of transition is necessary :

Do you consider that the International Labour Conference should adopt a Draft Convention the object of which would be to limit and regulate the use of forced or compulsory labour ?

2. Do you consider that such a Convention should be drafted in such a way that its ratification by a State should imply, for the colonies and protectorates of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Peace ?¹

¹ See Appendix.
3. Do you agree with the following definition of forced or compulsory labour for the purposes of such a Convention:

“All work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily?”

Exceptions from Scope of Convention

4. Do you consider that cases of emergency (force majeure) should be outside the scope of the Convention?

If so, do you approve of the following definition of “cases of emergency”:

“A case of emergency, for the purposes of this Convention, is the event of war and any occurrence which endangers the existence or the well-being of the whole or a substantial part of the population, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and so on”?

5. Do you consider that village services of a kind which have been traditional and customary amongst the local inhabitants, and which are performed within the close proximity of the village by the people who live in it, may be considered to be normal obligations incumbent upon the members of the community and not constituting forced or compulsory labour within the sense of the definition given in Question 3 above?

Authorities responsible for Recourse to Forced or Compulsory Labour

6(a). Do you consider that the authority responsible for any recourse to forced or compulsory labour should
be an authority of the metropolitan country, or, when that is not possible, the highest central authority in the territory concerned?

(b) Do you consider that, where higher authorities delegate to subordinate authorities the right of authorising forced labour for local public purposes, this practice should cease?

(c) Do you consider that the competent authority should define precisely, in so far as this has not already been done, the conditions under which forced or compulsory labour should be carried out under the control of minor and local authorities, and that these conditions should, in regard to the category of persons liable, the maximum duration for any individual, working hours, payment, indemnities, and inspection, be not more onerous than those indicated in this Questionnaire for putting into execution forced labour imposed by the competent authority itself?

Criteria to be satisfied before Recourse is had to Forced or Compulsory Labour

7. Do you consider that the competent authority, before permitting any recourse to forced or compulsory labour, except the compulsory labour mentioned in Question 12, should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates of wages ruling in the area concerned for similar work or service; and
(d) that the work or service under consideration will not lay upon the present population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work?

Forced or Compulsory Labour for Private Employers

8. Do you consider that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community?

Are you of opinion that where such forced or compulsory labour exists, every effort should be made to bring it to an end as soon as possible?

Are you further of opinion that a time limit for such abolition should be fixed, and if so, what time limit would you propose?

9. Do you consider that, where forced or compulsory labour is demanded by chiefs who exercise administrative functions in consequence of traditional rights, this practice should be abolished as soon as possible, and that, until it is abolished, Administrations should ensure that such labour should be directed to public purposes and that the conditions under which it is carried out should be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative authority?

10. Do you consider that whilst it is the duty of officials of the Administration to encourage the populations under their charge to engage in some form of labour, they should not be permitted to put constraint upon them to work for private employers?

11. Do you consider that no concessions granted to individuals or companies should permit any form of
compulsion for the obtaining of the products which such individuals or companies utilise or in which they trade; and that, where such concessions already exist, (a) they should not be renewed except in such a way as to terminate any arrangements of this kind, and (b) every effort should be made to change, in the same way and as early as possible, existing concessions which are not yet due for renewal?

Forced or Compulsory Labour as Tax or in lieu of Tax

12. Do you consider that, where forced or compulsory labour is demanded as an equivalent to or a substitute for a tax, this practice should be abolished as soon as possible, and that until it is abolished the competent authority should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service?

(b) that the work or service is of present or imminent necessity?

(c) that the work or service under consideration will not lay upon the present population concerned too heavy a burden having regard to the labour available and its capacity to undertake the work?

(d) that the workers while performing their work remain in the neighbourhood of their homes?

(e) that the execution of the work or the rendering of the service shall be directed by the local authorities in accordance with the exigencies of religion, social life and agriculture?

Protection of Forced Workers

13 (a). Do you consider that in any area where forced or compulsory labour still exists, complete and precise
regulations should be adopted, in so far as this has not already been done, in regard to the organisation of this labour, and that such regulations should provide for the compiling and recording of statistics concerning it, in particular as regards the organisation of work and the hours of work and the method of payment of wages?

(b) Do you consider that in any territory where forced labour exists the legal provisions or administrative orders governing its application should be printed (and freely exhibited) by the competent authority in such one or more native languages as will convey its import to the workers concerned and the population from which the workers are to be drawn; and that copies of such printed matter should be made available, at cost price, to the workers or others?

(c) Do you consider that a definite procedure should be established to allow forced workers, as well as all other native workers, to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them?

14. Do you consider that the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and that, in the absence of such an inspectorate, other adequate measures should in all cases be taken to assure that the regulations governing the employment of forced labour are strictly applied?

15. Do you consider that the illegal exaction of forced labour should be punishable as a penal offence, and that the penalties should be really adequate?

Exemptions from Forced or Compulsory Labour

16. Do you consider that only adult males of not less than 18 years of age should be called upon for forced
or compulsory labour, subject to the following limitations and conditions:

(a) Prior determination by a Government medical officer that the persons concerned are not suffering from any contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) Exemption for persons already bound by a contract of employment;

(c) Exemptions for school teachers and pupils;

(d) The maintenance in each community of the number of adult able-bodied men indispensable to family and social life;

(e) Respect for conjugal and family ties?

17. Do you consider that from any given community no more than a fixed proportion of the resident able-bodied males should be taken at any one time for forced or compulsory labour which entails their sleeping away from their homes?

Do you consider that this proportion should be regulated according to the seasons and the work which must be done by the persons concerned on their own behalf in their locality, and, generally speaking, that the economic necessities of the normal life of the community in question should be respected?

Do you consider, finally, that this proportion should be prescribed, and what proportion do you suggest?

Regulation of Forced or Compulsory Labour

I. Duration

18. Do you consider that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds should not exceed 60 days
in any one period of 12 months, including the time spent in travelling to and from work,

or in exceptional cases where workers have to be brought from a considerable distance, 6 months in any one period of 24 months, it being understood that in this period will be included the time employed in the work contemplated in Question 12, and that any two such periods occurring in consecutive terms of 24 months should be separated by an interval of at least 3 months?

In cases where workers have to be brought from a considerable distance, do you consider that the individual worker who has served in any one year for a longer period than the normal maximum of 60 days fixed above, or than any lower maximum which may be fixed, should be exempt from further forced or compulsory labour for a number of years equal to the number of times the normal maximum which he has so served?

Do you consider that the normal maximum period for which any individual may be taken for the work or service contemplated in Question 12 should not exceed 30 days in any one period of 12 months?

II. Habituation

19. Do you consider that forced workers should not, except in cases of special necessity, be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health?

Do you consider that in no case should the transfer of workers be permitted unless all necessary measures for the accommodation and health of the workers can be strictly applied?

When such transfer cannot be avoided, do you consider that, on competent medical advice, measures of gradual
habitation to the new conditions of diet and of climate should be adopted?

Do you consider that, in cases where forced workers are required to perform regular work to which they are not accustomed, measures should be taken to assure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and the increase or amelioration of diet which may be necessary?

III. Working Hours

20. Do you consider that the normal working hours of forced workers should not exceed eight per day and forty-eight per week, and that the hours worked in excess of these should be remunerated at rates higher than the rates for the normal working hours?

Do you consider that a weekly day of rest should be provided for and that this day should coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned?

21. In the case of forced transport workers, do you consider that the normal daily journey should correspond to an average eight-hour working day, it being understood that account shall be taken not only of the distance covered, but also of the nature of the route, the season of the year, the weight to be carried and all other relevant factors, and that where hours of journey in excess of eight per day are exacted they should be remunerated at rates higher than the normal rates?

IV. Wages

22. Do you consider:

(a) that forced or compulsory workers, including transport workers, should in all cases be paid in cash at
rates not less than those ruling for similar kinds of work either in the district in which they are employed or in the district from which they are recruited, whichever may be higher?

(b) that the wages should be paid to the workers individually and not to their tribal chiefs or other authorities?

(c) that the days necessary for travelling to and from the workplaces should be counted for the purpose of payment as working days?

(d) that deductions from wages should not be made either for the payment of taxes or for special food, clothing or accommodation supplied to the worker for the purpose of maintaining the worker in condition to carry on his work, nor for the supply of tools?

V. Workmen's Compensation

23. Do you consider:

(a) that any laws relating to workmen's compensation for accidents or sickness arising out of the circumstances of their employment shall be equally applicable to forced as to voluntary labour?

(b) that the laws providing compensation for the dependants of dead or incapacituated workers should be equally applicable to all labour whether forced or voluntary?

(c) that the competent authority or any authority employing forced workers should be obliged to ensure their subsistence when an accident or illness renders such workers totally or partially incapable of providing for themselves?

(d) that when the forced worker is not living at his own home no distinction should be made as to whether or not the accident or illness was caused by his work?
(e) that in the case of permanent incapacity, total or partial, the right to an indemnity calculated according to the degree of incapacity should be ensured?

(f) that the competent authorities should take measures to ensure the maintenance of dependants of an incapacitated or deceased forced worker?

(g) that any existing laws or administrative orders concerning compensation or indemnification for sickness, injury to, or death of forced workers should be printed, exhibited and offered for sale by the competent authority, in the manner provided for in the case of the laws and orders concerning forced or compulsory labour?

Special Precautions for Work of Long Duration

24 (a). Do you consider that when forced workers, other than forced transport workers, are compelled to remain for considerable periods for works of construction or maintenance at workplaces, measures should be taken to assure their health and to guarantee the necessary medical care, and that in particular (i) they should be medically examined before commencing the work and at fixed intervals during the period of service, (ii) an adequate medical staff should be provided with the dispensaries and hospital accommodation necessary to meet probable eventualities, and (iii) the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils and, where necessary, of housing and clothing should be assured?

(b) Do you consider that, when the work is prolonged, definite arrangements should be made to ensure the subsistence of the family of the forced worker, in particular by facilitating the remittance, by a safe method, of part of the wages to the family at the request of or with the consent of the worker?
(c) Do you consider that the journeys of forced workers to and from the workplaces should be at the expense and under the responsibility of the Administration, which should facilitate them by making the fullest use of all available means of transport?

(d) Do you consider that it is necessary to ensure the repatriation of forced workers at the expense of the competent authority in case of illness or accident causing incapacity to work of a certain duration?

(e) Do you consider that any forced worker who may wish to remain as a free worker at the end of his period of forced labour should be permitted to do so without losing his right to repatriation free of expense to himself?

(f) Do you consider that the competent authority should satisfy itself of the possibility of adequately taking all the measures indicated in this Question before permitting any recourse to forced or compulsory labour?

Special Provisions concerning Forced Porterage

25. When recourse is had to forced or compulsory labour for the transport of persons or goods (porters, boatmen, etc.) do you consider that the competent authority should promulgate regulations determining, *inter alia*, (a) that only adult males, medically certified where medical examination is possible, to be physically fit, shall be employed on this work, (b) the maximum load, (c) the maximum distance from their homes to which these workers may be taken, (d) the maximum number of days per month or other period for which they may be taken, (e) the persons entitled to demand this form of forced labour and the extent to which they are entitled to demand it?

In this connection, what maximum load do you suggest, what maximum distance from their homes to which these
workers may be taken, and what maximum number of days per month or other period for which they may be taken?

Compulsory Cultivation

26. Do you consider that recourse should be had to compulsory cultivation solely as a method of precaution against famine or a deficiency of food supplies, and always under the condition that the food or produce shall, in lieu of wages, remain the property of the individuals or the community producing it?

Do you further consider that in no case should compulsory cultivation be imposed to promote the production of crops for export or as a measure of education?

Do you consider that it would be possible to devise measures of precaution against the contingencies indicated in the first paragraph of this Question otherwise than by the introduction of a system of forced labour?

Cases in which Forced Labour should not be employed

27. Do you consider that "collective punishment laws" under which an entire community may be punished for misdemeanours committed by some of its members should contain no provision for forced or compulsory labour by the community as one of the methods of punishment?

28. Do you consider that forced labour should not be used for work underground?

A Permanent Committee

29. Do you consider that it would be advantageous to create a permanent committee of experts on forced
labour in connection with the International Labour Office?

Do you consider that the reports made in virtue of Article 408 on the Convention concerning forced labour should be sent to this committee?

Do you consider that this committee should be charged with the study of other problems created by forced labour?

B. — Questions tending to the Adoption of Recommendations

I.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to important matters in connection with the economic development of as yet undeveloped areas with a view to avoiding such pressure upon the populations concerned as may amount to compulsion to labour?

If so, do you agree that the Recommendation should set out that the amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the populations, are factors which should be taken into consideration in connection with economic developments, and, in particular, when deciding upon:

(a) increases in the number and extent of industrial, mining and agricultural undertakings in the areas;
(b) the non-native settlement which is to be permitted, if any;
(c) the granting of forest or other concessions, with or without a monopolistic character?
II.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating resort to indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, particularly by:

(a) imposing taxation on populations on a scale dictated by the intention of compelling them to work for the benefit of private enterprises;

(b) rendering difficult the gaining of a living in complete independence by workers by unjustified restrictions as to the possession, occupation, or use of land;

(c) extending abusively the generally accepted meaning of vagrancy;

(d) adopting pass laws which would result in giving the workers in the service of others a position of advantage as compared with that of other workers?

III.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to the necessity for so regulating demands for forced or compulsory labour as not to imperil the food supply of the community concerned?

IV.

Do you consider that the International Labour Conference should recommend, in regard to forced or compulsory labour imposed upon men, that every care be taken that the burden of that labour is not passed on to women and children?
V.

Do you consider that the International Labour Conference should recommend that every possible effort should be made to reduce the necessity for recourse to forced or compulsory labour for the transport of persons or goods and that, in particular, such recourse should be prohibited when and where animal or mechanical transport is available?

VI.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating restrictions based on the voluntary flow of labour to other employment, or to certain areas or industries?
APPENDIX.

NOTE BY THE OFFICE ON QUESTION 2 IN THE QUESTIONNAIRE

The International Labour Office has made it a rule to publish the texts of Questionnaires drafted by the Conference as far as possible without change or comment.

In this case, however, in order to avoid misunderstandings and subsequent difficulties, it is felt desirable to draw the attention of Governments to Question 2 in the Questionnaire. This Question is as follows:

Do you consider that such a Convention should be drafted in such a way that its ratification by a State should imply, for the colonies and protectorates of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Peace?

This question did not appear in the draft Questionnaire prepared by the International Labour Office. It was the Conference which decided to include the question in the Questionnaire to be addressed to the Governments. This decision of the Conference proceeded solely from a perfectly legitimate desire to ensure real reciprocity in the engagements arising out of the Convention contemplated. It is extremely important that ratification of the Convention should have the same legal effect for all the contracting States. If improper advantage were taken of Article 421, however, some States might find themselves bound, as a result of their ratification, to
carry out the provisions of the Convention within their own borders, while other States which had also ratified were not applying the Convention to territories over which they exercise jurisdiction, and which might be contiguous to the State first mentioned, on the grounds of the colonial character of those territories. In other words, it would be anomalous that ratification of the Convention by different States should have an entirely different legal effect because some States were in a position to avail themselves of Article 421, and did so avail themselves, while others were debarred from taking advantage of the Article.

It is undoubtedly very important to avoid such inequality, and it was for this reason that the Conference felt it desirable to consider the possibility of drafting the Convention in such a way as to ensure that it would have the same effect for all States which ratify it and to exclude any reservations which would be calculated to create inequalities in the obligations assumed. Nevertheless, if the considerations which induced the Conference to add Question 2 to the Questionnaire were as stated above, it would seem desirable to consider what is the real scope of that question.

At first sight it might appear that Question 2 contemplates suspending Article 421 of the Treaty in respect of the proposed Convention. It is hardly likely, however, that the Conference had any such idea. It is clear that such a solution would raise serious legal objections. The provisions of Part XIII of the Treaty constitute the framework within which international labour Conventions have to be concluded. These provisions impose on the pre-legislative activity of the Conference limits which it ought not to go beyond, and it can hardly be imagined that a Convention should contain provisions suspending the application of an Article which forms part of the constitutional law of the International Labour Organisation.
Article 421 is on the same footing in the Treaty as the other provisions of Part XIII, and it would appear difficult for the Conference to decide that it should not be applied otherwise than by the procedure expressly laid down for amending the Treaty.

Moreover, it does not appear indispensable to suspend Article 421 in order to meet the considerations which the Conference had in view in framing Question 2, and the idea of such a suspension would seem to be based on a mistaken interpretation of the Article in question. The exact meaning of Article 421 has never yet been clearly defined, the reason being that the Conventions hitherto adopted by the Conference have been mainly intended for application in metropolitan territories and their application in colonial territories has been considered a matter of secondary importance. This has led to some extent to a tendency to give to Article 421 an interpretation which it does not really bear, and to consider that its effect was to render the application of Conventions to colonies purely optional.

The scope of Article 421, however, is far from being so wide as this, and the adoption of Conventions which primarily affect colonial territories should furnish an opportunity for a stricter and proper application of the Article.

Under Article 421, the Members engage to apply Conventions which they have ratified to their colonies and protectorates (1) except where owing to the local conditions the Convention is inapplicable, or (2) subject to such modifications as may be necessary to adapt the Convention to local conditions. Further, Article 421 provides that the Members are to notify to the International Labour Office the action taken in respect of each of their colonies and protectorates.

Without entering into a detailed analysis of these provisions, it is to be noted that they in no way negative
the legal effects of ratification as regards colonies. In respect of colonial as well as of home territories, ratification is a formal and definite international engagement which can only be revoked in the manner laid down by the Convention. What then is the effect of Article 421? It is that Members which ratify a Convention are entitled to limit the effect of their ratification in respect of their colonies by what are really reservations. Such reservations may be geographical, i.e. a State may exclude one or other of its colonial territories from the effect of its ratification; or they may affect the substance of the Convention, i.e. a State may decide to apply only certain provisions of the Convention in its colonies or to modify its provisions in order to adapt them to local conditions. Once these reservations have been made, however, ratification takes effect within the limits fixed, and there is no ground for inferring from Article 421 that such ratification can subsequently be revoked or altered.

No doubt the possibility of making such reservations is sufficiently serious in itself. But it corresponds to the very special and complex nature of the problem of colonial labour, and it is clearly for this reason that the Treaty contains an exceptional provision in this matter. Besides, the disadvantages which might result from the reservations authorised by Article 421 should not be exaggerated, and in any endeavour to appreciate them it should not be forgotten that with or without reservations the States are free to negative the provisions of a Convention as a whole by refusing to ratify it.

It the circumstances it is questionable whether to suspend Article 421, supposing this to be legally possible, would be the only solution of the difficulties which led the Conference to frame Question 2. It is thought that other solutions might be found. It would appear, for instance, that a special clause might be inserted in the proposed Convention which would reconcile the provisions of
Article 421 with the reciprocal effect which it is desired that the provisions of the Convention should have. No attempt will be made here to put forward definite suggestions. It may be pointed out, however, that in the view of the Office a clause referring to Article 421 and defining its interpretation for the purpose of the application of the Convention would be useful. It would make it possible to define, as regards colonies, the nature of the obligations arising from ratification, and might refer to the possible sanctions in the case of the non-observance of ratified Conventions. It might also be desirable to include a clause enabling States to extend the effect of their ratification progressively to their different colonies. Provisions such as these would not suspend Article 421. By defining its scope, however, and definitely fixing the conditions in which it is to be applied, they would to a large extent remove the difficulties which might result from too elastic an interpretation of Article 421.
Sonor s. a., Geneva.