

grounds, lower in India. Nevertheless, it was said that this matter would be reviewed again, but from 1919 until now this matter regarding India has never been reviewed again, and the whole basis of the argument was local conditions in India.

Now, I submit that there can be no justification for this. Once you have accepted the principle of the setting-up of a Commission of Enquiry to investigate whether a ratified Convention is being observed or not, there is no logical reason at all why you should not proceed to set up a Commission of Enquiry to find out whether the exceptions pleaded—those three exceptions pleaded by a country ratifying a Convention and not applying that Convention to the dependent territories or trust territories—are justifiable grounds or not. This is a perfectly clear and simple case. Had the Constitution defined the expression “local conditions”, I might have been speaking out of order. I might have had no justification whatsoever for asking you to make this very important amendment which tightens up your own procedure. After all, I take it that Employers’ delegates, Workers’ delegates, Government delegates are all eagerly concerned in passing Conventions or Recommendations and seeing that those Conventions or Recommendations are so worded that they can be applied in each country. That is what we are here for, to try and lay down the basic laws governing labour throughout the world and in each country of the world. If we are mindful of this particular fact, and if a local exception is pleaded in this particular matter, is it not our duty to see that justification is properly pleaded by a Government which takes exception to the application of a Convention on the grounds laid down in Article 35?

After all, you are the judges. This Organisation is the judge whether the exception is properly pleaded or not, and if you hand over your thinking to a particular Government and do not take some power into your own hands in judging whether that Government is acting according to your own wishes, you are giving a *carte blanche* to that particular Government to ride roughshod over these Conventions. I take it that cannot be your objective. Your objective must, therefore, be to see that the power remains in this Organisation to check and to challenge any Government which pleads an exception, and the only method is the method that I have suggested in my amendment.

The PRESIDENT — I will now proceed to take the vote.

*(A vote is taken by show of hands. The amendment is rejected by 22 votes to 53.)*

The PRESIDENT — Is there any other amendment to the Constitution on which any delegate wishes a separate vote? If not, I will put the amendments to the Constitution to a vote as a whole. If there is no objection, I will declare the amendments adopted.

*(The amendments to the Constitution are adopted.)*

The PRESIDENT — The amendments will be referred to the Drafting Committee of the Conference for incorporation in an In-

strument of Amendment, which will be submitted to the Conference for final vote tomorrow.

The next item is the proposed Convention for the partial revision of the Conventions adopted by the Conference at its first twenty-eight sessions. I will put the Convention to the vote, Article by Article.

*(Articles 1, 2, 3, 4, 5, 6, 7, 8 and 9 are adopted seriatim.)*

The PRESIDENT — I will now put the Convention as a whole to the Conference. If there is no objection, I shall consider it approved.

*(The proposed Convention as a whole is approved.)*

The PRESIDENT — The Convention as a whole is approved, and will be referred to the Drafting Committee.

I will now put to the vote the proposed Final Articles concerning ratification and denunciation procedure to be inserted in future international labour Conventions. If there is no objection I shall declare these Articles adopted.

*(The Final Articles are adopted.)*

The PRESIDENT — I will now put to the vote the proposed model clause concerning measures to secure compliance with the provisions of Conventions for inclusion in future Conventions in appropriate cases. If there is no objection, I shall declare it adopted.

*(The model clause is adopted.)*

The PRESIDENT—The next items are the vote the proposed Resolution referring to the Governing Body for fuller consideration the preliminary text of a proposed Convention on the privileges and immunities of the International Labour Organisation. If there is no objection, I shall declare it adopted.

*(The Resolution is adopted.)*

The PRESIDENT—The next items are the proposed Resolution concerning the prompt ratification of the Instrument for the amendment of the Constitution of the International Labour Organisation, 1946, and the Final Articles Revision Convention, 1946, adopted by the International Labour Conference at its Twenty-ninth Session, and the proposed Resolution concerning provisional arrangements to be applied until the coming into force of the Constitution of the International Labour Organisation Instrument of Amendment, 1946.

These two Resolutions will be put to the vote on Wednesday, that is tomorrow, after the Conference has voted upon the Instrument for the amendment of the Constitution.

That concludes this item on the agenda. I am confident that I am interpreting the unanimous sentiments of this Conference when I thank Mr. Lee and the Committee over which he presided for their strenuous labours and for the admirable report which resulted from them. The Conference will also wish me to

of the Conventions adopted by the Conference in the course of its twenty-eight sessions which refer to the Director of the International Labour Office.

8. In each of the Conventions adopted by the Conference in the course of its first seventeen sessions there shall be included at the end of the Preamble the words "which may be cited as" together with the short title currently used by the International Labour Office for the Convention in question.

9. In each of the Conventions adopted by the Conference in the course of its first fourteen sessions all unnumbered paragraphs of articles containing more than one paragraph shall be consecutively numbered.

#### Article 3

Any Member of the Organisation which after the date of the coming into force of this Convention, communicates to the Director-General of the International Labour Office its formal ratification of any Convention adopted by the Conference in the course of its first twenty-eight sessions shall be deemed to have ratified that Convention as modified by this Convention.

#### Article 4

Two copies of this Convention shall be authenticated by the signature of the President of the Conference and of the Director-General of the International Labour Office. Of these copies one shall be deposited in the archives of the International Labour Office and the other shall be communicated to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations. The Director-General shall communicate a certified copy of this Convention to each of the Members of the International Labour Organisation.

#### Article 5

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office.

2. The Convention shall come into force at the date on which the ratifications of two Members of the International Labour Organisation have been received by the Director-General.

3. On the coming into force of this Convention and on the subsequent receipt of further ratifications of the Convention, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation and the Secretary-General of the United Nations.

4. Each Member of the Organisation which ratifies this Convention thereby recognises the validity of any action taken thereunder during the interval between the first coming into force of the Convention and the date of its own ratification.

#### Article 6

On the first coming into force of this Convention the Director-General of the Interna-

tional Labour Office shall cause official texts of the Conventions adopted by the Conference in the course of its first twenty-eight sessions as modified by the provisions of this Convention to be prepared in two original copies, duly authenticated by his signature, one of which shall be deposited in the archives of the International Labour Office and one of which shall be communicated to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations; the Director-General shall communicate certified copies of these texts to each of the Members of the Organisation.

#### Article 7

Notwithstanding everything contained in any of the Conventions adopted by the Conference in the course of its first twenty-eight sessions, the ratification of this Convention by a Member shall not, *ipso jure*, involve the denunciation of any such Convention, nor shall the entry into force of this Convention close any such Convention to further ratification.

#### Article 8

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —

- (a) the ratification by a Member of the new revising Convention shall, *ipso jure*, involve the denunciation of this Convention if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its present form and content for those Members which have ratified it but have not ratified the revising Convention.

#### Article 9

The English and French versions of the text of this Convention are equally authoritative.

### III. PROPOSED FINAL ARTICLES CONCERNING RATIFICATION AND DENUNCIATION PROCEDURE TO BE INSERTED IN FUTURE INTERNATIONAL LABOUR CONVENTIONS

#### Article A

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### Article B

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force months after the date on which the ratifications of Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member months after the date on which its ratification has been registered.

#### Article C

1. A Member which has ratified this Convention may denounce it after the expiration of years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of years and, thereafter, may denounce this Convention at the expiration of each period of years under the terms provided for in this article.

#### Article D

1. The Director-General of the International Labour Office shall notify all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

#### Article E

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for reg-

istration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acts of denunciation and declarations registered by him in accordance with the provisions of the preceding articles.

#### IV. PROPOSED MODEL CLAUSE CONCERNING MEASURES TO SECURE COMPLIANCE WITH THE PROVISIONS OF CONVENTIONS FOR INCLUSION IN FUTURE CONVENTIONS IN APPROPRIATE CASES

1. The laws or regulations giving effect to the provisions of this Convention shall—
  - (a) require the competent authority to bring them to the notice of all persons concerned;
  - (b) define the persons responsible for compliance therewith;
  - (c) prescribe adequate penalties for any violation thereof;
  - (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement.

2. The annual reports submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall contain full information concerning such laws and regulations and a general survey of the results of the inspections made in accordance therewith.

#### V. PROPOSED RESOLUTION REFERRING TO THE GOVERNING BODY FOR FULLER CONSIDERATION THE PRELIMINARY TEXT OF A PROPOSED CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL LABOUR ORGANISATION

The Conference refers to the Governing Body for fuller consideration in the light of further negotiation and consultation with the United Nations and other agencies the annexed preliminary text of a proposed Convention on the privileges and immunities of the International Labour Organisation with a view to a revised draft agreement being submitted to the 1947 Session of the Conference.

#### ANNEX

#### CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS AND PRELIMINARY TEXT OF A CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL LABOUR ORGANISATION IN PARALLEL COLUMNS

##### **Preliminary Text of a Convention on the Privileges and Immunities of the International Labour Organisation<sup>1</sup>**

*The General Conference of the International Labour Organisation,*

*Having been convened at Montreal by the Governing Body of the International Labour*

##### **Convention on the Privileges and Immunities of the United Nations<sup>1</sup>**

(Whereas Article 104 of the Charter of the United Nations provides that the Organisation shall enjoy in the territory of each of its Members such legal capacity as may be ne-

<sup>1</sup> Italics indicate parts of the text which differ from the text of the United Nations Convention in the opposite column.

<sup>1</sup> Those parts of the text printed within brackets are not reproduced in the Preliminary Text in the opposite column.