ADMINISTRATIVE PROCEDURE FOLLOWED IN CONCILIATION PROCEEDINGS UNDER THE INDUSTRIAL DISPUTES ACT, 1947.

The central and state Industrial Disputes Acts.

The subject-matter of trade union, industrial and labour disputes was in the Concurrent Legislative List under the Government of India Act, 1935, [1] and it remains in that list under the Constitution of India, 1950. [2] Therefore, both the Parliament and the state legislatures are empowered to enact laws with respect to trade unions and industrial and labour disputes.

The Federal Legislature (as it was then called), in exercise of the powers conferred by Sec. 100(2), [3] of the Government of India Act, 1935, enacted the Industrial Disputes Act which came into force on April 1, 1947. Since then some of the states have passed special Acts on their own authority, to make good what was, according to them lacking or not suitable to those states in the central legislation. For example, the State of Bombay enacted the Bombay Industrial Relations Act, 1946, which came into force on April 15, 1947. The Central Provinces and Berar (now known as Madhya Pradesh) passed the Central Provinces and Berar (Industrial Disputes Settlement Act), 1947. The United Provinces (now Uttar Pradesh) passed the U.P. Industrial Disputes Act, December, 1947. Some States like Madras, Mysore, Punjab, Rajasthan, Bihar and West Bengal have amended the central Industrial Disputes Act, 1947, in its application to those States. [4] In some other states the central Act alone applies. [5] The State of Jammu & Kashmir has a separate Industrial Disputes Act.

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1. Entry 29, List III, Seventh Schedule.
2. Entry 22, List III, „ „
3. Section 100(2), The Government of India Act, 1935, is as follows:
   "Notwithstanding anything in the next succeeding sub-section, the Federal Legislature, and, subject to the preceding sub-section, a Provincial Legislature also, have power to make laws with respect to any of the matters enumerated in List III in the said schedule (hereinafter called the Concurrent Legislative List).
4. The Industrial Disputes (Madras Amendment) Act, 1949.
   The Industrial Disputes (Mysore Amendment) Act, 1953.
   The Industrial Disputes (Rajasthan Amendment) Act, 1958.
   The Industrial Disputes (Bihar Amendment) Act, 1957.
   The Industrial Disputes (Punjab Amendment) Act, 1957.
   The Industrial Disputes (West Bengal Amendment) Act, 1958.
5. Kerala, Assam, Andhra and Orissa.
   The Central Industrial Disputes Act, 1947, and the other state Industrial Disputes Acts which came into force before the Constitution of India are preserved by Article 372(1) of the Constitution.

Since the main aim of the Industrial Disputes Acts of various states was to provide measures most suitable in each state for the settlement of industrial disputes, there were bound to be conflicts between the central and the state Acts. The general rule is that in case of repugnancy of a state law with a Union law relating to the same matters in the Concurrent List, the Union law will prevail; the state law will fall to the extent of the repugnancy. [6] But there is an exception to this rule. If the Governor-General or the President assents to a state law which has been reserved for his consideration, it will prevail notwithstanding its repugnancy to an earlier law of the Union. [7] All the state Industrial Disputes Acts have received such assent except the Bihar Amendment Act [8] which apparently did not need the assent because there was nothing in that Act conflicting with the provisions of the central Act.

Each of the States of Bombay, Madhya Pradesh and Uttar-Pradesh has a complete Industrial Disputes Act of its own. But the design of the machinery for the settlement of industrial disputes is the same as under the central Industrial Disputes Act, 1947. Differences exist with regard to the powers and duties of the various authorities (conciliation officers, boards of conciliation, labour courts and tribunals). In the States of West Bengal, Bihar, Punjab, Rajasthan, Madras and Mysore, the machinery for conciliation is that provided by the central Act. In the States of Kerala, [9] Andhra, Assam and Orissa, the central pattern operates because these states have not legislated on this subject-matter at all. For the present study, attention is confined to the central Industrial Disputes Act, 1947, and the authorities established under it.

6. Section 107(1), The Government of India Act, 1935, and Article 254(2), Constitution of India.

7. Article 254(2), The Constitution of India and Sec. 107(2), The Government of India Act, 1935.

8. Section 2, The Industrial Disputes (Bihar Amendment) Act, 1957, is as follows:

   "In the first Schedule to the Industrial Disputes Act, 1947, the following item shall be added, namely, oxygen and acetylene."

9. In 1959 the Government of Kerala introduced the Kerala Industrial Relations Bill, in the State Legislative Assembly. The Bill made provision for further machinery for conciliation such as the Industrial Relations Committee and Industrial Relations Board by way of supplementing the provisions in the Industrial Disputes Act, 1947. The Bill lapsed on the dissolution of the Legislative Assembly by the President's proclamation under Art. 356 of the Constitution of India.

The Industrial Disputes Act was enacted in 1947 on the principle that the best way of resolving labour-management differences which are not solved by mutual negotiations is not trial of strength by strikes and lock-outs but by an award by an impartial body. It provides also for conciliation of labour disputes through Boards of Conciliation[10] and conciliation officers prior to compulsory adjudication.[11]

Conciliation of labour disputes is one of the steps in a system which includes compulsory adjudication of labour disputes. What the Conciliation Officer or Conciliation Board attempts to do is to bring disputes to an amicable settlement. On failure of the parties to arrive at a settlement, the appropriate Government may refer a dispute to a Labour Court, Tribunal or National Tribunal, as the case may be.

The beginning of conciliation machinery for the peaceful settlement of industrial disputes can be traced back to the Indian Trade Disputes Act of 1929 passed by the Government of India in view of the acute labour-management strife of 1928–29. Thereunder, conciliation machinery consisted of a Board of Conciliation with an independent chairman and two or four other appointed members.[12] By adding section 18-A to that Act in 1938 the central and provincial Governments were authorized to appoint conciliation officers to act as mediators in trade disputes[13] and this provision was continued by section 4 of

10. Section 5, The Industrial Disputes Act, 1947.
11. Section 4, The Industrial Disputes Act, 1947.
12. See section 6, The Trade Disputes Act, 1929.
    (i) A Board, shall consist of a Chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.
    (ii) Where the Board consists of more than one person, the Chairman shall be an independent person and the other members shall be either independent person or persons appointed in equal numbers to represent the parties to the dispute; all persons appointed to represent any party shall be appointed on the recommendation of that party:
    Provided that if any party fails to make the necessary recommendation, within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.
13. The reason for the amendment to the Trade Disputes Act, 1929, was to give effect to one of the recommendations of the *Royal Commission on Labour 1930–31*: "that there should be a standing conciliation machinery in order to help workers and employers to settle their day-to-day ordinary disputes, so that these, if not settled earlier, may not lead to a serious strike." See Prof. N. G. Ranga's speech, on the consideration of clauses of the Trade