

MINISTRY OF LABOUR AND NATIONAL SERVICE

PORT TRANSPORT INDUSTRY

Report of Inquiry held under para. 1(h)
of the Schedule to the Dock Workers
(Regulation of Employment) Act, 1946

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LONDON: HIS MAJESTY'S STATIONERY OFFICE

1946

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Report of Inquiry held under para. 1 (4) of the Schedule to the Dock Workers (Regulation of Employment) Act, 1946

TO THE RT. HON. GEORGE ISAACS, M.P.,
MINISTER OF LABOUR AND NATIONAL SERVICE.

1. On 27th September, 1946, I was appointed to hold an Inquiry in the circumstances and with the terms of reference set out in the following Minute of Appointment:

DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1946

WHEREAS before the 23rd August, 1946, the National Association of Port Employers and the Transport and General Workers Union and the Unions associated with it, being bodies of persons which in the opinion of the Minister of Labour and National Service fulfil the requirements of subsection (1) of Section 2 of the Dock Workers (Regulation of Employment) Act, 1946, formulated certain proposals for the preparation of schemes to be submitted to the Minister under the said Act;

AND WHEREAS on the said date no scheme under the said Act was in force for any port or in relation to any class or description of dock workers;

AND WHEREAS on the said date the said Association and the said Unions made a joint application to the Minister under subsection (2) of Section 2 of the said Act to prepare schemes;

NOW THEREFORE the Minister of Labour and National Service, before preparing a scheme, hereby by virtue of the powers conferred on him by the Schedule to the said Act appoints Sir John Forster, K.C. to make such enquiries and in such manner as he, the said Sir John Forster, considers necessary, and in particular to enquire into the proposals referred to above, especially so far as concerns the matters set out in subsection (2) of Section 1 of the said Act, and into any matters of agreement or disagreement appearing in the said proposals, and to report to him thereon.

The Minister further appoints Mr. M. L. Rayner to be Secretary of the Inquiry.

Signed by order of the Minister of Labour and National Service this 27th day of September, 1946.

H. H. WILES,
Deputy Secretary of the Ministry of
Labour and National Service.

2. You invited, through the Press, any organization or person who might wish to submit evidence to me to do so, and I have considered all evidence which has been put before me either orally or in writing. I commenced my Inquiry on 9th October, 1946, and, during the course of the Inquiry, I took verbal evidence from representatives of the following organizations:

The National Association of Port Employers;
The Transport and General Workers Union;
The National Union of General and Municipal Workers;
The National Amalgamated Stevedores and Dockers Union;
The Scottish Transport and General Workers Union;
The National Dock Labour Corporation Limited;
The London Association of Public Wharfingers Limited.

INTRODUCTION

3. The principal characteristic which has distinguished dock work from the majority of other industries is the casual nature of the employment offered to those engaged in the loading and unloading of vessels. The availability of employment and the amount of it in relation to the number of men seeking work in a port are dependent upon a variety of factors which, in the main, are outside the control of those responsible for carrying on the industry and which result from the uncertain and irregular arrival of the vessels.

4. In addition to the fundamental difficulties arising from the casual nature of employment in the industry, the position has been aggravated in the past by the excessive numbers of men seeking employment at the docks, the method of engagement, and the general conditions associated with the work, under which a man might be engaged for and paid off after only four hours' work. There were in the past two main groups of men:—

- (a) the bona fide dock workers who consistently attended the docks and looked to dock work for their means of livelihood; and
- (b) men normally employed in other industries who, particularly during a period of trade depression, sought employment on the docks.

VOLUNTARY REGISTRATION SCHEMES

5. The first comprehensive effort to regulate the number of dock workers in a port and to systematise the method of engagement was made in Liverpool in 1912, the principal features of that Scheme being (a) the registration of dock workers, and (b) the weekly payment of wages at Clearing Houses set up by the Labour Exchanges Branch of the Board of Trade (subsequently the Ministry of Labour) so as to enable the registered dock worker to receive at one office all the wages he had earned from different employers during the week.

6. The system of registration was extended in 1916 to other ports in circumstances arising out of the 1914-1918 war. The Board of Trade then set up Joint Committees of employers and workpeople in 32 of the larger ports for the purpose of advising the Government on the release of men for the Forces and on the issue of exemption certificates. The Committees found it necessary to establish Registers of recognised dock workers in order to determine the men who were to be retained.

7. It was realised at the Armistice in November, 1918, that, unless drastic and immediate steps were taken, the effect of demobilisation would be to flood the docks with unemployed persons seeking casual work, and that the release of men from the munitions industries would further increase the number of men in the dock labour market. Accordingly, it was arranged that these Port Joint Committees should continue to function and to assist in dealing with questions relating to resettlement but, in the circumstances prevailing at the time, it was not unnatural that emphasis was laid on the prevention of overcrowding at the ports and the avoidance of further casualisation, rather than on the necessity for positive decasualisation. By the end of 1922, Committees of this kind were functioning in only twelve ports.

8. The Court of Inquiry into the Docks Industry which sat in 1919 and which is generally known as the "Shaw Inquiry," recognised in its Report the vital necessity of a system of registration in all ports as "the beginning of a remedy" of the conditions obtaining in the industry. The Inquiry was however principally directed to a claim for increased wages and it is perhaps not unnatural that the events which followed this Report should have been confined almost entirely to the setting up of joint machinery for determining wages and conditions in the industry, rather than the decasualisation of the Industry.

9. At the beginning of 1924, however, a National Docks Agreement stated that—

“the parties to this Agreement agree to appoint a Sub-Committee (the Minister of Labour to appoint an Independent Chairman and supply such technical assistance as may be necessary) for the purpose of developing and strengthening the system of registration and to examine the proposal for a guaranteed week with a view to arriving at an agreement to give effect to the Shaw Report.”

In accordance with this Agreement, a Committee was set up under the Chairmanship of Sir Donald MacLean and this Committee issued two reports in the summer of that year. The Committee remained in being while efforts were being made to set up Joint Registration Schemes at the various ports as recommended in the first of these reports. Up to 1927, Joint Schemes had been established in 28 ports. The progress made in the operation of the Schemes, however, was generally disappointing: in some ports proper registration had not been attempted while, in others, the system in operation was meaningless. In general, Committees were not dealing seriously with the purpose for which they had been established, namely, the decasualisation of the industry. The number of registered men was far in excess of the labour requirements of the port but, nevertheless, unregistered men were frequently employed.

10. Accordingly, in May, 1929, the MacLean Committee was re-constituted and appointed by the Minister of Labour as a Departmental Committee

“to inquire into employment and unemployment in the port transport services in Great Britain and to make recommendations thereon with special reference to decasualisation. . . .”

The Committee, although not agreed on all points, were able to record their unanimous belief that

“Registration Schemes and measures taken with the object of improving the system of labour engagements have proved, in practice, of great advantage not only to the industry itself but to the community in general. Although they cannot be regarded as an end in themselves, they are vital means to the end in view.”

11. Following the Report of this Committee, a National Standing Advisory Committee, composed of equal number of representatives of organisations of employers and trade unions in the industry, was established “to encourage and assist in a common effort” to decasualise the industry. The duty of the Committee was to establish and maintain direct contact with the responsible parties in each port and to give particular attention to—

- (a) the establishment and development of Joint Registration Schemes in all ports;
- (b) the systematic and regular revision of registers and arrangements for the periodic review of employment records;
- (c) provision for the recruitment of labour;
- (d) the establishment of uniform methods of compiling statistics from all ports and the collection of information showing accurately the progress of decasualisation in the industry as a whole; and
- (e) the establishment and development of systems of central or surplus stands or means to secure the best use of available registered labour in all ports in accordance with local needs.

The Committee held its first meeting in September, 1931.

12. During the ensuing eight years the Committee was successful in reviving moribund Registration Schemes and in introducing new Schemes so that, in

September, 1939, Registration Schemes had been set up in all the principal ports in the country with the exception of Aberdeen and Glasgow. These schemes naturally differed in detail, but were generally based on the principles formulated by the Standing Advisory Committee. It should however be noted that, in the two largest ports in the country, namely, London and Liverpool, the registration token did not take the form of a record of employment book, so that no accurate statistics of work could be produced. This necessarily militated against any effort to adjust the register of dock workers to meet the actual needs of those ports. It is indeed to be doubted whether, in any but a very few ports, the work of these Committees succeeded in keeping the register in close relation to the requirements of the ports.

13. Having regard to the proposals put before me during the course of my Inquiry by the Employers' and Workpeople's Sides of the National Joint Council for the Port Transport Industry, it will be well here to review the main principles underlying these early registration schemes:—

- (a) they were of a purely voluntary character;
- (b) the obligations of employers who participated in them were limited to affording priority of engagement to registered dock workers;
- (c) the obligations of registered dock workers were confined to presenting themselves for employment at the normal calls;
- (d) the size of the Register in each Port was controlled by a Joint Committee representative equally of employers and workpeople;
- (e) the Schemes did not provide a guaranteed weekly wage, and the size of the registers therefore did not affect the financial obligations of the employers to the registered dock workers.

WAR-TIME SCHEMES

14. In June, 1940, the Minister of Labour and National Service decided to introduce compulsory registration, and the Dock Labour (Compulsory Registration) Order, 1940, was made. Schemes were shortly thereafter formally approved by the Minister under the terms of the Order and, although these differed somewhat in detail, they were based generally on the principles laid down by the Standing Advisory Committee. These statutory schemes enabled Committees to bring within their scope all employers engaged in port transport work.

15. By the end of 1940, it had become evident that the exigencies of war required that the port transport services of the country should no longer continue on a casual basis and that, to achieve decasualisation, some more drastic reorganisation of the industry than had been effected by compulsory registration was essential. Accordingly, the Minister of Labour and National Service laid before the representatives of both sides of the Industry the broad outlines of schemes of decasualisation for operation in the ports of Merseyside and Clydeside and, in March, 1941, these schemes came into operation under the control of the Minister of War Transport. Six months later, the Minister of Labour and National Service made the Essential Work (Dock Labour) Order, 1941, under which similar schemes were subsequently submitted for his approval in respect of the other principal ports in the country. Schemes approved under this Order are administered by the National Dock Labour Corporation, a body formed for that particular purpose. The Board of the Corporation consists of representatives of employers and work people in the industry; its Chairman, Vice-Chairman and Financial Director are appointed by the Minister of Labour and National Service.

16. In many respects, the schemes administered by the Ministry of Transport and the National Dock Labour Corporation are similar, the following main features being common to both types of scheme:—

- (a) The registered dock workers are given a guaranteed weekly wage, paid from funds provided by a levy on the port employers, calculated on the earnings of the dock workers.
- (b) The dock workers are required to attend at all normal calls and at other times as directed by the administering Authority.
- (c) They are liable to be transferred to other ports.
- (d) They must accept any other work in their particular port for which they are considered suitable.
- (e) Men in breach of the schemes are liable to various penalties, namely,
 - (i) suspension without pay;
 - (ii) notice of termination of engagement;
 - (iii) summary dismissal.
- (f) Men so penalised have certain rights of appeal.

17. In two important respects, however, the two types of scheme differ. These points of difference concern:—

- (a) the administration of the schemes and the control of the register; and
- (b) the form of guaranteed wage.

18. Administration

(a) Ministry of Transport schemes are administered by the appropriate Regional Port Director of the Ministry of Transport and, although in practice the representatives of the industry are brought into consultation, the ultimate responsibility for the administration of the schemes and the control of the registers rests with the Ministry of Transport.

(b) The schemes administered by the National Dock Labour Corporation are based on a system of joint control, both nationally and locally. The National Board of the Corporation is constituted as I have already described, and that Board has appointed Local or Area Boards, also representative of both sides of the Industry but with no independent element, to administer the schemes in the different ports. The number of men to be included on the register of each port is the responsibility of the Local or Area Board of the National Dock Labour Corporation subject to any directions they may receive from the National Board. The selection of men for admission to or dismissal from the register remains the responsibility of the Port Registration Committees.

19. Guaranteed Wage

(a) MINISTRY OF TRANSPORT SCHEMES

Each man is guaranteed payment in respect of eleven "turns" (or periods of four hours' engagement) a week, at a rate of 7s. 6d. a "turn." "Turns" worked outside the normal hours of work, with the exception of Saturday afternoons, count against this guarantee.

(b) NATIONAL DOCK LABOUR CORPORATION SCHEMES

Each man is guaranteed payment of "Attendance Money" (at present 6s.) for each "turn" at which he attends for work but is not engaged. This guarantee is in respect of the normal "turns" and is paid irrespective of whatever may be earned during overtime hours, on Saturday afternoon or on Sunday.

EXPIRATION OF PRESENT SCHEMES AND PROVISIONS FOR THE FUTURE

20. The schemes administered by the Ministry of Transport, not being governed by Statute or Regulation, may terminate whenever any of the parties to those schemes so decide. Those administered by the National Dock Labour Corporation would normally have terminated on the expiration of the Emergency Powers (Defence) Acts. Accordingly, it became necessary for the Government to ensure that provision should be made for the establishment of permanent schemes of decasualisation which should take the place of those introduced as a war-time measure.

21. In pursuance of this policy, the Government introduced the Dock Workers (Regulation of Employment) Bill which became law on 14th February, 1946. The Act provides, inter alia, that the existing dock labour schemes made under the Emergency Powers (Defence) Acts, shall remain in force until 1st July, 1947. It further enacts that provision may be made by schemes under the Act—

"for ensuring greater regularity of employment for port workers and for securing that an adequate number of dock workers is available for the efficient performance of their work."

22. The Act proceeds to set out various matters which must be covered by any scheme made under it and which I need not repeat here. So far as the initiative for formulating schemes is concerned, however, it is important to state that the Act provides that—

- (a) a scheme may be prepared and submitted jointly by bodies of persons appearing to the Minister of Labour and National Service to be representative of dock workers and their employers; and
- (b) if at any time before 1st October, 1946, no such scheme has been submitted, approved and put into operation, the Minister may on the joint application of such representative organisations, himself prepare a scheme or schemes.

23. Both sides of the National Joint Council for the Port Transport Industry are agreed upon the necessity for decasualisation and joint discussions have proceeded over a long period in an attempt to arrive at some mutually satisfactory plan to attain this end. A final effort to reach agreement was made as recently as 24th July, 1946, when the National Joint Council had under consideration a comprehensive decasualisation scheme presented by the Employers' Side. The scheme did not, however, commend itself to the Workpeople's Side of the Joint Council, for the proposals which it contained relating to management, and to the conditions which should attach to the guarantee to registered dock workers in the industry, raised issues upon which the parties were and are fundamentally opposed, and the Workpeople's Side took the view that, unless and until these fundamental issues were disposed of, no useful purpose would be served by discussion of the other details of the scheme, though they indicated that upon such details accommodation could probably be reached once the fundamental issues to which I have briefly referred above could be satisfactorily resolved.

Form of Administration, Control of Registers, and the Guaranteed Wage EMPLOYERS' CONTENTIONS

24. I have attached as an Appendix to this Report the draft of the proposed *scheme submitted to me, and, as I have previously stated, to the Workpeople's Side of the National Joint Council. It will be observed that,

* As this is fully discussed in the Report, the Appendix is not printed.

were it adopted, it would place upon the Port Authorities now in existence the obligation, within a national framework of conditions, to decasualise port labour in their area. In other words, subject to the observance of certain overriding national conditions, the Employers' scheme envisages almost complete local autonomy for each of the ports to which the scheme might be applied. By a levy on wages, or partly by levy and partly by the imposition of a tonnage charge upon goods passing through the ports to which the scheme was applied, the Port Authorities would create a fund from which would be met the administrative cost of the scheme and sums payable to dock workers under the proposed guarantee. Dock workers, when not actually working for a Port Transport employer (described in the scheme as the "operational" employer) would be deemed to be in the employ of the Port Authority (the "legal" employer). The Authority would from time to time determine the number of men to whom the guaranteed wage could be paid and such determination would govern the size of the register. It is contemplated that circumstances might develop in any port covered by the scheme which would render it impossible to defray the cost of the scheme out of funds raised by the local Port Authority. To meet this position the scheme proposes the formation of a central body, to be known as the Dock Decasualisation Finance Corporation. To this body the Port Authorities for ports to which the scheme applied would make a contribution from monies levied or charged by them and, from the central fund so established, the Finance Corporation would assist necessitous Authorities who from time to time might be unable to meet their commitments under the scheme.

25. As already appears (vide Para. 24), in the proposals put forward, the control of the register would be vested solely in the Port Authority and the dock workers would have no voice in the matter, though it should be stated that the scheme proposed envisages a joint committee to act in a purely advisory capacity. While, therefore, the Employers are prepared for joint consultation with the Workpeople's representatives, they are unwilling to accept any scheme for joint management. In support of their proposals they urge the following considerations:—

- (a) The payment of the guaranteed wage is purely a responsibility of the employers and it is therefore logical that the employers shall themselves determine the number of men to whom it shall be paid.
- (b) In no other industry have the representatives of the workers any voice in the number of men to be employed at a particular establishment.
- (c) The various Port Authorities have been constituted under Acts of Parliament which define their constitution, jurisdiction, functions, powers, duties, and financial arrangements including charging powers.
- (d) They are autonomous bodies responsible to Parliament and under the general control of the Ministry of Transport.
- (e) The efficient organisation of port employers and labour is necessary for the wellbeing of the ports and is a duty which cannot be discharged independently of the other powers vested in Port Authorities for the proper administration of their undertakings.
- (f) The establishment of any parallel bodies, whether local or national, for the decasualisation of dock workers would not only be uneconomic, but would emasculate Port Authorities at a time when they should be encouraged and strengthened to repair the ravages of war and maintain their undertakings at the highest pitch of efficiency.
- (g) The administration of decasualisation schemes by Port Authorities side by side with the performance of their own Statutory duties would permit Port Authorities so to apply their present charging powers as to secure part of the cost of decasualisation by a tonnage rate upon goods exported

or imported through their ports and to scale such tonnage rates downwards so as to give lower rates (compared with overseas imports) to overseas exports and the coasting trade.

The Employers are opposed to any form of joint administration whether national or local, such as at present exists in schemes administered by the National Dock Labour Corporation upon the ground that such joint administration has in practice broken down. In support of this view they point to the fact that, while the National Joint Board of the Dock Labour Corporation was, agreed that a reduction in the number of registered dockers was necessary, the reduction to the level required had not been found practicable in face of the opposition from the Workpeople's Side to the removal of the names of any dock workers who were on the register before September, 1939, and you will remember that it was in these circumstances that the Board of the National Dock Labour Corporation recently intimated to you that, owing to the divergent and irreconcilable views of its members upon this issue, it was unable to fulfil its major responsibility of maintaining a labour force sufficient, but no more than sufficient, to meet the needs of the industry.

26. As to the nature of the guarantee and the conditions which should attach to its receipt, the Employers originally proposed that they should guarantee to each registered worker who proved availability for work a sum of £16 per month, against which should be set the worker's total earnings during the like period. In the course of my Inquiry, however, the Employers' representatives intimated that, upon further consideration, they were prepared to reduce from one month to one week the period to which the guarantee should be related, and they would regard the guarantee as a minimum fall back rate against which would be set all wages earned either during normal working hours or during week-end working or overtime hours. Work performed by dock workers is not, it is contended, overtime as that term is generally understood in industry, since the dock worker seldom works for more than the normal aggregate of 44 hours a week but is merely required by the nature of his employment occasionally to perform his work outside the normal hours, and on such occasions he is suitably remunerated at special rates.

WORKPEOPLE'S CONTENTIONS

27. The Workpeople's Side of the National Joint Council are fundamentally opposed to any decasualisation scheme for the administration of which the Port Authorities are to be solely responsible. Based largely on the historical background of joint control in the Industry which I have already outlined, the Workpeople's Side assert that only under joint control can schemes be effectively operated and that unless given an equal share with the Employers in administration they would feel compelled to disassociate themselves entirely from the future operation of schemes set up under the Act. They have pointed out that reductions in the register can never in the nature of things be popularly regarded by the rank and file dock worker and they have drawn attention to the impossible position in which, they state, the Union Officials would find themselves if they sought to secure, as they would be expected to do, an implementation of a decision to reduce the numbers on the register to which decision neither they nor their union had been parties. Joint control could never be effective, they state, if administration is to be by Port Authorities as proposed by the Employers, for on such Authorities the Workpeople's Side as such have no direct or indirect representation. They claim, therefore, that control of any schemes should be vested in a national joint body on which employers and dock workers should be represented and that such body should be charged with the duty of determining, from time to time, on a National basis, the size of the dock labour force, and entrusted with power similar to that of the National Dock Labour Corporation to levy on wages to meet decasualisation costs.

28. With regard to the guarantee, the Workpeople's Side are opposed to the Employers' Side's suggestions and propose in substitution therefor:—

- (a) The payment of attendance money in respect of each normal "turn" when work is not available.
- (b) An overriding weekly guaranteed wage which, while in amount rather less than the equivalent of eleven turns at the ordinary time rate, would be considerably in excess of the equivalent of eleven turns of attendance money at the rate at present being paid.
- (c) Only attendance money and wages paid in respect of work performed during the eleven normal turns to count against the weekly guarantee.

The payment of attendance money is regarded by the Workpeople's Side as a fair compensation to men who may incur travelling expenses and the costs of meals away from home in attending calls where work may prove to be unavailable.

29. The claim put forward by the Workpeople's Side bears some similarity to the practice which has prevailed during the war and which is at present continuing. It is objected to by the Employers upon the grounds that war-time schemes are not suitable for application in any permanent peace-time arrangement, as they do not relate the guarantee to the amount of the worker's total earnings and permit of the receipt of attendance money over periods for which the worker could receive high earnings. Attendance at normal calls, the Employers feel, is reasonable quid pro quo for the guarantee of a regular weekly wage, while a payment specifically related to a period of unemployment is not appropriate to a scheme of decasualisation.

NATIONAL DOCK LABOUR CORPORATION

30. As the submissions and contentions of the two sides of the Industry centre largely upon the existing system of joint control operated by the National Dock Labour Corporation, it is necessary to examine in closer detail the conditions, objects and working of that body together with any other bodies which are within its control, or assist it in connection with the dock labour schemes for which it is responsible. The Corporation was, as I have stated earlier (vide Paragraph 15) brought into existence in 1941 as a war-time expedient to administer schemes of decasualisation set up under the Essential Work (Dock Labour) Order, 1941.

31. Amongst its more important objects as shown by its Memorandum of Association are:—

- (a) To act as a central or national organisation or body for promoting by any means the rapid handling of goods and turn-round of ships at ports in the United Kingdom, and in particular by establishing or promoting or facilitating or assisting the establishment at such ports of an adequate, regular and mobile labour force for all or any classes of undertakings engaged on operations connected with the handling of such goods or the turn-round of such ships.
- (b) To act as a central or national organisation or body for the regular employment or for securing or promoting or facilitating the regular employment by others of persons engaged on port transport work or any class or classes of such persons.
- (c) To establish or concur or assist in establishing in any port or group of ports in the United Kingdom, Local Boards, Managers or Agencies for carrying out the objects of the Corporation in such port or group of ports, and to do all or any of the acts, matters and things aforesaid by or through any Local Board, Manager or Agency so established.

32. It is controlled by a National Joint Board consisting of representatives of Employers and Workpeople in the Industry in equal numbers, with a Chairman, Vice-Chairman and Financial Director appointed by the Minister of Labour and National Service.

In the ports in which it is responsible for the labour administration it operates through a Labour Manager, a servant of, and appointed by the National Board, and Local or Area Boards. The members of such Local or Area Boards are nominated by the Employers' and Workpeople's Sides of the Industry in the ports or areas for which they have been set up.

33. The functions of the Local or Area Boards are strictly controlled by the National Board so far as they relate to finance, but in no other direction. In relation to the number of workers upon the register in their ports or areas the Local or Area Boards are consulted by the National Board, but it is their duty to give effect to decisions taken by the National Board when that body determines upon an increase or reduction in the register and to put into practice such other directions as the National Board may properly give. The Local or Area Boards have themselves no power, however, to effect actual alterations of the register; they must pass any direction of the National Board to the appropriate Port Registration Committee. These latter bodies exercise the functions of

- (1) defining in their areas—subject to the approval of the Minister of Labour and National Service—what is Port Transport Work,
- (2) placing men upon the register when the register requires expansion,
- (3) taking them off the register when it requires to be reduced, and
- (4) classifying dock workers on the register within certain specified categories.

34. The Port Registration Committees are not even within the nominal control of the National Dock Labour Corporation or of its Local or Area Boards. It follows, therefore, that if Port Registration Committees choose to be intransigent, they can render completely ineffective decisions unanimously taken by the National Board and subscribed to by the Local or Area Board.

The National Board suffers from two disabilities therefore. It cannot in practice make effective a decision as to an increase or reduction in the register which is not acceptable to the Local or Area Board, for in such a case the Local or Area Board may refuse to pass the necessary instruction to the Port Registration Committee. Nor can it make effective such a decision even where the Local Board is in agreement with the National Board, if the Port Registration Committee over whom the National Board has no control refuses, as in fact it sometimes does refuse, to act upon it.

CONCLUSIONS

Form of Administration

35. The need for the rapid handling of goods and turn-round of ships in United Kingdom ports and for establishing, promoting and assisting the establishment at such ports of an adequate, regular and mobile labour force for undertakings engaged in operations connected with the handling of goods or the turn-round of ships is, in the present labour shortage, no less urgent now than it was when the National Dock Labour Corporation came into existence, and one of the primary objects of any authority which is to administer a scheme for decasualisation must still be to ensure that there are upon the port registers sufficient, and no more than sufficient, dock workers to deal efficiently with the trade of the ports. Failure to attain this object will inevitably result in a very heavy charge upon any guarantee fund established, which must be followed by a rise in prices for almost every commodity which the public requires.

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36. In my view, the primary object stated above can best be effected if decasualisation schemes are administered by some national joint body working as has the National Dock Labour Corporation through Local or Area Boards. In arriving at this conclusion I am not unmindful of the difficulties which the National Dock Labour Corporation has experienced in the discharge of its functions in relation to the reduction of the dock registers and I have given much thought to the proposals made by the employers that control of any decasualisation scheme should be placed in the hands of the existing Port Authorities. I am, however, pressed by the following factors:—

- (1) The measure of joint control to which in the past the Port Transport Industry has been subject.
- (2) The inadvisability of abandoning such measure of joint control as the Port Transport Industry already enjoys, at a time when the need for closer co-operation of employers and workpeople in industry in general is much in the public mind.
- (3) The admission of the Employers' Side of the National Joint Council that, without the co-operation of the Workpeople's organisations, the scheme which the Employers propose would be administratively impracticable.
- (4) The disinclination, quite clearly expressed by the Workpeople's Side, to give any active support to any scheme for decasualisation to be made under the Act which is not to be administered jointly by the two sides of the Industry.

37. Any scheme for decasualisation will be dependent, however, for its ultimate success upon the good will and good sense of the parties. The duty of the members of the administrative body is to serve the Industry as a whole, and not merely some particular section of it, and not even a joint scheme could succeed if the body responsible for its administration could not count upon the loyal support of its constitutionally appointed members.

38. In so far as the National Dock Labour Corporation can be said to have failed effectively to control the port registers, its failure appears to be due not to any lack of authority to take decisions but to an inability to ensure the proper application and observance of decisions when taken.

I have expressed above my views upon joint responsibility and the obligations which the acceptance of joint responsibility must entail. These views have received general acceptance in the course of my Inquiry and the Workpeople's representatives did not dissent from the unequivocal statement of one of their number that, were a system of joint control to be adopted in connection with a permanent scheme for decasualisation, it would be the duty of the Workpeople's organisations to see that the decisions and policy of any joint body were given effect to. I see good reason, therefore, to hope that the difficulty which has beset the National Dock Labour Corporation in relation to the control of the register would not arise in connection with permanent full-time schemes for decasualisation.

39. In my view, the decasualisation scheme most likely to prove successful would be one administered by a central body of the character of the present National Dock Labour Corporation, whose Central Board should be drawn in equal numbers from the two sides of the Port Transport Industry, and to which should be added an independent element consisting of a Chairman and two Members appointed by the Minister of Labour and National Service. In a Board so constituted, finality of decision should always be possible of attainment.

40. The powers of the Central Board should be no less wide than those at present vested in the National Dock Labour Corporation and in certain directions the Central Board's powers should be strengthened. It is of the

essence of any such scheme that general control should rest with the Central body for were it to lie elsewhere, as for example with bodies in the localities, it would be impossible for the Central Authority who would be neither aware of nor able to control the actions of such local bodies, to formulate any central policy. To assist in the discharge of its functions in connection with decasualisation the Central Authority should, however, set up Local or, where administratively convenient, Area Boards to cover respectively individual ports or groups of ports. Such Local or Area Boards, like the Central Board, should be jointly constituted from the two sides of the Industry in the ports or areas and should have added an independent element consisting of a Chairman and, if possible, two Members. Subject to an obligation to observe directions received from the Central Board, Local or Area Boards should be given as wide a measure of autonomy as is possible in connection with the carrying out of the day-to-day work in their ports or areas.

Port Registers

41. The Local or Area Boards should undertake the discharge of all those duties in relation to the control of port registers, the classification of workers appearing thereon, and the definition of port transport work at present undertaken by Port Registration Committees which, as I have before pointed out, whilst empowered to discharge important functions in relation to existing dock labour schemes, owe no allegiance to the Central, Local or Area Boards responsible for administration. Whilst responsibility for decisions to increase or reduce the number on the registers must remain with the Central body, that body should take Local or Area Boards into consultation before decisions are arrived at and it should be open to any Local or Area Board which feels that the particular needs of its port or area require an increase or reduction in the register to make application to the Central Board for permission to open or reduce its register. The rapid reduction of the register, following a decision of the Central Authority that reduction is necessary, is imperative. To retain on the register dock workers who are surplus to normal requirements, for any longer period than administrative necessity demands must inevitably result in a serious and unwarranted financial burden and one which, if allowed to continue, might reduce any decasualisation scheme to a state of insolvency.

Mobility of Labour

42. Under schemes at present existing there is power in the National Dock Labour Corporation to direct registered dock workers unemployed in their home port to other ports where dock labour is in short supply.

43. Inter-port transfers between ports within daily travelling distance have, it would appear, proved successful but transfers between distant ports are claimed by the Employers to have given rise to an unsatisfactory state of affairs. ~~Men so~~ transferred, it is stated, frequently arrived with a sense of grievance and did not work to capacity, and, their presence was apt to create friction with the dock workers of the ports to which they had been directed. The Employers are not, therefore, in favour of any scheme for transfer of labour between distant ports. The Employers admit the possibility, however, that fluctuations in the trade of a port may be such as to give rise from time to time to shortages of labour. Where such a shortage is likely to be for only a day, shipowners, the Employers state, are willing to face a day's delay in loading or unloading and, in such an event, any addition to the register would be unnecessary. Under their proposed scheme for control by existing Port Authorities the Employers would vest in the Port Authorities the sole power in relation to port registers and the Port Authority would open its register to take on additional workers to meet temporary shortages likely to extend beyond a day or so. I have already expressed it as my view that the control

of any decasualisation scheme should be vested in a Central Authority and not in local Port Authorities. If, however, it were thought proper that control should be vested in local Port Authorities, it is important to see what consequence might follow the Employers' proposal now under consideration.

44. It would seem to me to be most undesirable even if it were found practicable for Port Authorities to undertake the increase or reduction of their registers upon a day to day or other short interval basis. For one port to recruit men locally to meet a temporary shortage whilst at another port work is temporarily slack, appears to me to be open to two serious objections. If the men temporarily recruited are to be discharged immediately the need for their services is past, this would amount to the re-introduction of a casual element into the Industry and would be contrary to the principle of decasualisation to which both sides of the Industry are committed. Upon the other hand, if, whilst there is a surplus of registered labour unemployed and drawing upon the guarantee fund at one port, men are to be recruited locally at some other port to meet a temporary local need, and are to be retained after the need is past until such time as a general revision of the register might normally be expected to take place, then the decasualisation scheme will be subjected to a dual charge and one which might have been avoided if the temporary shortage of labour at the one port had been met by the utilisation of labour temporarily surplus at the other.

45. As part of the price of a permanent decasualisation scheme jointly administered by some central body, the Workpeople's Side should be prepared to accept a provision for the direction of labour to distant ports subject to some form of protection to meet hard cases. Neither side of the Industry raise any objection to direction between ports within daily travelling distance. I appreciate that the housing position is at present such as to render distant transfers difficult but, against the time when housing and billeting difficulties become less acute, any central body should, in my view, be given power, subject to reasonable safe-guards for the worker, to direct the transfer of labour from distant port to port.

Definition of Dock Worker

46. The Dock Workers' (Regulation of Employment) Act, 1946, contains a definition of "dock worker" which appears to be wide enough to cover any class of labour now registered in any port.

The Act provides (Section 1(6)) that schemes made thereunder may relate either to dock workers generally or to any class or description of such workers. It has been objected before me, particularly by the London Association of Public Wharfingers Ltd., that the definition in the Act is so wide that it will bring within decasualisation schemes workers who cannot appropriately be described either as "casual" or as "dock workers." Indeed the London Association of Public Wharfingers have complained that under existing schemes the definition of "dock worker" is too widely drawn.

47. A decasualisation scheme should not be applied to workers who are not dock workers in the true sense. For an example, when an Electricity Undertaking unloads coal for its own plant at its own wharf, and uses for the purpose workers from its own permanent labour force, such workers should not, in my view, be brought within the ambit of a decasualisation scheme.

48. The Act provides that any scheme prepared by you shall be embodied in an order made in accordance with the provisions of the Schedule and that the date upon which it shall take effect shall be such date not earlier than the making of the order or as the order may specify.

The draft order is, in accordance with the terms of the Act, open to objection by interested parties. I feel it is neither possible nor desirable for me

to suggest which, if any, class or description of dock worker should be excluded from any scheme upon which you may determine and I would propose, therefore, that the definition contained in any draft order should follow that at present operative under existing schemes, and that it should be left to parties interested who consider that definition too wide or too narrow to carry in objections to your draft order, and to raise at that stage their contentions that any particular class or description of dock work should be excluded or included.

Ports to be Covered by the Scheme

49. I accept as sound the contention put before me by the Employers' Side of the National Joint Council that decasualisation schemes should be applied only to ports where there is a considerable volume of overseas and coasting trade, and where there is a substantial number of workers who look to the Port Transport Industry to provide their major means of livelihood. To apply any scheme to ports where these conditions do not exist would, I think, be to put upon the decasualisation scheme a burden which it might well prove unable to bear. It is impossible for me, without further inquiry, to indicate to which specific ports any scheme should apply, but I would suggest that those ports at present covered by schemes administered by the National Dock Labour Corporation and the Ministry of Transport should be brought within the proposed new schemes under the Act and that, in this case also, it should be left to the parties to carry in at the appropriate time objections to the inclusion or exclusion of particular ports.

The Guarantee

50. A guarantee under a decasualisation scheme should not be regarded as a substitute for a pension scheme for registered dock workers in the Port Transport Industry. Registered dock workers, when they reach the age at which they must normally expect to give place to younger and more virile men, must not look for continued support towards a guarantee financed by the employers in the Industry but, like workers in other industries who reach a pensionable age, must look for a pension to any national scheme provided out of national funds. For those to whom it attaches, the guarantee should, in my view, take the form of a weekly fall-back sum which should be sufficient to meet a worker's minimum needs, while at the same time not being so high as to constitute a temptation to him to rely upon the guarantee rather than upon actual employment.

51. To qualify for receipt of the guaranteed payment the worker should be required to prove availability by attendance at normal calls and, if he fails without just cause to make such attendances, the guarantee should be regarded as broken.

I cannot accept the view of the Workpeople's Side that the only sums to be set against the guarantee should be those earned by a registered dock worker within normal working hours. I see no reason why there should not be set against the employer's obligation to guarantee a minimum fall-back payment all sums earned by the registered dock worker in the Port Transport Industry during the guarantee period, whether such sums are derived from work within the normal hours or result from overtime or week-end working.

52. If total earnings are not to be set against the weekly fall-back sum to which a dock worker proving availability is to be entitled, then it is inappropriate to refer to such a sum as a guarantee. It should more properly be described as an addition to wages.

Discipline

53. It should be within the power of the local manager of any scheme to suspend a registered dock worker for misconduct and/or to report him to the Local or Area Joint Board for removal from the register of dock workers.

54. In cases of suspension, the worker if aggrieved should be permitted to appeal to the Local or Area Joint Board. For the purpose of determining such appeals, the Joint Board might act through a sub-committee, whose decisions should be final.

55. The consequence to the registered dock worker of removal from the register, involving as it would expulsion from the Industry, are so serious that a worker aggrieved by the decision of the Local or Area Joint Board to remove his name should be given the right to appeal to an entirely independent tribunal. Such a tribunal should be composed of one or more persons entirely independent of the Industry and the decision of the tribunal should be final. It is necessary to the proper maintenance of discipline that the appellate machinery which I have suggested should act with the utmost dispatch. Notice of appeal should be given within two days of the receipt by the dock worker of the Board's decision to remove his name from the register and, thereafter, any delays in dealing with appeals should be cut down to the minimum.

56. There exists at the present time a number of different methods for providing for the maintenance of discipline and, where the two Sides of the Industry in a particular port or area desire to have applied some other form of disciplinary control which you may regard as satisfactory, you would no doubt consider giving effect to the wishes of the parties.

57. No right of appeal should be given to any dock worker against the removal of his name from the register by the Local or Area Board where such removal is pursuant to a direction to reduce the register. The right of appeal should, however, attach in cases where a Local or Area Board when periodically reviewing the register are of opinion that a worker's record is not such as to justify the application of the guarantee in his case.

National Insurance Fund Contribution

58. With regard to the suggestion made to me during the Inquiry, and contained in the Employers' case, that some contribution to a decasualisation scheme should be made from the National Insurance Fund, I am doubtful whether this is a matter which properly falls within my terms of reference but, in any event, the question raised is one of principle and is not, in my view, one which should be considered in isolation in respect of a single industry.

59. I should like to express my deep appreciation to Mr. M. L. Rayner and Mr. H. B. Saunders, who have acted as Secretary and Assistant Secretary during the Inquiry, for the assistance which they have rendered to me.

JOHN FORSTER.

M. L. RAYNER, Secretary.

21st November, 1946.

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