A CONSPECTUS OF THE LABOUR LAWS OF SINGAPORE

This article attempts to set out within a short compass a conspectus of the labour laws of Singapore, their main features and context. It is difficult to define labour laws precisely. For the present purpose it is proposed to define labour laws as comprising those provisions of law which directly bear on labour and the labour relationship whether individual or collective; other provisions which are remotely connected with labour or the relevance of which are more related to another traditional division of law are excluded. It is proposed also to leave out the laws relating to public employment[1] which more appropriately belong as a subtopic of Constitutional and Administrative law. By this it must not be taken to imply that public employment enjoys an exclusive set of rules different from other kinds of employment. Public employment is itself part of the wider subject of employment and as such it is subject to many rules that are generally applicable to all forms of employment. Unless otherwise indicated the rules which are discussed herein are to be understood as of general application.

The sources of Singapore labour laws may be divided into four broad categories:

1. The provisions of "constitutional law";
2. the underlying layer of "English law" as imported generally in 1826;
3. miscellaneous legislation on various aspects of the labour relationship, including those on security, safety, welfare and health; and
4. the provisions of the Industrial Relations Ordinance, 1960.

1. *"Constitutional Law"*

Upon the separation of Singapore from Malaysia,[2] the whole of Part II on Fundamental Liberties with the exception of Article 13[3] of the Constitution of Malaysia was made applicable to Singapore.[4] The reason for this transplantation was to enable Singapore to function wholly

1. This is with the exception of some constitutional provisions and certain social security legislation considered at pp. 202-203 and 213-215 respectively, in order to complete the conspectus.
2. Separation took place on 9 August, 1965. Singapore was a State within the Federation of Malaysia by the Merger of September 16, 1963.
3. On Right to Property.
4. By the Singapore Independence Act, No. 9 of 1956, s. 6.

as an independent and sovereign State. The Articles on Fundamental Liberties are relevant in the present discussion in so far as they touch on and affect the liberties and rights of workers. Article 6 forbids slavery and forced labour, "but Parliament may by law provide for the compulsory service for national purposes." [5] Work which is incidental to serving a sentence of imprisonment is not forced labour.[6] Article 8 generally provides for "equality before the law and equal protection of the law" and forbids discrimination against citizens in the appointment to any office or employment under a public authority[7] "on ground only of religion, race, descent or place of birth." [8] Article 10, *inter alia,* gives the right to assemble peaceably without arms and the right to form associations. Those "rights" are however subject to legislation by Parliament for public security or public order. The right to form associations is further restricted by Parliament made laws on labour and education.[9]

These so called "constitutional provisions", it must be noted, are amendable by ordinary Acts of Parliament.[10] No special majority vote is required. There are as such no constitutional guarantees in the commonly understood sense of entrenched rights. In fact, the constitution is subject to amendment, repeal, modification, and adaptation by subsidiary legislation.[11] However, at the time of writing, a proper Constitution for Singapore is being drafted.[12] It is expected these provisions considered here would be retained and aptly entrenched without material changes.

5. Constitution of Malaysia, Art. 6(2). The law envisaged is the Federation of Malaya National Service Ordinance No. 37 of 1952, made applicable with modifications to Singapore during Singapore's stay within Malaysia by L.N. 70 of 1964 (Malaysia) and Sp. G.N. s. 41 of 1964 (Singapore). After separation from Malaysia the National Service Ordinance continued to apply to Singapore by the Modification of Laws (National Service) Order, 1966 made under the Republic of Singapore Independence Act, 1965 and as amended by the National Service (Amendment) Act, No. 2 of 1967.

6. *Ibid*., Art. 6(3).

7. "Public authority" is defined in Art. 160 of the Malaysian Constitution. But Art. 160 is inapplicable to Singapore by virtue of the Republic of Singapore Independence Act, 1965, s. 6(3). The term is not defined in the Constitution of Singapore [No. RS(A) No. 14 of 1966] nor in the Interpretation Act, No. 10 of 1965. However, as the Republic of Singapore Independence Act, 1965, s. 6(1) provides that Art. 8 should be "subject to such modifications, adaptations and qualifications and exceptions as may be necessary to bring [Art. 8] into conformity with the independent status of Singapore" and reading, *mutatis mutandis,* the definition of Art. 160 of the Malaysian Constitution, it is possible to suggest that 'public authority', means in the context, the President, the Government and statutory bodies exercising powers vested by law.

8. However, Art. 89 of the Constitution of Singapore *op. cit*. vests responsibility on the Government to "constantly care for the interests of the racial and religious minorities" and to "exercise its functions in such a manner as to recognise the special position of Malays." Art. 89 covers public employment.

9. *Ibid*., Art. 10(2) (b) & (c) & (3).

10. Republic of Singapore Independence Act, 1965, s. 6(2).

11. *Ibid*., s. 13. See, for example, Modification of Laws (Constitution of Singapore) (Nos. 1 & 2), 1966. *Quaere*: Whether they are necessary to secure conformity to the independent status of Singapore.

12. See speech by Mr. Tan Boon Teik, Attorney-General, Singapore, at the open- of the Legal Year [1968] 1 M.L.J. viii.

2. "*English law*" *of 1826*

English law of master and servant and affecting statutes which together form part of the general body of the laws of England were made applicable to Singapore by the Second Royal Charter of Justice in 1826.[13] Their application is subject to the qualification "in so far as the circumstances will admit." The meaning of this phrase has been spelt out by Maxwell, C.J. in *Choa Choon Neoh* v. *Spottiswoode* to mean:

> "In this Colony so much of the law of England as was in existence when it was imported here, and is of general (and not merely local) policy, and adapted to the conditions and wants of the inhabitants, is the law of the land; and further, that law is subjected, in its applications to the various races established here, to such modifications as are necessary to prevent it from operating unjustly and oppressively on them." [14]

English law of master and servant would include English statutes existing as at 1826. But in view of the subsequent range of local legislation,[15] it is taken that the English statutes have been rendered inapplicable.[16] This is open to the one exception of the Statue of Frauds,[17] which was held applicable in *Revely & Co.* v. *Kam Kong Gay & Anor.*[18] By section 4 of the ancient statute it is provided, *inter alia,* that contracts "not to be performed within the space of one year" cannot be enforced unless there is a memorandum to this effect in writing and signed by the parties. Contracts of service caught by the provision are usually those relating to scholarships in consideration of service for an agreed number of years after the period of study or training. Otherwise, the section is seldom invoked because recruitment of staff does not normally extend for more than a year in anticipation.

To restate the position, the English law that is applicable in this context is that body of principles of common law and equity on master and servant existing at 1826 and *as thence developed locally.*[19] The law imported by the Second Royal Charter of Justice was the law as it stood at 27th November, 1826. There has since been no other similar omnibus

13. *Kamoo* v. *Basett*, (1808) 1 Kyshe 1; *In the goods of Abdullah* (1835) 2 Kyshe Ecc. 8; *R.* v. *Williams* (1858) 3 Kyshe 16; *Fatimah* v. *Logan* (1871) 1 Kyshe 255. On whether English law was introduced earlier and other problems of reception see the following studies: *Kyshe's Reports* (1895), Preface to; Napier, *Introduction to the Study of the Law Administered in Colony of the Straits Settlements*, Braddell, R., *The Law of the Straits Settlements: A Commentary* (1931), vol. 1; Das, S.K., "The Common Law" (1957) M.L.J. xxviii-lxxvi; Sheridan, L.A., *Malaya, Singapore and the Borneo Territories* (1961), chapter 1; Bartholomew, G.W., *Commercial Law of Malaysia* (1965).

14. *Choa Choon Neoh* v. *Spottiswoode* (1869) 1 Kyshe 216 at p. 221.

15. *Infra,* p. 49 ff.

16. *Official Receiver & Liquidator* v. *Grigg* (1929) 7 F.M.S.L.R. 48.

17. 29 Car. II, e. 3.

18. (1840) 1 Ky. 32.

19. See *Australian Consolidated Press, Ltd.* v. *Uren* [1967] 3 All E.R. 523, P.C.

importation by charter or legislation. Developments in Singapore, however, have by and large followed English trends, though it may not be necessarily so always.[20]

The most important topic in the area of master and servant is, of course, the individual contract of service.* Though much eroded of its once pervading importance by legislation and collective agreements, it is nevertheless the fundamental institution to which one is forced to return again and again, in the exploration of the whole expanse of labour laws. This basic legal relationship is of undoubted antiquity, and so also, unfortunately sometimes, is the law of master and servant that surrounds it. The assumptions that it makes are those of voluntariness, individualism and equality of bargaining power. The contract of employment is taken as being entered into voluntarily by two individuals, one the master and the other the servant, on equal bargaining strength. "This make inevitably a certain unreality"[21] especially in modern conditions and practice of employment. As with English administrative law, the law of master and servant is not a specially developed separate system. "The courts have never developed a special separate code of law to deal with contracts of employment. The legal relationship between worker and employer is governed by the ordinary law of contract based on principles propounded by the judges to govern various types of transaction, from hire purchase to sea voyages."[22] This may have served purposes of social control in the less sophisticated days of the English eighteenth and nineteenth centuries. It cannot be denied that conditions of employment and society at large have vastly changed especially since the Industrial Revolution. Problems and situations characteristic only of the employment relationship have assumed dimensions such that the general law is inadequate to cope with them. However, it must not be at once assumed that master and servant has lost all importance. Its basic rationale has not been rendered completely obsolete by modern economic and social conditions. Master and servant depicts the simpler situations of employment which are countlessly numerous still. Even in the areas of collectivity it is responsible for the initial creation of the employer-employee relationship. The concept of the contract of service lies at the very foundation of the whole edifice of labour laws.

20. For example, "... what is reasonable notice [for terminating a contract of service] in England is not necesarily so in this country. I agree that social conditions in this country are not the same as those in England and I also agree that decided cases in England on the question of notice are not; binding upon this Court but in view of the paucity of local decisions English cases must necessarily be regarded as a very good guide and of great persuasive value." *Per Gill,* J. in *D'Cruz* v. *Seafield Amalgamated Rubber Co. Ltd.* (1963) M.L.J. 154 at p. 158.

* For industrial torts see pp. 221-222 and notes 181, 182 & 185.

21. Wedderburn, K.W., *The Worker and the Law,* (1965) p. 32.

22. *Ibid.*, p. 10.

3. *Miscellaneous Legislation*

Master and servant being an English product and transplanted into a newly founded trading centre having an ever increasing population of migrants with peculiar habits, customs and practices, needed to be modified in order to accommodate the indigenous needs and problems. Such modifications could not be left to the courts of the day which acted only in instances of actual litigation. Active legislation was thus needed not only to modify master and servant but also to supplement it in the many areas where it was found wanting. It is a mistake to state that "labour problems in Malaya [including Singapore] have been basically similar to those of England, and have been by and large visited with similar legislation." [23] Singapore, founded in 1819, was a fishing village of 150 souls. With its establishment as a free trading centre by Stamford Raffles, the settlement drew an astonishing influx of Malays, Chinese and Indians. This was due to its strategic and convenient location and excellent harbour for trade, and the development of the tin mining and later rubber industries in the States of the Malay Peninsula "Singapore became a great labour emporium." [24] Early legislation was thus directed towards the control of these immigrant labourers and their special problems. Though in the beginning there were more Malay immigrants, the Chinese eventually became the predominant group. Indian immigrants were also lesser in number as the majority of them disembarked at Penang on their way to the plantations of the Peninsula.

(a) *Labour*

The first legislation on record appears to be Regulation V promulgated on 1st May, 1823 by Stamford Raffles. The Regulation, which applied to all races, generally forbade slave trade in Singapore and contracts of service which stipulated a longer period of service than five years. It also required all agreements for personal services beyond twelve months to be made under a bond registered at the Magistrates' Office, and further regulated the system of coolie labour the majority of whom were Chinese *chee tsai* or "piglets, in the following terms:

> "As it frequently happens that free labourers and others are brought from China and elsewhere as passengers who have not the means of paying their passage, and under the expectation that individuals resident in Singapore will advance the amount on it on condition of receiving the services of the parties for a limited period is compensation thereof, such arrangements are not deemed objectionable provided the parties are landed as free persons, but in all cases the amount of passage money or otherwise is limited to twenty dollars, and the period of service by an adult in compensation thereof shall in no case exceed two years, and every engagement shall be entered into with the free consent of the parties in the presence of a magistrate, and duly registered. In cases where the parties may be of tender age, the Magistrates may apprentice them until they attain the age of puberty; but in no cases are the parties to be burthened with a debt exceeding twenty dollars, for

23. Sheridan, L.A., *loc. cit.*, Chapter 16 on "Industrial Law".

24. Jess Norman Parmer, *Colonial Labour Policy and Administration: A History of Labour in the Rubber Plantation Industry in Malaya,* 1910-1941, (1957) p. 23.

> which amount their services, during the period above stated, shall be considered as a full and complete compensation."[25]

The Regulation unfortunately "dropped out of notice" and was subsequently treated as non-existent by the Committee on the Chinese Immigration Bill of the Legislative Council, Straits Settlement, later in 1873.[26]

Between 1823 and 1867[27] Singapore was under Indian rule and during that period, only two Acts were passed and which, further concerned Indian labour only. Those were the Indian Act No. 1 of 1857 and Indian Act No. 13 of 1859.[28] They regulated the passenger traffic across the Bay of Bengal and provided for the punishment of breaches of contracts by artificers, workmen and labourers in certain cases. The main reason for the legislative inactivity was the apathy of the Indian government in respect of a far-off Residency of comparatively small size and importance.[29]

The move towards legislation on the other immigrant labour groups came only in the year after the transfer of 1867 from Indian rule to the Colonial Office. As a result of petitions and local newspapers complaining of frequent disappearances and disgraceful kidnapping of newly arrived immigrants, over-crowding of steamers engaged in the coolie traffic and riots by *samsengs* or "rowdies", the Straits Settlement Legislative Council enacted the Chinese Immigrants Ordinance in 1873.[30] The Ordinance was to regulate the existing system of credit ticket recruitment of Chinese labourers and to protect the *sin-khehs* (as the novice immigrant was called) from being exploited by unscrupulous coolie brokers. It was however never brought into force — probably due to the opposi-

25. Lady Sophia Raffles, *Memoir of Sir Thomas Stamford Raffles*, (1830), Appendix, p. 48. See also *Straits Settlements Labour Commission Report* (1890) at p. 4 and the following studies Blythe, S.L. "Historical Sketch of Chinese Labour in Malaya" (1947) 20 *J.M.B.R.A.S.* p, 64 and Jackson, R.N., *Immigrant Labour and the Development of Malaya 1786-1920,* (I960), Chapters IV, V and VI, both of which have drawn from the *Labour Commission Report,* loc. cit., and Campbell, P.C., *Chinese Coolie Immigration to Countries within the British Empire* (1923) and Ta Chen, *Immigrant Communities in South China* (1940).

26. *Straits Settlement Labour Commission Report* (1890) at p. 4.

27. Between 1819-1823 Singapore was a dependency of Bencoolen; between 1823-1826 it came under the direct control of the Governor-General of India. In 1826, it became part of the Straits Settlements of Penang, Malacca and Singapore, which came under Indian Rule from 1830 to 1867. In 1946 Singapore was made a separate Colony, and attained internal self-government in 1959. In 1963 September 1-16, it enjoyed 16 days of *de jure* independence. On September 16, 1963 it merged into the Federation of Malaysia as a component State. It became independent again on August 9, 1965 upon separation from Malaysia.

28. In addition there was the general Indian Emigration Act, No. 13 of 1864 which rendered recruitment of Indian labour for service outside British India illegal. Though the Straits Settlements were part of British India, the Act defined British India to exclude the Straits Settlements. This anomaly was corrected later by the Indian Act, No. 14 of 1872 which allowed the Governor-General in Council to issue a notification exempting emigration to the Straits Settlements.

29. Mills, L.A., *British Malaya,* at p. 99 ff.

30. No. 10 of 1873.

tion of unofficial members of the Legislative Council and the view by the Governor-General Sir Andrew Clarke that all that was necessary was increased police powers.[31] These disturbing conditions persisted and, pressed by persistent complaints, a Labour Commission was set up in 1876 and upon its recommendations, another Chinese Immigrants Ordinance,[32] similar to its predecessor, was passed in 1877. The 1877 Ordinance introduced the Chinese Protectorate System[33] — it provided for the appointment of a Protector of Chinese Immigrants, the establishment and regulation of depots for the reception of immigrants on arrival, for written engagements between employers and immigrant labourers to be entered into before the officers of the Chinese Protectorate, fees to be levied, and penalties for any arrangements in contravention of the Ordinance and for any breaches of labour engagements.[34]

The Indian immigrants received Straits Legislative attention under the Indian Immigrants' Protection Ordinance, 1876[35] which was not operative in Singapore until 1883.[36] The Ordinance made similar provisions to its Chinese counterpart and provided for the appointment of an Indian Immigration Agent, restrictions on immigrants and immunities to certificated and certain classes of immigrants, depots for detention, forms of contract for labour, wages, hours of work, *etc.* and penalties for the offences of unlawful absence, desertion and malingering.

Javanese, Boyans, Kelantans and other races who were comparatively much lesser in numbers did not attract any separate legislation but were subject to control and were treated under the Chinese Protectorate System.[37]

Two features which stood out in the early legislation were, firstly, the penal nature of many of the provisions — generally breaches of contracts by the employees drew not only civil liability but also fine or imprisonment. That continued till late in 1923 when penalties for breaches of contract were removed.[38] Secondly, the Ordinances were

31. *Straits Settlement Labour Commission Report* (1890), p. 5.

32. No. 2 of 1877, repealing No. 10 of 1873.

33. For a study of the system see Thio, E., *Chinese Protectorate system.* (An academic exercise presented to the Department of History, University of Malaya, 1952).

34. Chinese Immigrants' Ordinance, 1877, section 8, punishable under the Indian Immigrants' Protection Ordinance, 1876, *infra.*, note 35, sections 45 to 49 and paragraph 1 of section 50. See *Straits Settlements Government Gazette,* March 30, 1877, p. 228.

35. No. 1 of 1876, later replaced by No. 4 of 1884.

36. It was suspended from operation in Singapore and Malacca by Ordinance No. 5 of 1876, till 1883. It was made operative iin Penang in 1876 by Ordinancce No. 12 of 1876. See *Straits Settlements Government Gazette,* G.N. No. 577 — December 28, 1883.

37. *Straits Settlement Labour Commission Report* (1890), p. 34.

38. By the Labour Ordinance, No. 14 of 1923, repealing and re-enacting with amendments No. 19 of 1920. Today, penalties for breaches of contract of service are imposed by the Trade Disputes Ordinance (Cap. 153), section 6, *infra.*, p. 220. For penalties against breaches caused by illegal strike see Trade Disputes Ordinance and Criminal Law (Temporary Provisions) Ordinance, 1955, Part V, *infra.*, pp. 221-222.

enacted to apply to specific races. They were addressed to the particular problems of each race. Two Ordinances were excepted: The Crimping Ordinance, 1877[39] which penalised "any person" for inducing by deceit or other illegitimate persuasion "any person" to leave the Colony for service elsewhere, and the Labour Contracts Ordinance, 1882[40] which provided for written contracts and imposed a term of vigorous imprisonment. Both Ordinances applied to all races.

Indian immigrant labour was again legislated for in 1907 in the form of the Tamil Immigration Fund Ordinance, 1907.[41] That measure was designed to meet the increasing demand for labour in the rapidly expanding Malayan rubber industry, and the high costs of recruitment — problems which were accentuated by the futility of efforts to curb crimping of labour. Under the Ordinance, a Fund was created with the object of spreading the cost of recruitment and repatriation over all the employers of Indian labour. The Fund was wound up by the Indian Immigration Fund (Winding Up) Ordinance[42] in 1958.

These various Ordinances so far discussed (together with the Chinese Agricultural Labourers' Protection Ordinance No. 8 of 1891 and the Estate Labourers (Protection of Health) Ordinance No. 1 of 1911) were consolidated into a single Labour Ordinance[43] in 1920. Modelled after the earlier Labour Code, 1912 of the Federated Malay States, this Ordinance[44] was divided into several parts, each dealing with matters such as labour agreements and contracts — form, terms, wages, termination, leave, *etc.,* abolition of the truck system,[45] health water supply, sanitation, hospitals, domestic servants, Chinese immigrants, Indian immigrants and the Indian Immigration fund. The Ordinance bore marked traces of the character of its predecessors. It applies to all Asiatic races except the "natives of Netherland India."[46] Parts of it were addressed to the races separately. It was largely designed to protect and control the migrant labour force and to provide satisfactory working and living conditions.

From 1930 onwards immigration to Singapore lessened considerably and the immigrant labourers began to be permanently domiciled. The transient character of the labourers faded. And thus also the problems of immigration and immigrant labour, so rendering many of the "immi-

39. No. 3 of 1877.

40. No. 1 of 1882 repealing Indian Act XIII of 1859.

41. No. 17 of 1907.

42. Indian Immigration Fund (Winding Up) Ordinance, No. 23 of 1958 repealing w.e.f. 1st September, 1958, Part IX of the Labour Ordinance, cap. 69, *Revised Laws of Singapore,* 1936 *ed.* The Fund is still in existence in Malaya under the South Indian Labour Fund Ordinance, No. 24 of 1958.

43. No. 19 of 1920.

44. As replaced and amended by No. 14 of 1923.

45. Payment of wages in any other form than legal tender.

46. Labour Ordinance, 1920, section 2. Only Part X applied to Netherland Indians. They came under the Netherland Indian Labourers' Protection Ordinance, 1908.

gration provisions" of the Labour Ordinance[47] meaningless and obsolete. Change was necessary and came about in 1955 with the passing of the Labour Ordinance, 1955.[48] That Ordinance brought up to date the law. It dropped many of the provisions[49] of it's predecessor and retained only those which were still of value. It applied to "workmen" which "means an artificer, journeyman or any person engaged in manual labour who has entered into ... a contract of service. . . ."[50] and provided for contracts of service (wages, hours of work, overtime, holidays and other terms of contract), illegality of truck system, contractors, protection of children and young persons, female labour, health, accommodation and medical care.

The provisions were enforced by the Labour Inspectorate under the Minister of Labour. The Ordinance also set up a Labour Court to decide questions arising under the Ordinance or any term of the contract of service.[51] The purpose was to relieve the ordinary courts from the burden of deciding on such matters and to provide for the speedier and less costly disposition of them. The proceedings of the Court were judicial in nature though procedure was simpler and freer from the technicalities which govern civil litigation.[52] Counsel might be engaged. An appeal lay to the High Court within 14 days of decision.[53] The decision was enforceable in a Civil District Court.[54]

,,Along similar lines to the Labour Ordinance were the Shop Assistants' Employment and the Clerks' Employment Ordinances enacted in 1957[55] in accordance with the policy of the then government.[56] The Shop Assistants' Employment Ordinance covered "any person employed in or about the business of a shop ... whose salary did not exceed four hundred dollars per month."[57] The Clerks' Employment Ordinance covered "clerks" employed in the business of an office whose salary did not exceed five hundred dollars, and "industrial clerks" who were employed in clerical work complementary or supervisory to the work of workmen within the meaning of the Labour Ordinance, 1955, and whose salary was not more

47. Then as Labour Ordinance, cap. 69s, *Revised Laws of Singapore,* 1936 *ed.*

48. No. 40 of 1955. Amended by No. 33 of 1957 and No. 40 of 1967.

49. Among which were those relating to crimping.

50. Other than clerks, shop assistants or domestic servants. For full definition see Labour Ordinance, 1955, section 2.

51. Formerly such questions were dealt with by the then Police Courts and District Courts.

52. Labour Ordinance, 1955, Part XVI. See also Department of Labour, *Annual Report* (1955), p.15.

53. *Ibid*., section 151.

54. *Ibid*., section 152.

55. No. 13 of 1957 and No. 14 of 1957 respectively.

56. "It is the declared policy of the government to improve existing and to introduce from time to time new labour legislation to give protection to and to improve the conditions of employment of workers in Singapore." Cmd. No. 11 of 1956.

57. Otherwise than employed as a clerk or position of management. Shop Assistants' Employment Ordinance, 1957, section 2.

than five hundred dollars per month.[58] These two Ordinances provided to a certain extent for the same matters as the Labour Ordinance though they varied and were not uniform in content. They were also implemented by the Labour Inspectorate and questions arising out of their operation were referable to the same Labour Court set up under the Labour Ordinance, with the same rules of procedure and jurisdiction.[59]

These three Ordinances — Labour, Shop Assistants' Employment and Clerks' Employment — have been replaced by the recent controversial and comprehensive Employment Act, 1968.[60] This Act applies to all employees without the distinctions formerly drawn between "workmen", "shop assistants", "clerks" and "industrial clerks". It standardises and regulates the terms and conditions of employment for all employees, except seamen, domestic servants, watchmen, security guard or any person employed in a managerial, executive or confidential position.[61] The Minister may by gazette notification apply the Act to domestic servants.[62] Government employees are also excluded unless declared by the President to be employees for the purpose of the Act. The provisions on rest days, hours of work, holidays and other conditions of service under Part IV and section 33 on priority of salaries do not apply to employees in receipt of wages exceeding $750.00 per month.[63]

In addition, the Act introduces radical changes to the existing law. The changes are prompted by the economic necessity for attracting large scale foreign industrial investment in order to boost economic growth and productivity and create more job opportunities for redundant workers and annual school leaving youths.[64] The Act aspires to achieve these ends by cutting down labour costs through a lowering of the general scale of fringe benefits, tightening labour discipline and providing for more government control in the engagement of labour. It is difficult, at this stage, to spell out the exact legal implications of the innovations. They may be classified as "maxima", "minima" and "static terms." "Maxima" are those terms which set a ceiling for collective as well as individual bargaining. "Maxima" is itself a new legislative technique brought into play for the protection of management. No employee shall be permitted to work overtime for more than 48 hours a month.[65] No employee of less than 3 or 5 years continuous service with an employer is entitled to retrenchment[66] or retirement benefit[67] respectively. Agree-

58. Clerks' Employment Ordinance, 1957, section 2.
59. See above.
60. No. 17 of 1968. Operative 15th August, 1968 *vide* G.N. No. S. 257 of 1968.
61. Employment Act, 1968, section 2.
62. *Ibid*., section 66.
63. The Act covers about half of the Republic's total working population of approximately 550,000.
64. Redundant workers caused by the British pullout see pp. 214-215. "Every year 15,000 school-leavers enter the [labour] market" — Lee Kuan Yew, in a speech delivered at the Fifth Annual Delegates' Conference of the National Trade Union Congress, reported in the *Straits Times* — 14th May, 1968.
65. Employment Act, 1968, section 38(4).
66. *Ibid*., section 44.
67. *Ibid*., section 45.

ment to pay bonus cannot exceed the quantum of one month's wages.[68] "Minima" are those terms which provide only a statutory minimum and allow parties to agree on more beneficial terms. "Minima" is the continuation of the technique of the former ordinances which sought the protection of workers. They are those relating to termination of contract,.[69] work on rest day and rate of pay for work on rest day,[70] hours of work and rate of pay for overtime work,[71] holidays and rate of pay for holiday work,[72] annual leave,[73] sick leave[74] and maternity leave and and allowance.[75] The last category refers to terms which are implied into contracts of service as of course and which are unalterable for better or worse. They are those relating to circumstances in which a contract of service is deemed to be broken by the employer or employee,[76] right of employer to dismiss or suspend or down-grade an employee (after due inquiry) for misconduct,[77] change of employer,[78] and payment of salary after income tax clearance.[79]

Part XI of the Act brings within statutory authority and regulation the existing 'labour exchange' operated by the Ministry of Labour to help job seekers find suitable employment and prospective employers find suitable workers.[80] By section 109 only citizens can be registered. Further, by section 111, the Minister "may make regulations to control engagement of employees" and in particular may "require persons to notify vacancies for employees" and "prevent persons from engaging or re-engaging employees except through an employment exchange." These provisions are to allow the Government greater control over the hiring process, particularly to give priority of job opportunities to Singapore citizens.[81]

68. *Ibid.,* section 46. Beyond this restriction, bonus is "negotiable" by virtue of section 40 of the Industrial Relations Ordinance, 1960, *infra*., as decided by the Industrial Arbitration Court in *Singapore General Employees' Union* v. *Taj and Diamond Theatres* [1962] G.S. 168; *Singapore Bank Employees' Union* v. *The Oversea-Chinese Banking Corporation Ltd.* [1962] G.S. 1507; *Singapore Printing Employees' Union* v. *The Straits Times Press* [1962] G.S. 2337; *Singapore Bank Employees' Union* v. *Mercantile Bank Ltd.* [1963] I. R.S. 1175.

69. *Ibid*., sections 9, 10, 11.

70. *Ibid.,* sections 36, 37.

71. *Ibid*., section 38.

72. *Ibid*., section 41.

73. *Ibid*., section 42.

74. *Ibid*., section 43.

75. *Ibid*., Part X, section 95.

76. *Ibid*., section 13.

77. *Ibid*., section 14.

78. *Ibid*., section 18.

79. *Ibid*., section 24.

80. Ministry of Labour, *Annual Report* (1966) at p. 17.

81. In this connection see also Regulation of Employment Act, 1965, *infra*., pp. 218-219.

Apart from the above the Act retains most of the provisions of the Ordinances it replaces. As before employers are required to be registered with the Commissioner of Labour and are obliged to make returns and other documentary requirements; comprehensive powers are given to the Commissioner of Labour to collect data on manpower in the Republic; enforcement of the Act is by the Labour Inspectorate; and the Labour Court similarly settles disputes arising under a contract of service or terms of the Act.

(b) *Social security*

We now turn to legislation on social security which, as will be gathered from the foregoing discussion, was incidentally touched on by the early immigration and labour legislation. These apart, the earliest measures on social security taken by the Colonial government of the Straits Settlements were for its own employees in the form of the Pensions Ordinance, 1871.[82] That Ordinance provided for the regulation of the granting of pensions, gratuities and other allowances. Together with some written and unwritten rules by which it was implemented by the Colonial Office,[83] it was placed on a more stable footing by the succeeding Pensions Ordinance, 1887.[84] The 1887 Ordinance was itself repealed and replaced together with the Pensions (Gratuities) Ordinance, 1926[85] and Pensions (Amendment) Ordinance, 1926[86] by the Pensions Ordinance, 1928.[87] The 1928 Ordinance was repealed by the present consolidating Pensions Ordinance, 1956.[88] The 1956 Ordinance abolished the then existing distinction between members of the public service of Singapore and those of the "Malayan Establishment." The benefits of the Ordinance cover only holders of "pensionable office" which is defined as any office or class of offices declared to be so by *Gazette* notice and such other offices which are pensionable under any written law or regulation.[89]

About the same time, in 1885, the Widows' and Orphans Ordinance[90] was enacted. It was consolidated together with amendments in 1901,[91] and with further subsequent amendments it provides for the granting of pensions to widows and children of deceased public officers of the government.

82. No. 1 of 1871.

83. See Objects and Reasons to Pensions Bill, *Straits Settlements Government Gazette,* 1887, p. 680.

84. No. 8 of 1887.

85. No. 1 of 1926.

86. No. 6 of 1926.

87. No. 22 of 1928.

88. No. 22 of 1956. See also Pensions (Validation of Payments) Ordinance, No 62 of 1960.

89. Pensions Ordinance, 1956, section 2.

90. No. 1 of 1885.

91. No. 5 of 1901, now as Cap. 61, *Revised Laws of Singapore,* 1955 *ed* and amended by No. 3 of 1958, No. 14 of 1958 and No. 6 of 1964.

Two other ordinances of similar character are, firstly, the Nurses' Retiring Allowances Ordinance[92] passed in 1929 which provided for the grant of retiring allowances to European matrons or nursing sisters who had served for a certain period and whose original appointments were through the Overseas Nursing Association. Secondly, the Pensions (War Service) Ordinance[93] passed in 1941. It extended the benefits of the Pensions Ordinance[94] to persons in "war service with His Majesty's Forces."

As noted, pensions and other allowances were provided for government employees, their widows and children since the 1870's. Those represented the only form of old age or retirement security legislatively available for a long while. It was not until 1953 that steps were taken to provide necessary similar security to all employees in the then Colony — whether they be in government service, statutory employment, commerce or industry. The Central Provident Fund Ordinance,[95] passed in 1953, introduced a compulsory scheme under which every employee[96] is liable to contribute a certain percentage of his monthly wages to the fund which accumulates with interest.[97] The employee is allowed to withdraw the sums thus credited to him on attaining the age of 55 years or in certain specified circumstances as earlier death, leaving "Malaya"[97a] for good, or physical or mental incapacity for further employment.[98] By a recent amendment, the contributor may be allowed to withdraw "all or part of the contributions and interest payable" for the purchase of houses or flats for personal occupation.[99] Until lately employees whose employers have already provided for comparable or better retirement benefits as approved by the Central Provident Fund Board and those who for legal or diplomatic reasons cannot be brought within its scope, were exempted. This has been amended and members of approved fund may be required to contribute on "such date as the Minister may, in any particular case" appoint.[100] Also, those in "employment, not being employment under a contract of service," self-employed persons and employees over the age of 55 years may be required to contribute.[101] The fund is administered by the Central Provident Fund Board which is a corporate body.[102]

92. No. 8 of 1929, now as Cap. 56, *Revised Laws of Singapore,* 1955 *ed.*

93. No. 42 of 1941, now as Cap. 57, *Revised Laws of Singapore,* 1955 *ed.*

94. No, 22 of 1928.

95. No. 34 of 1953, following the Employees' Provident Fund Ordinance No. 21 of 1951, Federation of Malaya. It was brought into operation later on 1st July, 1955, *vide* No. 15 of 1955, section 2. Amended by No. 4 of 1955, now as Cap. 150, *Revised Laws of Singapore,* 1955 *ed.* and further amended by No. 15 of 1955, No. 16 of 1957, No. 32 of 1963 and No. 25 of 1968.

96. Central Provident Fund Ordinance, Cap. 150 section 2 defines. Cases interpreting: *Bata Shoe Co. (M) Ltd.* v. *Employees Provident Fund Board* [1967] 1 M.L.J. 120 and *Employees' Provident Fund Board* v. *Bata Shoe Co. (M) Ltd.* [1968] 1 M.L.J. 236, F.C.

97. Currently at 5¼% *per annum Singapore Year Book,* 1966, at p. 356.

97a. See Central Provident Fund Ordinance, Cap. 150, section 12 and *Reddy* v. *Employees' Provident Fund* (1968) 2 M.L.J. 77.

98. *Ibid*., section 12.

99. Central Provident Fund (Amendment) Act No. 25 of 1968, section 14.

100. *Ibid*., section 11.

101. *Ibid*., sections 14 and 6.

102. Central Provident Fund Ordinance, 1955 section 4(7).

The most recent social security legislation is the Redundancy Payments Fund Act, 1968 [103] which was occasioned by the impending British pullout.[104] The Act generally causes redundancy payments to be paid into a Redundancy Payments Fund.[105] Sums thus paid and standing to the credit of the redundant worker will acquire interest,[106] and may be withdrawn in permitted amounts till the whole is exhausted or till two-thirds of the whole is exhausted in the case of a non-citizen redundant worker.[107] The citizen redundant worker may also withdraw sums for the purchase of immovable property, entering trade or any other activity as approved by the Director of the Fund.[108] Redundancy payments into the Fund are not taxable, transferable, attachable or assignable. The main aim of the measure is to conserve the "sizeable sums of redundancy payments" and to tide the entitled persons over a period of unemployment pending their retraining for new jobs.[109] The Act by its definition of "employees" practically covers all employees within the State. But its application is restricted to those workers directly affected by the withdrawal.[110]

Apart from the foregoing legislation there is at present in Singapore no comprehensive national schemes for unemployment, sickness and old age benefits as in England under the National Insurance Acts.

(c) *Workmen's Compensation*

Workmen's Compensation [111] was introduced in 1932 — some 7 years after the English Act.[112] The Ordinance covers "workmen" [113] and includes all contracts of service or apprenticeship whether by manual

103. No 2 of 1968, operative on 1st March, 1968, *vide* G.N. No. S. 60/1968.

104. Britain intends to vacate her armed, naval and air bases from Singapore by 1971. The withdrawal will result in the retrenchment of about 30,000 civilian employees of the Services and about 10,000 women and girls employed as domestic help to the services' families. *Singapore Parliamentary Debates,* 24th January, 1968.

105. Redundancy Payments Fund Act, 1968, section 6.

106. *Ibid*., section 4(3), at 5¼% *per annum.*

107. This is to relieve the State from having to provide for the repatriation of the unemployed redundant worker. *Explanatory Note* to Redundancy Payment Funds Bill No. 40/67.

108. Redundancy Payment Fund Act, 1968 section 10.

109. Singapore Parliamentary Debate, *op. cit*., note 126.

110. *Ibid*., and *vide* G.N. No. S. 60/1968.

111. Workmen's Compensation Ordinance No. 9 of 1932. Substituted by No. 31 of 1954; now as Cap. 157, *Revised Laws of Singapore,* 1955 *ed*. and as amended by No. 34 of 1957 and Companies Act, No. 42 of 1967.

112. Workmen's Compensation Act, 1925. In England, workmen compensation has been superceded by the National Insurance (Industrial Injuries) Act, 1946.

113. Workmen's Compensation Ordinance, Cap. 157, section 2 defines. Cases interpreting, see *Sammiyah* v. *Sakano* (1939) M.L.J. 20; *Extra Assistant Controller of Labour* v. *Adam Hajee* (1940) M.L.J. 1; *Commissioner for Labour* v. *Chop Chong Joo* (1953) M.L.J. 76; *Yu Mung Sang* v. *Lam Nyok* (1955) M.L.J. 238; *Tan Kooi Neoh* v. *Chuah Tye Imm* (1958) M.L.J. 123; *Soon Peng Siong* v. Sin *Yuh Miaw* (1960) M.L.J. 299; *Chai Ming* v. *Overseas Association Corporation Ltd.* (1962) M.L.J. 282.

labour or otherwise. With some exceptions, seamen are also included.[114] Persons drawing salaries exceeding $400 are excluded.[115] Others also excluded are those in employment of a casual nature, for games or recreation, domestic servants, members of the Armed Forces, civil servants with gratuity or pension benefits on death and police officers.[116] Compensation is for personal injuries caused by accidents arising out of and in the course of employment,[117] and for occupational diseases listed in the Second Schedule and which are contracted, at the least, within twelve months after leaving employment.[118] As with similar legislation elsewhere, common law defences of contributory negligence, assumption of risk and common employment are rendered inapplicable under the Ordinance.[119] The workman forfeits his right to compensation if he has instituted and is prosecuting a suit for damages or has recovered damages from his employer in respect of the same injury in any court.[120] Conversely, the workman cannot maintain a suit against his employer in any court if the workman has applied to the Commissioner of Labour to settle any question in respect of the injury or has arrived at an agreement with his employer and such agreement has been recorded.[121] Questions arising under the Ordinance are to be settled, in the first instance, by agreement between the workman, employer and Comminsioner of Labour.[122] Should they fail to agree then such question may be referred to an arbitrator.[123] The arbitrator may submit questions of law to be decided by a "judge".[124] There is no appeal to the High Court from a decision of the arbitrator,[125] except in cases where a "judge" certifies that it is in the public interest to have such "questions of law" determined by the High Court.[126]

114. *Ibid*., section 22.

115. *Ibid*., section 9.

116. *Ibid*., section 2.

117. *Ibid*., section 4. Cases interpreting the formula: *Raub Rubber Estates* v. *Controller of Labour* (1936) M.L.J. 93; *Wong Yew* v. *Shaik Sallim* (1936) M.L.J. 242; *Pillay* v. *Han Yang Plantations* (1938) M.L.J. 67; *Re Narasamah decd*. (1940) M.L.J. 18; *Sungei Salak Rubber* v. *Dy. Commissioner of Labour* (1949) M.L.J. 73; *Lee Cheng Lam* v. *Lam Wah Thin* (1954) M.L.J. 214; *Dy. Commissioner of Labour* v. *Sitiawan Transport Co.* (1951) M.L.J. 59; *Golden Hope Rubber Estate* v. *Nuniamah* [1965] 1 M.L.J. 5; *Kuppusamy* v. *Golden Hope Rubber Estate* [1965] 1 M.L.J. 178.

118. *Ibid*., section 5.

119. *Ibid*., section 4. The doctrine of common employment was abolished and the common law principles of contributory negligence was modified by the Contributory Negligence and Personal Injuries Ordinance, cap. 25, *Revised Laws of Singapore, 1955 ed.* Also, the rule in *Baker* v. *Bolton* [1952] 2 All E.R. 1101 was abolished by section 7, Civil Law Ordinance, cap. 24, *Revised Laws of Singapore, 1955 ed.*

120. *Ibid*., section 20.

121. *Ibid*., section 41. Limitation of workman's right of action. Cases *In re Low Leok* decd. (1936) M.L.J. 101; *Narayani Amma,* v. *Mohamed Din* (1959) M.L.J. 108; *Kahu Illias* v. *Vereenigde Nederandsche Scheepuaart Maatschappij* (1961) M.L.J. 275; *Low Swee Fong* v. *Gammon* (1962) M.L.J. 295; *Lee Yen & Ors.* v. *Kepong Mines* (1963) M.L.J. 396; *Chan Koi* v. *Wong Yit Chen* (1964) M.L.J. 441.

122. *Ibid*., section 27.

123. *Ibid*., section 30.

124. *Ibid*., section 38.

125. *Ibid*., section 39(1).

126. *Ibid*., section 39(2).

(d) *Safety, Health and Welfare*

As with social security, matters in respect of safety, health and welfare were also touched by the immigration and labour ordinances.[127] Special and separate safety legislation came with the beginnings of mechanization in the then Colony. The Machinery Ordinance[128] was passed in 1921. It provided for the inspection of boilers, engines and other machinery and the control, regulation and working of such machinery. There was however no provision relating to electric or portable machinery. In 1939 by the Protection of Workers Ordinance,[129] provision was made for protection against diseases and accidents of workers engaged in dangerous occupations.[130] It was however never made operative and together with the earlier Machinery Ordinance they were both substituted by a more up to date Factories Ordinance[131] in 1958. This Ordinance, as amended,[132] is the present law. By and large it seeks to conform with the safety recommendations of the International Labour Organization.[133] Its provisions also cover health and welfare of factory[134] workers. Enforcement is by the Factories Inspectorate. Breaches are offences subject to prosecution.[135]

The health and welfare of workers have been and still are cared for by the general public health and welfare services. Early specific health and welfare measures were taken by the omnibus immigration and labour ordinances already considered.[136] Also, the repealed Shop Assistants Employment Ordinance, 1957 had by section 55 required seats to be provided for shop assistants. Today, the Employment Act, 1968, provides by Part XV for health, accommodation and medical care of workmen, Part X for the employment of women and maternity protection, Part VIII for the employment of children[137] and young persons[138] and Part IX for the registration of children and young persons in industrial undertakings. The Children and Young Persons Ordinance, 1949[139]

127. *Ante,* p. 207.

128. Machinery Ordinance No. 20 of 1921.

129. No. 9 of 1939, later as Cap. 152, *Revised Laws of Singapore,* 1955 *ed.*

130. "Protection" in dangerous occupations. Cp. "compensation" under Workmen's Compensation Ordinance, Cap. 157 *ante,* p. 215.

131. No. 41 of 1958. Repealing also all rules and regulations previously made. Operative 1st June, 1960, *vide* G.N. No. S. 94/1960.

132. As amended by No. 49 of 1959, also operative on 1st June, 1960, *vide* G.N. No. S. 95/1960. See also Factories (Person in Charge) Regulations. 1960 and Factories (Certificate of Competency Examination) Regulations, 1960.

133. *Singapore Legislative Assembly Debates,* 1958, vol. 6 col. 352.

134. The Factories Ordinance, 1958, applies to "factory" defined very broadly and elaborately by section 6.

135. Factories Ordinance, 1958, Part XI.

136. *Ante,* p. 207 ff. See also the safety legislation which also touch on health, *supra.*

137. Below 12 years.

138. Between 12 and 16 years.

139. No. 18 of 1949, now as Cap. 128, *Revised Laws of Singapore,* 1955 *ed.* sections 9 and 10 being replaced by Labour Ordinance, 1955, Part VIII and later by Employment Act, 1968, Part VIII.

forbids children [140] from and regulates young persons [141] taking part in public entertainment promoted for profit. The Children and Young Persons Ordinance also repealed and replaced with revision the Mui Tsai Ordinance, 1932 [142] which had prohibited the requisition of *mui tsai* or female domestic servants after its commencement, and required registration and provided for the regulation of the female domestic servants the custody of whom had been acquired by purchase, gift, inheritance or pledge for the settlement of debt. Finally, the Seafarers' Welfare Board Ordinance, 1956,[143] set up a corporate Board to co-ordinate welfare facilities for the island's seamen and to administer the mercantile marine fund.[144]

(e) *Regulatory Legislation*

Three pieces of legislation which are of recent origin and largely regulatory in nature may be conveniently mentioned at this juncture. They are, firstly, the Seamen Registry Board Ordinance, 1957,[145] which provides for the registration of seamen by a statutory Seamen Registry Board. The Board takes the place of the former Seamen Registration Bureau set up in 1948 for the purpose of eradicating unscrupulous *ghaut serangs.*[146] Registration is also for the purpose of creating a balanced labour market for the shipping industry and continuity of employment for registered seamen.[147] Secondly, the Employment Agency Ordinance, 1958,[148] as its title suggests, regulates private employment agencies by *inter alia* requiring their licensing, keeping of registers and submitting monthly returns, in order to prevent and check exploitation, trafficking in women and girls and other abuses. These agencies are restricted to three classes, *viz.* (a) artistes, (b) specialised, professional and scientific services and (c) secretarial and clerical services.[149] Thirdly, the Regulation of Employment Act, 1965,[150] which introduced a "work permit

140. Below 12 years.

141. Between 12 and 17 years.

142. No. 5 of 1932, replacing the earlier Female Domestic Servants Ordinance No. 172.

143. No. 34 of 1956, repealing section 445(9) of the Merchant Shipping Ordinance, Cap. 207, *Revised Laws of Singapore,* 1955, *ed.*

144. Previously obliquely administered by the Singapore Mercantile Marine Fund Committee established under the Merchant Shipping Ordinance, Cap. 207.

145. No. 11 of 1957, repealing sections 39 to 42 inclusive of Merchant Shipping Ordinance, Cap. 207, *Revised Laws of Singapore,* 1955 *ed.* Amended by No. 66 of 1959 and No. 27 of 1963.

146. Agents licensed to supply seamen and who charge fees for their services.

147. *Singapore Legislative Assembly Debates,* 13th February, 1957, vol. 3, Part II, col. 1407 *et seq*.

148. No. 47 of 1958.

149. Minister of Labour, *Annual Report,* 1966 at p. 19. Other categories of employment are handled by the Labour Exchange run by the Ministry of Labour, now brought within statutory authority by the Employment Act, 1968, Part XI, *supra,* p. 212.

150. No. 12 of 1965, operative on 1st February, 1966, *vide* G.N. No. S. 8/1966.

system" [151] for the effective regulation of non-citizens in employment.[152] Though the Act is so worded that provisionally it covers all employees within the Republic, it is made in effect to apply to non-citizens only and whose basic salary is less than seven hundred and fifty dollars per month.[153] Work permits are issued by the Commissioner of Labour who has power also to cancel and suspend.[154] Work permits which are renewable yearly are a *sine qua non* for employment,[155] and they are not transferable.[156] Termination of employment in consequence of withdrawal of work permits are not to be the subject of arbitration.[157]

(f) *Collectivity and Arbitration*

We turn to legislation on labour organization, collective bargaining, negotiation and arbitration. The earliest law passed on labour organization was the Societies Ordinance, 1889.[158] The purpose was to eradicate the influence of the Triad Societies[159] rather than to regulate trade unions or to provide the necessary legal framework for the growth of the movement.[160] Workers' guilds, mutual benefit societies, clubs and associations were registered under the Ordinance. Workers' guilds were akin to the English craft guilds. They settled rates of wages, hours of work and provided benefits. Mutual benefit societies, clubs and associations were originally more social than industrial in function. By the 1920's they, however, assumed a more industrial role and took active

151. Enforced jointly with "entry permit", "professional entry pass" and licence (for hawkering, vehicles) requirements.

152. "We cannot allow non-citizens without skill to impose themselves on our education, medical, housing and other social facilities and amenities" — Mr. Jek Yuen Thong, Minister for Labour, speech introducing the Regulation of Employment Bill. *Singapore Parliamentary Debates,* 22nd December, 1965, vol. 24, col. 478, *et seq.*

153. The figure, though a matter of administrative conveniences, is aimed to take its toll on unskilled labour.

154. Regulation of Employment Act, 1966, section 5.

155. *Ibid.*, section 8.

156. *Ibid.*, section 10.

157. *Ibid.*, section 7(3).

158. No. 1 of 1889, replaced later by No. 20 of 1909, the Preamble of which read: "Whereas great danger has arisen from the existence of societies having among their objects and purposes incompatible with the peace and good order of the Colony and it is expedient to provide against such danger and to amend the law relating to societies."

159. Chinese secret societies which conduct hooligan activities. See Comber, L.F., *Chinese Secret Societies in Malaya: A Survey of the Triad Society from 1800-1900* (1959).

160. Siddiqi, Z.M.S., *The Registration and Deregistration of Trade Unions in Singapore* (unpublished thesis of the University of Singapore, 1968), Chapter One, "Historical Perspective . . . ."

part in improving conditions of employment.[161] Unregistered societies were rendered illegal.[162] It was not until the outbreak of the Second World War that a proper Trade Unions Ordinance[163] was enacted in 1940. The measure was prompted by a spate of serious strikes [164] "which demonstrated the necessity of organising the relations of employers and workmen." [165] There was "extreme difficulty in getting in touch with the strikers, in finding responsible leaders amongst them who had authority to negotiate on behalf of the strikers and in formulating exactly what the case of the strikers was." [165] The seriousness of such stoppages was aggravated by the emergency of the world war. The Ordinance, which was modelled after the Ceylon Ordinance of 1936, set up the machinery for the compulsory registration [166] and regulation of associations of both employers and employees, and conferred the usual benefits of capacity and immunities on registered trade associations. This Ordinance as amended from time to time is still the present law on union organisation.[167]

Following the Trade Unions Ordinance were the Industrial Courts Ordinance[168] and the Trade Disputes Ordinance.[169] The Industrial Courts Ordinance was to provide peaceful means for the resolving of trade disputes. It followed the English Industrial Courts Act, 1919, and set up a standing Industrial Court to which trade disputes could be referred by the Controller of Labour [170] with the consent of parties for arbitration. The Industrial Court consisted of some independent persons, some representatives of employers and some representatives of employees, — all of whom were appointed by the Governor.[171] A President was appointed from amongst the independent persons. For the purposes of dealing with any trade dispute the Court was constituted of such mem-

161. These organizations were mainly Chinese. The Indians who had the benefit of protection by Government legislation, *ante,* pp. 208, 213 did not organize themselves till the 1930's, and were more important in Peninsular Malaya where they were and are still the strongest in the plantations. See S.S. Awberry & F.W. Dalley, *A Report on Trade Union Organization in the Federation of Malaya and Singapore, 1948;* International Labour Office, *Report on the Trade Union Situation in the Federation of Malaya,* 1962; and following works: *Gaude, Origins of Trade Unionism in Malaya* (1962); Alex Josey, *Trade Unionism in Malaya* (1958).

162. Societies Ordinance, 1889, section 6(1) & (2).

163. No. 3 of 1940, made operative only in May, 1946, because of the Japanese War and Occupation. Colony of Singapore *Annual Reports,* 1964, pp. 43 44.

164. Incited chiefly the Malayan Communist Party formed in 1928.

165. *Proceedings of the Legislative Council, Straits Settlements,* 1939, p. B141.

166. Trade Unions Ordinance, 1940, section 8.

167. Now as R.S.(A) No. 28 of 1966, and as amended by No. 24 of 1966, operative August 25, 1966, *vide* G.N. No. S177/1966, and by No. 8 of 1967, operative June 2, 1967, *vide* G.N. No. S107/1967.

168. No. 4 of 1940.

169. No. 49 of 1941.

170. Later, as the Commissioner of Labour.

171. Industrial Courts Ordinance, 1940, section 3(1). Later, by the Minister of Labour.

bers as the President might direct.[172] Willing parties could also have their trade disputes referred to arbitration by one or more persons appointed by the Controller of Labour,[173] or by a board of arbitration consisting of one or more persons nominated by the employers and an equal number of persons nominated by the employees, and an independent chairman appointed by the Governor.[174] Arbitration in the above three ways was voluntary. It was further subjected to the condition that if there existed "in any trade or industry any arrangements for settlement by conciliation or arbitration" the trade dispute could not be referred for arbitration under the Ordinance "unless with the consent of both parties . . . and unless and until there has been a failure to obtain settlement by means of those arrangements." [175] The Ordinance did not provide for "binding effects" of awards. Observance of awards was a matter of consent and agreement. There was also no provision relating to collective agreements. Collective bargaining and agreements existed outside, indeed, without, any legal framework.

The Industrial Courts Ordinance also provided for the appointment by the Governor of Courts of Inquiry to inquire into the causes and circumstances of particular trade disputes.[176] A Court of Inquiry consisted of a chairman and such other persons as the Governor might appoint. The Court reported to the Governor. Reports were required to be laid before the then Legislative Council "as soon as possible." [177]

The Trade Disputes Ordinance was to provide for legitimate means of prosecuting trade disputes. It defined the legality and illegality of strikes, lockouts, and industrial torts and crimes of intimidation, picketing and conspiracy. A strike or lockout is illegal when it is not in furtherance of a trade dispute or the trade dispute is before the Industrial Arbitration Court or is designed to coerce the government.[178] A strike in consequence of an illegal lockout or *vice versa,* is legal.[179] Penalties are prescribed for perpetrating or instigating or financing an illegal strike or lockout.[180] Intimidation or picketing is criminal where the

172. *Ibid*., section 3(3).

173. *Ibid*., section 4(2), (6).

174. *Ibid*., section 4(2) (c).

175. *Ibid*., section 4(4).

176. *Ibid*., section 6. An example of such a Court of Inquiry was that appointed to inquire into a dispute between the Singapore Traction Co. Ltd. and its employees in 1955. See *Singapore Legislative Assembly Sessional Paper* No. S.L. 10 of 1956.

177. *Ibid*., section 7(2).

178. Trade Disputes Ordinance, 1940, section 3.

179. *Ibid*., section 3A.

180. *Ibid*., section 3B.

acts committed fall within any of specified categories.[181] Conspiracy is criminal or actionable where the means used is a crime or civil wrong.[182] Wilful or malicious breach of contract of service resulting in danger to human life or limb or valuable property is also penalised.[183] This Ordinance as amended from time to time is still the law and main instrument for legislative government of industrial conflict.[184,185] To it was added in 1955 the Criminal Law (Temporary Provisions) Ordinance, Part V, which was a general emergency measure [186] brought about to cope with the maintenance of public order and security and to check subversive activities of the Malayan Communist Party.[187] Part V of the Ordinance deals with the prevention of sudden strikes and lockouts in essential services. Essential services as defined under Part I of Sixth Schedule are obliged to give at least 14 days notice before a strike or lockout.[188] The purpose was to blunt the sharpness of the strike weapon and to allow efforts of conciliation to be made during the mandatory period of notice.[189] By a recent amendment, however, strikes and lockouts in the water, gas and electricity services are absolutely prohibited.[189a]

The Trade Unions, Industrial Courts and Trade Disputes Ordinances were complementary one to another. The trio were the first legislative steps towards the promotion and control of modern industrial relations. They were passed following a changed colonial policy — the recognition

181. *Ibid*., section 4 for criminal intimidation and section 5 for criminal picketing. For civil intimidation, one has to fall on to common law, as set out in *Rookes* v. *Barnard* [1964] A.C. 1129, unless the Singapore Courts choose not to follow it. The English Trade Disputes Act, 1965, is inapplicable to Singapore for reason given under sub-head "English Law if 1826," *ante* p. 204 ff. .For a discussion of *Rookes*' case in Australia, see *Australian Consolidated Press, Ltd.* v. *Uren* [1967] 3 All E.R. 523, P.C. For civil liability of picketing one has to fall onto common law again. See *Gleneagles Hotel Ltd.* v. *Wong Tue Whee & 38 Ors.* (1958) M.L.J. 37; *Nadchitiram Realities (1960) Ltd.* v. *Raman & Ors.* [1965] 2 M.L.J. 263.

182. *Ibid*., section 10. As with English Trade Disputes Act, 1906, criminal liability attaches only if act committed by one person is "punishable as a crime," and civil liability attaches if act committed by one person "would be actionable."

183. *Ibid*., section 6.

184. Now as Cap. 153, *Revised Laws of Singapore,* 1955 *ed*., as amended by No. 19 of 1960.

185. For civil liability of wrongfully inducing breach of contract, interference with trade business or employment or right to dispose capital or labour, see section 23 of Trade Unions Ordinance, 1940, which is in substance the same as section 3 of the English Trade Disputes Act, 1906.

186. The Ordinance was, as its title indicated, "Temporary". By secton 2 it was operative for 3 years *w.e.f.* October 21, 1955. Its operation was extended from 3 to 4 years by section 2 of No. 38 of 1958, and from 4 to 9 years by section 2 of No. 56 of 1959, and from 9 to 14 years by the Federation of Malaysia Act No. 22 of 1964. It is thus due to expire in 1969.

187. The Malayan Communist Party went underground in 1948.

188. Criminal Law (Temporary Provisions) Ordinance, 1955, Part V, section 23.

189. *Singapore Legislative Assembly Debates, Official Reports,* 1955, col. 763.

189a. Criminal Law (Temporary Provisions) (Amendment) Act, No. 4 of 1967, *w.e.f.* April 3, 1967, *vide* G.N. No. S69/1967.

of legitimate labour collectivity, the desire to bring it under control so as to prevent "wasteful strikes" and satisfy genuine industrial grievances, and to eradicate the cancerous growth of communist activities from the labour movement.[190] Modern trade unionism and industrial relations in Singapore are of recent growth. They were in their "embryo stage" [191] at the time of introduction of these institutionalising, machinery-providing and regulatory legislation. However, steady development of those hopeful beginnings was prevented by the Japanese occupation and its repressive rule between 1942 and 1945.[192] Significant and rapid developments came with the restoration of civil government in 1946, to be marred by communist infiltration, subversion and acts of lawlessness resulting from a sense of new found freedom.[193] To these three Ordinances was added in 1953 the Wages Council Ordinance.[194] The Wages Council Ordinance, modelled after the English Wages Council Act, 1943, introduced compulsory minimum wage fixing machinery in the form of wage councils in industries where there was inadequate negotiating machinery or wages were low either in the opinion of the Minister of Labour [195] or as reported by a Commission of Inquiry.[196] Joint industrial councils of workers and employers might make voluntary application fo wage councils to be set up.[197] A wage council consisted of an equal number of workers' and employers' representatives with not more than three independent persons one of whom was to be appointed chairman.[198] The wage council, after necessary investigation would submit proposals to the Minister concerning remuneration, holidays and other conditions of employment.[199] The Minister would then make a wages negotiation

190. Fabian Society, *Labour in the Colonies,* Research series No. 61 (1942); Gamba, *The Origins of Trade Unionism in Malaya, op. cit*., chapter V.

191. Orde Browne, *Labour Conditions in Ceylon, Mauritius, and Malaya.* A Report presented to British Parliament — March 31st, 1942, p. 109, para. 83.

192. Singapore was under Japanese Occupation from February 12, 1942 to September 5, 1945 when the British Military Administration took over till March 31, 1946. By an Order in Council of March 27, 1946, Singapore was established a separate Crown Colony. Civil government was restored on April 1, 1946. *Singapore Year Book, 1966,* Chapter Two, "History", pp. 41, 42. For general effects of this period see S.S. Awberry and F.W. Dalley, *op. cit*., "The Japanese Occupation and the British Military Administration Period," pp. 22-25; International Labour Office, *The Trade Union Situation in the Federation of Malaya, op. dt*., "The Japanese Occupation and Post-War Developments" pp. 29-33.

193. S.S. Awberry and F.W. Dalley, *op. cit*., p. 22, para. 90. Between late 1945 and 1947 was a period of acute labour unrest which was due also to the general economic depressions of the time. See Colony of Singapore, *Annual Reports, 1946,* pp. 14, 15, 43 to 46 and Labour Department, *Annual Report, 1947.* "Industrial Disputes" pp. 39 to 44 and statistical tables on strikes, pp. 65 to 69. See also Gamba, *The Origins of Trade Unionism in Malaya, op. cit*., Chapter VI, "Labour Unrest in Singapore."

194. No. 11 of 1953. Repealed by No. 20 of 1960.

195. Wages Council Ordinance, 1952, section 3.

196. *Ibid*., section 5.

197. *Ibid*., section 4.

198. *Ibid*., section 9 and First Schedule.

199. *Ibid*., section 14(1) & (2).

order giving effect to the proposals.[200] The Ordinance was contemplated as early as 1947 but no step was taken for fear that the wage councils might unintendedly take the place of existing voluntary negotiations.[201] The Ordinance when introduced, thus carried within itself safeguard provisions aimed at securing for wage councils a supplementary role to the voluntary system under the Industrial Courts Ordinance.[202]

4. *The Industrial Relations Ordinance, 1960*

The Industrial Courts and Wages Councils Ordinances have however been replaced by a more effective negotiation, conciliation and arbitration machinery under the Industrial Relations Ordinance, 1960.[203] This Ordinance marks the first radical and so far most significant breakaway by the ex-Colony from the British system of industrial relations. The legislation was modelled after the Industrial Arbitration Acts, 1912-1952 of the State of Western Australia[204] which was the first Australian State to experiment with compulsory arbitration. It brought the whole of industrial relations in Singapore within a legal framework,[205] unlike as in Britain where the conduct of industrial relations is largely extra-legal.[206] Through its various provisions, the State is given a firm hand over the whole course of the labour relations — from the initial determination of the parties to the bargaining relationship[207] to the settlement of terms and conditions of the relationship[208] and the enforcement of

200. *Ibid*., section 14(3) to (7).

201. *Proceedings of the Second Legislative Council, Colony of Singapore,* 1952, p. B189.

202. Wages Council Ordinance, 1953, section 8.

203. No. 20 of 1960. Operative on September 15, 1960 *vide* G.N. No. S 220/60. Amended by No. 25 of 1962 and No. 27 of 1965. Now as R.S.(A) No. 10 of 1966, whereby No. 20 of 1960 is complied with amendments and its sections renumbered, *w.e.f.* March 2, 1966. Further amended by No. 22 of 1968 *w.e.f.* August 15, 1968.

204. *See Singapore Printing Employees' Union* v. *Straits Times Press (M) Ltd.* [1962] 6 G.S. 2337 at 2348. The Western Australian legislation was not taken in its entirety. It was modified to suit the political, social and economic background of Singapore. Paul L. Kleinsorge, "Singapore's Industrial Arbitation Court: Collective Bargaining with Compulsory Arbitration" (1964) vol. 17 No. 4 *Industrial and Labour Relations Review* 551 at 552; Gamba, "Industrial Arbitration in the State of Singapore" (1963) vol. 5 No. 2 *Journal of Industrial Relations* P. 83 at p. 84.

205. See Donald J.M. Brown, "Regulation and Administration of Industrial Relationships in Singapore" as Chapter VIII in W. Ellison Chalmers, *Crucial Issues in Industrial Relations in Singapore* (1967); Donald J.M. Brown, "Initiation of Collective Bargaining under the Singapore Industrial Relations Ordinance" (1966) vol. 8 No. 2 Mal.L.R. P. 292.

206. See generally, O. Kahn-Freund, "Legal Framework" as Chapter II in A. Flanders and H.A. Clegg, *The System of Industrial Relations in Great Britain* (1956), and O. Kahn-Freund (ed.), *Labour Relations and the Law: A Comparative Study,* Part One, I, "Report on the Legal Status of Collective Bargaining and Collective Agreements in Great Britain."

207. Industrial Relations Ordinance 1960, section 16 and Industrial Relations (Recognition of a Trade Union of Employees) Regulations, 1966.

208. By certified collective agreements or awards of the Industrial Arbitration Court or rulings of referees.

them.[209] State control through the Ministry of Labour[210] and the Industrial Arbitration Court has replaced the former *laissez-faire* policy.

The immediate problems for which the Ordinance was meant to provide a substantial solution [211] were the ending of the then acute labour unrest which broke out in strikes, demonstrations, riots and police activity,[212] and the establishment of industrial peace (necessary for industrial expansion and the preservation of Singapore's *entrepot* trade), the development of democratically run trade unions and the implementation of a socialist programme of a fairer distribution of the wealth which labour helps to create.[213] The legal means to those ends were a regulated three-fold process of collective bargaining, conciliation and arbitration. The mainstay of the Ordinance is voluntary collective bargaining resulting in "freely negotiated industrial agreements" and the mutual observance of these agreements which is the best form of regulation for this segment of human relations.[214] The duty certified agreement[215] forms a kind of private legislative code [216] for the parties and persons covered.[217] Con-

209. Industrial Relations Ordinance, 1960, section 54.

210. By the Industrial Relations (Amendment) Act No. 22 of 1968, amending section 34 of the Industrial Relations Ordinance, 1960, the Minister of Labour is given power to decide in "unjust" dismissal cases.

211. "The Ordinance is not meant to be a panacea for all trade ills" — Tan Boon Chiang, "Industrial Arbitration in Singapore" [1966] 2 M.L.J. iii.

212. Reaching height between 1955 and 1957. See Labour Department, *Annual Reports* 1954 to 1963, Tables XIV and XV on strikes and industrial stoppages. Labour unrest again broke out in 1961 with the split in the leadership of the Trade Union Congress and the formation of the leftist Singapore Association of Trade Unions (SATU). See Labour Department, *Annual Report* 1961 "General Review", p. 2. Work stoppages have since simmered down to negligible figures. Industrial peace reigns. Ministry of Labour, *Annual Reports* 1964-66, II "General Review", and Tables XIV, XIVA and XV; The President of the Industrial Arbitration Court, *Annual Reports,* 1961 to 1967, "IV Achievement of objects."

213. "There are two principal objectives which this Bill seeks to achieve. First, that the workers receive their fair share of the fruits which their labour helps to create. Second, that it should establish conditions which are conducive to industrial expansion" *Lee Kuan Yew,* Prime Minister, *Singapore Legislative Assembly Debates,* 1960, vol. 12 at col. 190.

214. *Singapore legislative Assembly Debates,* 1960, vol. 12, col. 150.

215. Industrial Relations Ordinance, 1960, section 24.

216. *Ibid*., section 25. "[O]nce an award has been made by the Court following a trade dispute or following certification of a mutual collective agreement, such an award confers rights and obligations on the employees of the firm who are members of the union which enters into the collective agreement on their behalf. The terms of the award become irretrievably incorporated in each individual employee's contract of service and indeed the terms of such award become part of his contractual rights and obligations *vis-a-vis* his employer subject to the fact that the terms of the award will lapse. . ." *"Lindeteves-Jacoberg (Far East) Ltd. Case,* I.A.C. No. 17 of 1963 (1964) I.R. S. 1113, at p. 1117. See generally, O. Kahn-Freund, ed., *Labour Relations and the Law, op.cit*., "Collective Agreement as a legally Binding Code (normative effect)," at pp. 28 to 34.

217. Industrial Relations Ordinance, 1960, section 25.

ciliation is to assist the negotiations.[218] Where parties find difficulties, conciliation can sometimes be made compulsory.[219]

Arbitration by a tripartite Industrial Arbitration Court [220] comes in as the final resort to resolve deadlock. Arbitration can be voluntary when both parties make joint request or compulsory where the Minister of Labour by Gazette notice so directs or where the President of the Republic so declares.[221] In so far as the Ordinance introduced compulsory arbitration it introduced a novelty.[222] It was thought of as early as 1948 but its imposition was not recommended.[223] It appears to have been contemplated by the preceding Lim Yew Hock government.[224] When it was introduced in 1960 both Government and Opposition were in "complete agreement with the principle involved.[225] There was no debate as to its desirability unlike in Australia where desirability was a major issue in discussions of comparable Bills.[226] Compulsory arbitration when imposed takes away the liberty of direct action. But it substitutes "the law of the jungle" with the rule of law. Also, it avoids loss otherwise caused by dislocation of production, ensures continuity of employment whilst it takes cognizance and resolves deadlocks, and generally safeguards against economic disorder in the State.[227] The culmination of the arbitrational process is the handing down of an award[228] which binds the parties and forms a kind of official legislative code.[229] In addition the award may spell out principles rationalising it,[230] and clarify matters of

218. *Ibid*., sections 19 and 20.

219. *Ibid*., section 22.

220. *Ibid*., Part II, sections 3 to 15 establishes the Court and defines its constitution and qualifications immunity, appointment and removal of members. Part VI, sections 58 to 71, governs the procedure and powers of the Court. For procedure and forms see also Industrial Relations Regulations, 1960 and Industrial Relations (Referee Appeal) Regulations, 1966.

221. *Ibid*., section 30.

222. *Singapore Legislative Assembly Debates,* 1960, vol. 12, cols. 151, 189, 190.

223. S.S. Awberry & F.W. Dalley, *op.cit*., p. 42, para 164(8),

224. *Singapore Legislative Assembly Debates,* 1960, vol. 12, (speech by Lim Yew Hock (Cairnhill), col. 156.

225. *Ibid*., col. 229.

226. For example New South Wales Trades Disputes Conciliation and Arbitration Bill in *N.S.W. Parliamentary Debates,* 1892. And see K.F. Walker, *Industrial Relations in Australia* (1956) pp. 6-12.

227. *K.M. Byrne,* Minister for Law and Labour, Speech introducing Bill on Second Reading. *Singapore Legislative Assembly Debates,* 1960, cols. 140 to 156.

228. Industrial Relations Ordinance, 1960, Part V.

229. "[The Court's] arbitral decision prescribes a continuous rule of conduct for the parties in respect of contracts of employment, a rule which, independently of any existing legal relationship between them, in effect ordains they cannot make these contracts except within the limits prescribed. This rule is intended to operate chiefly upon facts that have not yet arisen and amid circumstances that may in future change greatly in character. An award of this Court is therefore an ordinance rather than a judgment. . ." *Railways Case* 30, Commonwealth Arbitration Reports at p. 767.

230. Ooi Kheh Kheong, *Guidelines used in Singapore's Industrial Arbitration Court,* 1960 to December 1965 (an academic exercise presented to the Department of Economics, University of Singapore, 1966).

practice and of law.[231] Though an award is not binding on the Court as it avowedly does not adhere to the "doctrine of precedent," [232] yet the collection of awards of the Court would upon analysis form an intelligible and coherent body of "case law." [233]

> "The Court wishes to make public to industrial parties the following unanimously agreed views: (a) the Court refers now to the general principles which, from time to time, it may consider advisable to incorporate into its awards, (b) such principles are expected to form a body of precedent, which may be of guidance in future cases to both parties to an industrial dispute; (c) such principles are incorporated into awards after lengthy and careful consideration and are, usually, unanimously agreed by the full Court; (d) the Court disapproves of attempts to by-pass or amend any principles thus laid down unless such substantially changed circumstances or facts exist as to demand amendment in the interests of justice or equity."[234]

This agglomeration of principles of arbitrational awards though not law in the sense of sanctioned promulgations, is the *de facto* government of those areas of labour relations which it covers.[235] When translated into an award it overrides the common law.[236]

Collective bargaining, conciliation and arbitration is the three-fold formulae that the Ordinance provides for the orderly and expeditious settlement of issues drawn by the countervailing forces in the Singapore industrial society. Resolution of differences for industrial peace is not the sole aim of the Ordinance. The formulae was also intended by the framers to be an instrument of social justice. "Industrial peace with justice" was a cry heard most often during the debate on the Bill.[237] The Ordinance now in its eighth year of operation has given the workers

231. Examples abound. Suffice here awards on 'strike': (a) circumstances in which the I.A.C. would grant strike pay — *Singapore Business Houses Employees' Union* v. *Guthrie & Co. Ltd.* [1962] G S. *Mercantile Bank Ltd.* v. *Singapore Bank Employees' Union* [1957] I.R.S. 1707; [1966] 1 M.L.J. xli. (b) Legality of dismissing striking employees — *Gian Singh Co. Ltd.* [1964] 1 R.S. 2087.

232. *Mercantile Bank Ltd.* v. *Singapore Bank Employees' Union* [1967] 1 M.L.J. xli.

233. The awards of the Singapore Industrial Arbitration Court were published in the government gazette supplement from 1960 to 1962, thence in the current government industrial relations supplement. Some awards are also published in the *Malayan Law Journal.*

234. *Singapore Printing Employees' Union* v. *Straits Times Press (M) Ltd.* [1964] I.R.S. 993 at p. 995.

235. There is at present no certified figure. But it is estimated that awards and collective agreements cover about 100,000 persons. See President of the Industrial Arbitration Court, *Annual Report,* 1966, Tables 5 and 13.

236. Awards because of the authority of statute *i.e.* the Industrial Relations Ordinance, *op. cit.*, overrides the common law and equity, *e.g.* the order of reinstatement of dismissed employee which is not available and indeed contrary to the basic principle of equity that it would not grant specific performance in personal contacts. See section 40 of Industrial Relations Ordinance, 1960, and *Re Champion Motors (M) Ltd.* [1965] I.R.S. 1219 at p. 1223. But an award cannot "derogate from any right or privilege which an employee has under the provisions of *any written law"* — section 36, Industrial Relations Ordinance, 1960.

237. *Singapore Legislative Assembly Debates,* 1960, vol. 12, cols. 149-202, 221-293 294-310, 313-344.

a larger share of the social pie than before.[238] Further, it has also given the workers some share in management matters which was formerly an absolute prerogative of the employer.[239] The Ordinance has in other words introduced a form of industrial democracy.

Official settlements of partisan demands must be related to the wider interest of the industry and the economy of the state.[240] The awards of the Industrial Arbitration Court are in this sense instruments of economic regulation.[241] What exactly is 'public interest' is a matter for the court to interpret.

Part VII of the Ordinance makes provision for the appointment of Boards of Inquiry to inquire into matters which "would not otherwise be satisfactorily regulated by collective agreements or awards," [242] and make reports to the Singapore Parliament.[243] Part VIII provides miscellaneously against persons not observing awards,[244] actions by employers prejudicial to employees' collectivities [245] and *vice versa*[246] and penalties to be imposed by the Criminal District Court.[247] Section 79(3) confers on the Criminal District Court the 'civil' power to reinstate an employee dismissed for legitimate trade union activities and to order the employer to pay appropriate wages lost by the employee.

In these various ways the Ordinance introduces a new order[248] in Singapore labour law, relations and practice. However, the Ordinance has been lately amended and a series of restrictions have been imposed on the bargaining power of unions was well as the power of the Court to award on management matters and fringe benefits. The Industrial Relations (Amendment) Act, 1968 makes promotion, transfer, employment in event of vacancy, termination by reason or redundancy or reorganization, dismissal without just cause (except where involving contravention of section 79 of the Ordinance) and assignment of duties — as

238. See generally W.E. Chalmers, *Crucial Issues in Singapore, op. cit.*, especially Text Charts I and II at pp. 127, 128 and Appendix Charts and Tables, pp. 198 to 240. But see now restrictions on fringe benefits by Employment Act, 1968, supra, pp. 210 ff.

239. *Ibid.*, Chapter IV, "Shared Authority" pp. 37 to 53. But see now Industrial Relations (Amendment) Act, 1968.

240. Industrial Relations Ordinance, 1960, section 33.

241. J.T. Dunlop, *Industrial Relations Systems* (1958), pp.3 to 7.

242. Industrial Relations Ordinance, 1960, section 72(2). Cp. Courts of Inquiry under the Industrial Courts Ordinance, 1940, *supra,* p. 65. Two Boards of Inquiry have been appointed so far, *vide* G.N. No. 43/1963 ant G.N. No. 59/63.

243. *Ibid.*, section 75.

244. *Ibid.*, section 76.

245. *Ibid.*, sections 77, 78, 79.

246. *Ibid.*, section 80.

247. *Ibid.*, section 82 in addition allows a Magistrate's Court to impose a penalty upon conviction of offence where no penalty is provided by the Ordinance.

248. See generally H.B. Higgins, *A New Province for Law and Order* (Sydney, 1922).

not negotiable.[249] By the same token, the items mentioned are not arbitrable. Collective agreements in industrial undertakings as defined or in undertakings as approved by the Minister of Labour, cannot have terms more favourable than Part IV of the Employment Act, 1968, unless otherwise permitted by the Minister of Labour.[250] The Employment Act, 1968 places several restrictions on fringe benefits which has been dealt with earlier.[251] These restrictive measures were introduced as part of the government's effort to attract foreign capital to invest in Singapore. Apart from these legislative limitations the Industrial Relations Ordinance continues to develop a new province for law and order.

I. L. O. Conventions

In order to complete this survey, mention must be made of the International Labour Conventions adopted by the Republic. Twenty-two conventions were ratified together by Singapore after separation from Malaysia, on 25th October, 1965.[252] The ratified conventions have no force of law, unless given such force by or until incorporated into an Act of Parliament. They provide minimum standards against which labour laws and practice can be adjudged. Non-compliance by legislation would open the government to censures within the I.L.O. upon a proper complaint made.[253] The following is a complete list of the conventions: No. 5 Minimum Age (Industry), 1919; No. 7 Minimum Age (Sea), 1920; No. 8 Unemployment Indemnity (Shipwreck), 1920; No. 11 Right of Association (Agriculture), 1921; No. 12 Workmen's Compensation (Agriculture), 1921; No. 15 Minimum Age (Trimmers & Stockers), 1921; No. 16 Medical Examination of Young Persons (Sea), 1921; No. 19 Equality of Treatment (Accident Compensation), 1925; No. 22 Seamen's Articles of Agreement, 1926; No. 29 Forced Labour, 1930; No. 32 Protection against Accidents (Dockers (Revised)), 1932; No. 45 Underground Work (Women), 1935; No. 50 Recruiting of Indigenous Workers, 1936; No. 64 Contracts of Employment (Indigenous Workers), 1947; No. 65 Penal Sanctions (Indigenous Workers), 1939; No. 81 Labour Inspection, 1947; No. 86 Contracts of Employment (Indigenous Workers), 1947; No. 94 Labour Clauses (Public Contracts), 1949; No. 105 Abolition of Forced Labour, 1957.[254]

TAN PHENG THENG*

249. Industrial Relations (Amendment) Act, No. 22 of 1968 amending section 17, *w.e.f.* August 15, 1968.

250. *Ibid*., adding a new section 24A, *w.e.f.* August 15, 1968.

251. *Supra* pp. 210 ff.

252. *International Labour Conventions, Chart of Ratifications,* 1st January, 1967.

253. Constitution of the International Labour Organization, 1955 *ed*., Articles 24 to 34.

254. Complied from International Labour Organization, *Conventions and Recommendations, 1919-1966* (1966) Geneva, and as confirmed by the Ministry of Labour, Singapore.

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