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Elements of
SOVIET LABOR LAW

*Penalties Facing
Russian Workers on the Job*

By Vladimir Gsovski
in the Monthly Labor Review
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UNITED STATES DEPARTMENT OF LABOR
Maurice J. Tobin, *Secretary*
BUREAU OF LABOR STATISTICS
Ewan Clague, *Commissioner*

Bulletin No. 1026

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Letter of Transmittal

UNITED STATES DEPARTMENT OF LABOR,
BUREAU OF LABOR STATISTICS,
Washington, D. C., May 10, 1951.

The SECRETARY OF LABOR:

I have the honor to submit herewith the Bureau's Bulletin No. 1026, Elements of Soviet Labor Law. Its contents first appeared as a series of articles prepared by Dr. Vladimir Gsovski, Chief, Foreign Law Section, Law Library, Library of Congress, for the March and April 1951 issues of the Monthly Labor Review. Because they attracted such widespread attention, they are being reproduced in bulletin form.

The articles are especially noteworthy in two respects. They deal not with the Soviet slave labor of the prison camps but with the Soviet equivalent of the free worker and the generally punitive body of labor law under which he works. They also are remarkable in their somewhat devastating condemnation of Soviet labor policy through mere textual use of appropriate laws, decrees, and official pronouncements.

EWAN CLAGUE, *Commissioner.*

HON. MAURICE J. TOBIN,
Secretary of Labor.

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Elements of Soviet Labor Law

Part I

The punitive character of Soviet labor law, managerial and working pressures which create conditions for industrial conflict, the deterioration of the trade-unions, and the collapse of collective bargaining.

“Soviet Russia does not know of any ‘free’ contract of employment, nor of any legal relations usually connected with the concept of the employment contract . . . In Soviet Russia labor duty is the basis of labor relations.”¹

THUS DID a contemporary Soviet authority on labor law characterize the situation in 1920. He was not referring to forced labor, so widely used in Soviet Russia, especially after 1930, but to the Soviet equivalent of “free” labor, the subject of the present article.

Generally speaking the concept put forward in the quotation is largely held today by the Soviet State; it governs to a great extent the functions of the trade-unions and reflects the attitude of the Communist Party. Over the years it resulted in separate labor laws which are punitive rather than protective.

True, in 1920, private enterprise had been effectively barred under the policy known as Militant Communism. This was superseded in 1922 by the so-called New Economic Policy (N. E. P.),² under which private enterprise, within certain limits, was readmitted and freedom of the employment contract was accorded some recognition. But this policy came to an end about 1929 with the inauguration of the first Five Year Plan, which, according to Stalin, had been framed and executed to eliminate capitalist elements and to create an economic basis for a socialist society.³ Since then private enterprise has been banned.

The Nature of Soviet Enterprise

When private enterprise finally disappeared in Russia the great majority of persons engaged in industry and commerce—from top executives to manual laborers—became employees of a single owner—the government.⁴ In that sense there is no contrast between capital and labor in the Soviet Union. The Soviet Government claims that there is a “unity between the interests of the toilers of the Soviet Union and those of the Soviet Socialist State,” as an official textbook on labor law stated in 1946.⁵ However, such unity can hardly be demonstrated in reality. Soviet industrial organization shows that the fixed relationship between labor and State management took the place of the free relationships between labor and capital in capitalist countries.

Government-owned industry and commerce now operate on a different basis from that of the first years of the Soviet regime (1918–21). At that time, private enterprise and profit-making were outlawed without offering a substitute for satisfaction of personal ambition or an opportunity for extra earning.

In contrast, the policy adopted after the drive began for total socialization was popularly called “whips and cookies.” On the one hand, concessions are made to the ever emerging personal ambition; but on the other, criminal law is put into operation in an effort to check the inefficiency of the entire economic system.

Government agencies engaged in business operate

on a "commercial" basis (*Khoziaistvenny raschet*) and enjoy a degree of formal independence and enter into contracts with each other and with private persons. Although they are government agencies they are supposed to act with the competitive vigor of a private enterprise (the principle of "socialist competition"). This "independence" should not be overrated. As a Soviet text puts it: "The commercial basis is merely a special method of management of the national economy."⁶ Planned assignments of higher bureaus set definite limits to their independence, to say nothing of continuous supervisory control by various government agencies and political control by the secret police and Communist Party.

Nevertheless, the management of a Soviet quasi corporation is as interested in obtaining the lowest unit labor cost as its capitalist prototype. A single executive is appointed by the head of the bureau under whose authority the enterprise (called "trust" in industry and *torg* in commerce) operates. He hires and fires, allocates wages, imposes penalties, and grants bonuses. Bonuses are paid from a special director's fund based on a percentage of the profits or savings. His own bonus also depends upon the efficiency of the enterprise. In case the output falls below standard quantity or quality, he is liable to imprisonment up to 8 years.

The Soviet Wage Practice

Private profit-making is barred and the earnings of the bulk of the population are practically limited to wages and salaries. But the governmental scale of compensation for work, whether in money or comfort, aims to offer a substitute for profit-making to stimulate efficiency. A system of wages and salaries is designed to allow wide latitude for differentials in wage, salary, and bonus payments. To this end, the principles of piecework and bonuses for efficiency, without any guaranteed minimum wage, constitute the basis of compensation for work in government industry, in collective farming, and in cooperatives.

Regardless of whether the employee is paid by time or by piece, he must attain a standard of output established by the management. If he fails to do so through his fault he is paid according to the quality and quantity of his output.⁷ Progressive scales of piecework and bonuses for extra

efficiency are issued by the government for individual industries and industry groups.

Numerous honorary titles—"Hero of Labor" and others—and medals carry with them distinct material benefit, such as tax exemption, right to extra housing space, etc. There are also "personal salaries" and "personal pensions" awarded without reference to any scale, and Stalin prizes amounting to as much as 300,000 rubles in a lump sum.

All this affords professional, managerial, and skilled labor remuneration in money and comfort greatly exceeding that given to the ordinary laborer. For example, a scale of salaries and wages for electrical power plants, established in 1942 and still in force as late as 1946, ranged from 115 to 175 rubles monthly for janitorial services to 1,000 to 3,000 rubles for a director.⁸

In 1934, Stalin frankly declared the underlying philosophy of his policy as follows: "Equalization in the sphere of demands and personal life is reactionary, petty bourgeois nonsense, worthy of a primitive ascetic sect and not of a socialist society organized in a Marxian way."⁹

However, material benefits thus promised evidently proved to be insufficient stimuli for good work.

Heavy responsibility is imposed upon both workers and management. Inefficiency involves not only loss of material benefits and possible loss of job, but prosecution in court as well. Workers are subject to penalties imposed by managers for "loafing on the job" and to court action for absenteeism and unauthorized quitting of the job. From 10 to 25 years in a forced labor camp,¹⁰ with or without confiscation of property, can be imposed for "misappropriation, embezzlement, or any kind of theft" of the property of the principal employers, the government, or public bodies. Prior to 1946, the death penalty could be invoked.¹¹ In case of damage to or loss of property of the employer—tools, raw materials, fuel, even work clothes—if due to employee negligence can result in deductions from wages, in some instances in an amount 10 times the value of the property.¹²

Managerial Pressures

A series of laws penalize inefficient management for such things as poor quality or small volume of

output, failure to penalize workers for absenteeism and other violations of labor discipline.¹³

A potent incentive to the efficiency of the individual establishment is the principle that earnings depend in part upon the efficiency of the whole enterprise (principle of "check by ruble"). Business success brings definite individual profit; business failure incurs heavy punishment for those holding administrative posts. Although the total amount of regular wages to be paid in an individual enterprise is established by central government bureaus ("wages fund"), bonuses are dependent upon the profits or savings of an individual enterprise.

The Role of Trade-Unions

Under such an arrangement there is no less reason for the rise of labor conflicts than under capitalism. But under the Soviet system labor is deprived of the main effective devices by which it may protect itself in a labor dispute in the capitalist world. Neither the constitution nor any law or decree mentions the right to strike and the strike is tacitly outlawed.

In general, all the channels through which labor can pursue its objectives in the capitalist world—legislation, courts, administrative agencies, the press, and trade-unions—are in Soviet Russia agencies of the principal employer of industrial labor—the State.

For a time when private enterprise was tolerated under N. E. P. (1922–28) the Soviet leaders visualized the protection of the interests of labor in this conflict through trade-unions. But the unions were regarded as an arm of government and of the Communist Party rather than as an independent force. Still they were to be an arm specialized in protection of labor. As the drive for socialization progressed, this special protective quality of the unions was pushed to the background. Instead, the notion of the identity of interests of the workers and the Soviet State was put forward, and the primary function of Soviet labor unions is to serve the interests of the State.

The Promise of 1922

The eleventh congress of the Communist Party in 1922, when the N. E. P. was inaugurated, recognized that if government enterprise operates on a commercial basis "inevitably certain conflicts of

interests on the issue of labor conditions in the enterprises are created between the working masses and the directors, managers of the government enterprises, or the government bureaus to which the enterprises are subordinated." Consequently the resolution "imposed upon the trade-unions the duty to protect the interests of the working people."¹⁴

Thus, the Labor Code of 1922, then enacted, relegated to the collective agreements between management and trade-unions the settlement of all the basic working conditions, including wage rates, standard of output, shop rules, etc.

Nevertheless, even then, both before and after this period, the trade-unions were not considered as a force independent from the Communist Party or the Soviet Government. The ninth congress of the Party (1920) had stated that "the tasks of trade-unions lie primarily in the province of economic organization and education. The trade-unions must perform these tasks not in the capacity of an independent, separately organized force but in the capacity of one of the principal branches of the government machinery guided by the Communist Party."¹⁵ The tenth congress went further and in 1921 passed the resolution, drafted by Lenin, and stressing the role of the trade-unions in Soviet Russia as a "school of communism."¹⁶ The fifteenth congress in 1925 stressed that "trade-unions were created and built up by our [Communist] Party."¹⁷

"The most important task of the trade-unions," says the official textbook on Civil Law of 1944, "is the political education of the toiling masses, their mobilization for building up socialism, and the defense of their economic interests and cultural needs . . ." ¹⁸

"Formally," says the official textbook on Administrative Law of 1940, "the trade-unions are not a party organization but, in fact, they are carrying out the directives of the Party. All leading organs of the trade-unions consist primarily of Communists who execute the Party line in the entire work of the trade-unions."¹⁹

The Reality After 30 Years

Thus the trade-unions were transformed from a labor protecting arm into an arm for execution of government policy, and achievement of production goals. According to Soviet jurists, "the socialist

industrialization of the country required that labor law . . . serve the successful struggle for productivity of labor and strengthening of labor discipline.”²⁰

Such transformation of the trade-unions into a government arm, enforcing official economic policy, began soon after the onset of the first Five Year Plan. Accordingly, the sixteenth congress of the Communist Party directed in 1930 that the trade-unions, striving in collective agreements for improvement of the standard of living of the workers, must take into account the financial status of the enterprise with which the agreement was made and the interests of the national economy. In making the agreement, the resolution insisted, each party must undertake definite obligations in carrying out the financial and production plan of the enterprise. The unions in particular were obligated to guarantee, on behalf of the workers, the productivity of labor contemplated by the plan.²¹

The central agency of all the Soviet trade-unions—their Central Council—was granted the status of a government department in 1933. It officially took the place of the People’s Commissariat for Labor, which was then abolished, and the Council was also charged with administration of social insurance. But then the Central Council of Trade-Unions lost the character of a representative body of trade-unions even in terms of the Soviet “democracy.” Under law this Council must be elected by the Congress of Trade-Unions which is designated as “the supreme authority of the trade-unions of the Soviet Union.” Nevertheless, since the Ninth Congress in 1932 no such Congresses were convoked for 17 years, during which the whole Soviet social order and the position of labor were radically changed.

When the Tenth Congress convened in 1949, no explanation was asked or offered for the delay. The Congress adopted a new statute which reaffirmed the total control of the Communist Party over the trade-unions:

“The Soviet trade-unions conduct their entire work under the direction of the Communist Party—the organizing and directing force of the Soviet Society. The trade-unions of the U. S. S. R. rally the working masses behind the Party of Lenin-Stalin.”²²

Among numerous tasks assigned by the new statute to the trade-unions the generalized

political objectives are described in the first place at great length. For example, the trade-unions “strive to enhance in every way the socialist order in society and State, the moral-political unity of the Soviet people, the brotherly cooperation and friendship between the peoples of the Soviet Union; they actively participate in the election of the agencies of governmental power; they organize workers and clerical employees for the struggle for the steady development of the national economy.”

In contrast, “the duty to protect the interests of the working people” which had been emphasized by the Party Congress in 1922 is not expressly stated. It may have been considered unnecessary because the statute assumes that “in the conditions of the Soviet socialist order the State protects the rights of the working people.” But in any event the labor-protection tasks of the unions are couched in cautious language.

At the very end of the above quoted passage it is mentioned that the unions “look after (*zabotitsia*) the further rise of the material well being and the full satisfaction of the cultural needs of the toilers.” At another place the unions’ monopoly to represent the workers is stated with a hardly accidental lack of specificity: “[unions should] act on behalf of workers and clerical employees before the governmental and social bodies in matters concerning labor, culture, and workers’ everyday life.”

Collective bargaining, provided for in the Labor Code of 1922, was discontinued in 1933. As the official Soviet text on labor law explained in 1946: “*The collective agreements as a special form of legal regulation of labor relations of manual and clerical employees has outlived itself.* Detailed regulation of all sides of these relations by mandatory acts of governmental power does not leave any room for any contractual agreement concerning one labor condition or another.”²³

In plain English, this means that the Soviet leaders chose to abandon the last vestige of contract in relations between labor, even as represented by party-controlled trade-unions on the one hand and State management on the other, for the sake of outright government regimentation. Capitalist free collective bargaining was frankly declared unfit in the socialist surroundings of the Soviet Union.

However, in 1947 a campaign for making new

collective agreements was suddenly ordered after a lapse of 14 years.

Agreements Without Bargaining

Collective agreements were declared the most important measure "to achieve and exceed the production plan, to secure further growth of the productivity of labor, improvement of the organization of labor, and the increase of responsibility of management and trade organizations for the material condition of living of the employees and cultural services rendered to them."²⁴ Nevertheless, the new policy is far from introducing free collective bargaining. Certain matters are definitely excluded from any negotiation and agreement and are reserved for government regulation.

The new rules positively require that "the rates of wages, of piecework, progressive piecework, and bonuses as approved by the government must be indicated" in the agreement. It is expressly forbidden to include any rates not approved by the government. In other words, wage rates are excluded from bargaining, but if included in the agreement are no more than applications of the governmental schedule to the establishment for which the collective agreement is drawn. This is true, to a large measure, of other points covered, particularly standards of output. The official act and the jurisprudential writings insist that the primary purpose of such agreements is to translate the abstract terms of the general plan for economic development into specific assignments and obligations within each particular establishment. They appear to be merely a form in which the orders of the government are made more precise.

A Soviet writer of authority comments:

It is understood that the present day collective agreements could not but be different by content from collective agreements which were made at the time when the rates of wages and some other conditions of labor were not established by the law and government decrees.

The purpose of the present day collective agreement is to make concrete the duties of the management, shop committees, workers, technical, engineering, and clerical personnel toward the fulfillment of the production plans and production over and above the plan as well as to raise the responsibility of business agencies and trade-unions for improvement of material living conditions of workers and cultural services rendered to them.²⁵

As before, the new regulations are based on the assumption that "the interests of the workers are the same as the interests of production in a socialist state" and that the collective agreements are designed to be the "juridical form of expression of this unity."²⁶ Accordingly, a model agreement is drafted by each ministry upon consultation with the central offices of the appropriate trade-unions. Then the model agreement is sent as a *fait accompli* to the establishments concerned.

While such collective agreements are not the result of collective bargaining, it may be observed that when the Soviet Government faced the task of postwar rehabilitation of its economy, it preferred to give decreed labor conditions the appearance of an agreement.

The Doctrine of Normative Acts

Negotiation and mutual agreement are in fact proscribed in the Soviet Union in many important respects. Government regulation of wages and other basic conditions of labor took their place. However, it does not mean that labor is thus protected by law as we understand it. True, a Code of Labor Laws still exists on the statute books of the republics of the Soviet Union. But it was enacted in 1922 when private enterprise was within some limits tolerated and the government was not the sole employer in industry and commerce. At that time the code sought to regulate labor relations on the basis of free contract and to protect labor by methods resembling advanced democratic labor legislation.

However, these provisions of the code were either repealed or for the most part became inoperative being superseded, without a formal repeal, by various laws and decrees.

Under the totalitarian concept of government power, the accepted relationships of the administrative and legislative branches of the government do not apply. Although the terms "constitution," "legislative act," and "administrative decree" are used in Soviet law, the authority attached to each of these sources of law in the Soviet Union is different from that associated with these terms in the democratic countries. A constitutional provision may be set aside by an administrative decree and the newly enacted rule is incorporated into the constitution only at a later date. For example, the 7-hour working

day was provided for in the 1936 constitution (section 119).

However, on June 26, 1940, the Presidium of the Supreme Soviet, an executive body in terms of the constitution, decreed the 8-hour normal working day. This edict became operative immediately. It was ratified by the Supreme Soviet in August 1940, but without following the procedure prescribed for constitutional amendment. Not until 7 years later was section 119 constitutionally amended.

The Soviet jurists are fully aware of such practices. In discussing the sources of Soviet labor law in the treatises on this subject, they seek to blur the distinction between the authority of a constitutional provision, a legislative enactment, and an administrative decree or directive. In a recent (1949) standard treatise,²⁷ designed for use in university law schools, a doctrine of "normative acts" (rule making) as the source of Soviet labor law is promulgated. Normative acts are in general terms defined as "acts by which the will of the ruling class is 'elevated to law.'" This not too clear definition is fortunately followed by an enumeration of the specific acts issued by Soviet authorities which, according to the author, fall under the definition. These are "laws" enacted by the Supreme Soviet (Soviet equivalent to legislature), "edicts" by its presidium (a body of 47 members constituting the Soviet collective President), "normative resolutions" (i. e., rule-making resolutions) of the Council of Ministers (cabinet), joint resolutions of the Council of Ministers and the Central Committee of the Communist Party, regulations issued by individual ministers and by the Central Council of the Trade-Unions.

In other words, any decree or order by any of the central governmental authorities is law. No matter what it is called and by what body it is issued, it prevails until the action of another authority supersedes it.

The survey of recent trends in the Soviet legislation thus far made suggests the conclusion that the disappearance of private enterprise from

the Soviet economy has not been followed by the increase of rights of labor in labor law. If compared with the time when private enterprise was tolerated, the legal status of labor has worsened. Another striking feature of the Soviet regulations on labor are the numerous penal provisions.

¹ Z. Tettenborn, *Soviet Legislation on Labor* (in Russian, 1920) p. 16.

² For description and analysis of major stages of the Soviet policies and their expression in law, see Gsovski, *Soviet Civil Law*, University of Michigan Press, Ann Arbor, Vol. 1 (1948) pp. 10 *et seq.*, 791, *et seq.*, Vol. 2 (1949) p. 537 *et seq.*

³ Stalin, *Problems of Leninism*, English Edition, Moscow (1940) p. 409.

⁴ Members of the so-called productive cooperatives are in fact paid for their work and not according to their shares. See Gsovski *op. cit.* Vol. 1, p. 411, *et seq.*

⁵ Aleksandrov and Genkin, *Soviet Labor Law* (in Russian, 1946) p. 312.

⁶ Evtikhiev and Vlasov, *Administrative Law* (in Russian, 1946) p. 36. See also Gsovski *op. cit. supra* note 2, Vol. I at 382 *et seq.*

⁷ Soviet Labor Code, Sec. 57 as amended in 1934. "If an employee at a governmental, public, or cooperative enterprise, institution, or business fails through his own fault to attain the standard of output prescribed for him, he shall be paid according to the quantity and quality of his output but shall not be guaranteed any minimum wage. In other enterprises and businesses (private enterprises including those under a concession) such an employee shall be paid not less than two-thirds of his scheduled rate."

⁸ Handbook of Wages in Electrical Power Plants (in Russian, 1946) pp. 8-12, 25.

⁹ Stalin, "Speech at the 17th Congress of the Communist Party (1934)" quoted from his *Problems of Leninism* (10th Russian edition, 1938) p. 583.

¹⁰ Statute of June 4, 1947 concerning the crimes against government and public property, *Vedomosti* 1947, No. 19.

¹¹ Law of August 7, 1932. For its translation and discussion see Gsovski *op. cit. supra* note 2, Vol. I pp. 562, 728.

¹² Soviet Labor Code Secs. 83-83⁴ (as amended), Act of June 20, 1942, Sec. 12; Instruction of the People's Commissar for Labor of June 1, 1932, Secs. 1-3. For further citations, see Gsovski *op. cit.* Vol. I pp. 823-825.

¹³ Act of Dec. 28, 1938; Edict of July 10, 1940, *id.* p. 821.

¹⁴ All-Union Communist Party on Trade Unions, Collection of Resolutions (in Russian, 1930) p. 55. See also Deutsch, *Soviet Trade Unions*, London, 1950.

¹⁵ *Ibid.* p. 35.

¹⁶ *Ibid.* p. 36.

¹⁷ *Ibid.* p. 87.

¹⁸ Agarkov and others, *Civil Law* (in Russian, 1944) Vol. I, p. 190; *Civil Law Textbook* (in Russian 1938) Vol. 1, pp. 108-109.

¹⁹ Denisov, *Soviet Administrative Law* (in Russian, 1940) p. 60.

²⁰ *Op. cit.*, *supra* note 5, p. 90.

²¹ *Ibid.*, p. 98.

²² *Trud* (in Russian) May 11, 1949. See Bureau of Labor Statistics, Notes on Labor Abroad No. 11, May 1949, pp. 39-40.

²³ *Op. cit. supra* note 5, p. 106. Italics in the original.

²⁴ Resolution of the Presidium of the Central Council of the Trade Union approved by the Council of Ministers, Preamble, *Trud* (in Russian) Apr. 18, 1947. See Bureau of Labor Statistics, Notes on Labor Abroad No. 2, June 1947, p. 28, and No. 13, December 1949, p. 36.

²⁵ Aleksandrov and other compilers, Goliakov, editor, *Legislation concerning Labor* (in Russian 1947) p. 15.

²⁶ Moskalenko, "Legal Problems Involved in Collective Agreements" in *Trade Unions* (in Russian 1947) No. 8, p. 16 *et seq.*; *Trud* (in Russian) Apr. 18, 1947, Editorial.

²⁷ Aleksandrov, editor, *Soviet Labor Law* (in Russian, 1949) p. 53.

Part II

Loss of freedom on the job, wages and hours, financial responsibility of employees, arbitration and conciliation, and conscript labor of youth in the Soviet Union.

Labor's Loss of Freedom on the Job

THE CONSTANT INCREASE of managerial power over workers since the suppression of private enterprise in the Soviet Union is revealed by successive amendments to some individual provisions of the Labor Code. Provisions defining the right of the employer to dismiss the employee summarily because of failure to appear for work may serve as an illustration. The Labor Code of 1922 incorporated the provision of Czarist law¹ permitting management to dismiss a worker for failure to appear without justifiable reason for 3 consecutive days or for 6 days during a month.² In 1927, this was changed.³ Failure to appear for a total of any 3 days during a month constituted grounds for dismissal. In 1932,⁴ only 1 day's unjustified absence was sufficient and mandatory ground for dismissal of a worker in a government enterprise, to be followed by an automatic eviction, without a court action, from the living quarters which he occupied because of his employment.

An act of December 28, 1938, was directed against tardiness, leaving work before the scheduled time, undue prolonging of lunch time, and loitering on the job.⁵ Those who committed such infractions were subject to warning or to transfer to lower grade jobs. Three violations in 1 month or four in 2 months, led to dismissal (sec. 1). An official interpretation of the act, issued on January 9, 1939,⁶ states that penalties milder than dismissal should be applied only in cases of tardiness not exceeding 20 minutes. A single tar-

diness exceeding 20 minutes should result in immediate dismissal.

Later, by an edict of June 26, 1940,⁷ job freezing was enacted, and unauthorized quitting was made an offense punishable in court by imprisonment. Then, according to the Soviet jurists, the possibility arose that a worker might purposely fail to appear on time in order to be dismissed and thereby obtain a chance to find a better job. Therefore, the June 1940 edict rescinded mandatory dismissals for tardiness and absenteeism and declared them to be offenses punishable by disciplinary penalty in case of tardiness or court sentence for absenteeism.

The act of December 28, 1938, made managers subject to dismissal and penal prosecution in court for failure to inflict the prescribed penalties (sec. 2).

The Standard Rules of Internal Labor Organization, enacted on January 18, 1941,⁸ stress that "every violation of labor discipline shall entail either a disciplinary penalty or prosecution in court" (sec. 19). Disciplinary penalty is imposed by management as soon as it becomes aware of the violation. The imposition of the penalty does not relieve the employee from the duty to compensate for damage caused by any defective work.

Among the violations, the rules specify tardiness, loitering on the job, absenteeism, and unauthorized quitting of the job (secs. 21, 25, 26). Coming to work late, going out for lunch ahead of time, being late in returning from lunch, or

leaving work ahead of time, if done without a justifiable reason, subjects the worker to managerial discipline in instances where the loss of time does not exceed 20 minutes and does not occur thrice a month or four times within two consecutive months. In the latter instances violators are considered absentees and are punished in court.

If an employee appears at work in a state of intoxication, he is guilty of absenteeism (sec. 26). Unauthorized quitting a job is an offense punishable in court. Loitering on the job is subject to disciplinary penalties.

The application of so many penal clauses raised fine legal problems for Soviet jurists, who have perhaps shown an attachment more for legal niceties than common sense. Following is a discussion of the legal definition of sleeping on the job in a treatise on Soviet labor law printed in 1946:⁹

The question whether loitering on the job or sleeping during working hours should be considered absenteeism came up in judicial practice several times. Legal writers answered this question in various ways. Some thought that "there is no reason to exclude . . . loitering on the job from the concept of absenteeism"¹⁰ [reference on an article in a law review is made], while others were of the opposite opinion [another reference].¹¹

From the comparison of sections 21 and 26 of the Standard Rules of Internal Order, it becomes evident that loitering on the job, regardless of how long it lasts and how often it occurs, entails a disciplinary penalty and not punishment in court. Sleeping during working hours is a form of loitering on the job and therefore should not be considered absenteeism. This conclusion is supported by the following ruling of the Trial Criminal Division of the U. S. S. R. Supreme Court: "Insofar as sleeping on the job is a violation of labor discipline, not connected with the absence of the worker from his post but, on the contrary, necessarily presumes his presence there, such an offense may not be qualified as absenteeism. Being a kind of loitering, sleeping during working hours, if it did not and could not cause serious harm, must be visited by disciplinary penalty."¹²

Leaving the place of employment without the express permission of management has been punishable in court by imprisonment for from 2 to 4 months since June 26, 1940. Previously a month's notice by the employee was adequate for quitting.¹³ In defense industry the penalty would be imprisonment up to 8 years.¹⁴

The provisions relating to this penalty are broadly interpreted. Thus, an employee who, twice convicted for absenteeism and serving a compulsory labor sentence at the place of his employment in lieu of jail, commits absenteeism (tardiness of more than 20 minutes) again, must be prosecuted for unauthorized quitting.¹⁵ An employee who violates the shop rules for the purpose of being dismissed must be prosecuted in a like manner.¹⁶ The U. S. S. R. Supreme Court has also held:

A lengthy failure to appear for work may be considered absenteeism only in instances where the court has established that the employee had no intention to quit the given job. If the court establishes that the person concerned intentionally stayed away from work with the design to quit it without authorization, such act must be qualified as quitting of the job without authorization even if the perpetrator appears again on the job before the trial.¹⁷

Finally, by the Edict of October 19, 1940, Government department heads were authorized to allow to transfer certain categories of technical personnel and skilled labor, regardless of their wishes, from one establishment to another. A series of decrees lists the jobs coming under the decree. Failure to obey the transfer is punished as unauthorized leaving of the job.¹⁸ It is characteristic that the imposition of penalties for infraction of labor discipline are heard in court by a single professional judge with the exclusion of two lay "assessors" required for all other trials.¹⁹

In several branches of industry especially severe rules of discipline are established granting the "bosses" power to impose penal confinement up to 20 days at their own discretion without a court action.

Railroad employees were placed under strict military discipline in 1943 by virtue of a special disciplinary code.²⁰ Arrests not to exceed 20 days could be imposed at the discretion of a superior. Appeals could be made to the next higher superior whose decision is final, but appeal had to be filed within 3 days with the superior who imposed the penalty. No court appeal is permitted.

Similar provisions are contained in the new disciplinary codes for the following employees: maritime and inland waterways transportation lines; the main bureau of the Civil Air Fleet; postal, telegraph, and radio systems; and municipal electric power plants. Militarized watchmen of ware-

houses and workmen in air defense and fire protection of defense industries are also covered.

Wages and Hours

The Labor Code of 1922, enacted when limited private enterprise was tolerated, provided for payment by time or by piece, leaving the determination of individual pay to the individual employment contract or to collective agreements. The remuneration was not, however, to be less than the minimum wage fixed by competent authority (secs. 58-60). These provisions may be considered totally out of date. In the first place, the principle of piecework since 1931 has been given official preference and, by 1934, 70 percent of the work done in large industrial plants was paid for by piece rate. Secondly, the practice of making collective agreements was abandoned for 14 years in 1933 when "the transition from regulation of wages by a contract to their regulation by the Government was completed."²¹ When collective agreements were resumed in 1947, only such rates of wages could be included as were previously established by the Government. The all-embracing governmental plan, Soviet writers declare, does not exclude collective agreements altogether, as some of them thought in 1946, but certainly excludes wages from bargaining.²² The definition of schedules and rates of wages and salaries is reserved to the higher agencies of the principal employer—the Government. As the official compilation of labor laws of 1947 puts it:

The amount of wages and salaries is at the present time fixed by the decisions of the Government (or on the basis of its directives) .

The agreement of parties plays a subordinate role in the determination of the amount of wages or salaries. It should not be contrary to law and is allowed only within limits strictly provided for by the statute, for example, where the precise amount is fixed in instances in which the approved table of organization defines the rate as "from"—"to"; or fixing the remuneration for part-time employment of a person holding another position, and the like.²³

The schedules established by the Government are subject to constant changes and are too complex to be analyzed in the present article. It should suffice to state three basic features common to all schedules: highly progressive piecework rates, bonuses, and, absence of a guaranteed minimum wage. Bonuses are of two kinds; those

based upon output and periodically paid as part of the wages; and individual bonuses given at the discretion of the administration. The overriding principle is that in order to receive the minimum rate the worker "must attain the standard of output prescribed for him." (Labor Code, sec. 57 as amended in 1934).

Originally the Labor Code as enacted in 1922 (when some private enterprise existed) left determination of the standard of output to agreement between the administration of the plant or factory and the appropriate trade-union.

But since the Acts of June 4, 1938, and January 14, 1939, the revision of standards of output has been in the hands of the Ministers in charge of the individual industry branches who must, however, consult the Central Council of the Trade Unions, i. e., the labor department (*supra*, Part I), but not the individual unions. As an example, the official textbook on labor law of 1944 refers to the Order of the Minister of the Aviation Industry of April 20, 1942, No. 117. By this order, new standards of output and new rates are to be approved by the directors of individual plants upon the recommendation of the heads of the shops, and immediately put into effect.²⁴ In some instances, standards of output and rates are directly enacted by the Council of Ministers (prior to March 1946, of People's Commissars), e. g., the schedule for the cotton textile industry and for motor transportation.²⁵ Thus, the trade-unions, though controlled by the Government and the Communist Party, have in certain instances no part in establishing the major conditions determining wages.

As mentioned in Part I, the Edict of the Presidium of June 26, 1940, lengthened the working day from 7 to 8 hours for plants and offices, except for especially dangerous jobs, for which the 6-hour day was retained. Moreover, the edict restored the 6-day workweek with Sunday as the day of rest.²⁶ Since 1931 there had been a 5-day work schedule with each sixth day a day of rest. This meant an addition of 33 hours per month for laborers and of 58 hours for office workers. Salaries paid on a time basis remained unchanged, and the piecework rates were correspondingly lowered to keep wages at the same level.²⁷

It should also be mentioned that on June 26, 1941,²⁸ the management of individual enterprises could impose mandatory daily overtime up to 3

hours. Minors under 16 years of age were limited to 2 hours overtime a day. Pregnant women from the sixth month on, and those nursing babies during the first month of nursing, were exempted. This overtime may, however, be considered only as a wartime emergency.

Financial Responsibility of Employees

A particular feature of the Soviet labor law is the financial responsibility of the worker for any damages to the employer caused by the worker. There are three types of such responsibility: liability for the full amount of actual damage, liability limited to a certain portion of the employee's pay, and liability exceeding actual damage several fold.

Liability for the full amount is charged when a criminal offense is established in court, when liability is stipulated in writing in the employment contract or is provided for by special laws, or when damage is caused outside the performance of the employee's regular course of employment. (Labor Code, sec. 83¹).

Liability is limited to one-third of the scheduled rate if the damage is caused by negligence in work, by a violation of law not constituting a criminal offense, or by a violation of shop rules or the employer's special instructions and orders. This type of liability applies in cases of injury, destruction, or loss of equipment or livestock, in cases of failure to collect full payments, of loss or depreciation of documents entrusted, and also where the employer has been forced to make unnecessary payments, including penalties. The same responsibility arises in case of improper expenditure of money assigned for business needs (Labor Code, sec. 83).

The liability of an employee is greater if he spoils, through negligence, raw material or semifinished or finished products. He then is liable for up to two-thirds of his average earnings rather than of his scheduled rate.²⁹

The greatest liability rests on managers of fuel stocks at machine-tractor stations and governmental farms for shortages of fuel—10 times the value of the shortage, provided their acts do not incur penal prosecution.³⁰ In case of theft, wanton destruction, or intentional spoilage of raw materials, semifinished or finished products, as well as of instruments, work clothes, and other

property issued for the use of an employee, he is liable to pay up to fivefold the amount of damage.³¹ The same rate applies to theft, unaccountable shortage, or mishandling of industrial products in governmental stores, but based on the commercial or black market price.

Arbitration and Conciliation

With the elimination of collective bargaining in 1933, the arbitration procedure originally devised for settling labor disputes has also undergone a change. After collective bargaining was resumed in 1947, the Soviet jurists drew a distinction between disputes involving establishment or change of labor conditions and those arising from the application of conditions already established. For all practical purposes, they say, only the second group comes under the special arbitral procedure originally devised for both. Establishment of labor conditions and their change are at present within the province of the administration.³²

Conciliation boards and arbitral boards, established to resolve disputes over labor conditions, under the Labor Code and Act of August 29, 1928 (which remain on the statute book),³³ went out of existence after the People's Commissariat for Labor was replaced by the Central Council of Trade-unions in 1933.³⁴

The piece-rate and dispute boards established at that time in each establishment are still in existence, but since January 2, 1933, "the principal part of their function regarding piece rating, viz., establishment of standards of output and piece rates, fell off," according to the official textbook on labor law of 1946.³⁵ They are, in fact, boards for settling disputes between individual employees and management concerning the application of the existing labor regulations, that is to say, like grievances committees. In some instances the aggrieved party must bring his grievance before the board before going to court or elsewhere. Representatives of the management and of the workers' committee have equal votes, and if no accord is reached the aggrieved may go to court. The awards are final but may be revised *ex officio* by higher authorities; if they set the award aside the aggrieved party may then go to court.

In some other instances there is a choice between going to court or to the board. Consequently, the Soviet regulation of labor disputes

offers the employee, at best, redress against individual abuses committed by the management.

But there are also instances in which the party may not appeal to a court or board but only to higher administrative authorities.³⁶ This is true of the branches of employment in which the management, through the so-called Disciplinary Codes enjoys especially broad disciplinary powers. An employee in these branches, if penalized by the administration, may not appeal to the court or conciliation board but only to higher superiors in the establishment. (See *supra*, p. 8.)

Conscript Labor

As mentioned above, every employee since 1940 has been frozen on the job. Numerous categories of employees may be transferred, regardless of personal preference (*supra*, p. 8).

However, the Soviet jurists point out, that in many instances under the Soviet law employment is also created by administrative act.³⁷ An example of this is the draft of youths for industrial labor.

The Edict of October 2, 1940,³⁸ authorized the Council of People's Commissars (since 1946, Council of Ministers) to draft annually from 800,000 to 1,000,000 youths of from 14 to 17 years of age for training in trade schools and railroad schools to become skilled laborers, or for special on-the-job training (*shkoly fabrichno-zavodskogo obucheniiia*) to become "mass workers," as the law termed it, in the mining, metal, and building industries. The training period is from 6 months to 2 years only, thus making it clear that these schools are not educational institutions but merely training projects.

The curriculum is designed not only for industrial training but also for political indoctrination and militarization of labor. No particular number of hours is reserved for the study of general subjects, but 2 hours a week are assigned to political indoctrination. The trainees wear a special uniform and live under a regime similar to that of a military school. They must observe the rules of military courtesy. For example, the rules of March 15, 1947, prescribed the following standard of conduct:

SECTION 7. When the instructor approaches, the trainee must get up and he may not sit down until the instructor passes by or gives him permission to

sit down. When the instructor addresses him the trainee must stand at attention. If the trainee has to pass by the instructor, he must ask permission to do so, e. g., "Allow me to pass by."

By the Edict of the Presidium of June 19, 1947,³⁹ the draft age was changed, and it was made clear that youths of both sexes are subject to the draft. For training in the vocational and railroad service schools, boys from 14 to 17 years of age and girls from 15 to 16 years of age may be drafted. For schools of industrial training, boys and girls from 16 to 18 years of age, and for underground work in coal and mining industries, as well as for smelters, foundries, welding, and drilling in metallurgy and oil industries, boys up to 19 years of age may be drafted.

After training, the labor draftees are obliged to work for 4 years in Government factories, plants, mines, etc., as assigned by the Ministry of Labor Reserves. The draftees are paid regular wages, equal to those of other workers. Until the expiration of their term of obligation, labor draftees are deferred from military service.

Leaving school without authorization, and other violations of school discipline subject the young people to penalties of up to 1 year in a reformatory.⁴⁰ The number of young men to be drafted from the cities is determined by quotas established for each year. From the collective farms (the rural population), 2 young people for each 100 persons between the ages of 14 and 55 are drafted. Drafts of 600,000 were ordered in November 1940 and in June 1941.⁴¹ In the year 1946-47, 1,700,000 boys and girls were trained⁴² and according to the report of the Minister of Labor Reserves in 1950 more than half of the workers in the largest U. S. S. R. enterprises are young persons trained under this program.⁴³

Aside from the draft, orphans 12 to 15 years may be assigned to special schools of industrial training for 3 or 4 years. They are subject to all duties of the draftees and their number is included in the above figures. Available regulations do not indicate that consent of the orphans or of their guardians is required.

Moreover, graduates from higher educational institutions (universities) and vocational schools on the level of technical high schools (*tekhnikum*) must work for 3 or 5 years⁴⁴ at jobs assigned by the ministry in charge of the particular school. Failure to take the appointment is treated as an

offense punishable in court as absenteeism or unauthorized quitting of the job.⁴⁵

Finally, several wartime laws were enacted drafting labor for work in various branches of industry regardless of location.⁴⁶

These elements of conscript and forced "free" labor exist in the Soviet Union in addition to the outright convict labor in labor camps operated by the Ministry of Interior (M. V. D.). Discussion of them is outside the scope of this article, which is devoted exclusively to the Soviet group which is the nearest counterpart of our free labor.

In discussing the general situation of postwar free employment, Soviet writers themselves plainly indicate that "voluntary" employment under Soviet conditions is not much different from conscript labor. A treatise by Dogadov on the development of the Soviet labor law, which appeared in 1949, states:

In the socialist society there is no difference in principle and quality between drafted labor and labor performed by voluntary entering into labor relations by taking of employment. When we are saying that in the socialist society the principle of voluntary labor is recognized we are not speaking of recognition of some kind of abstract principle of free labor and trade in a liberal and bourgeois sense, a principle which would be treated as a value per se.

Under the conditions of socialist society . . . it is impossible to secure the principle "from each according to his ability" without a pressure by the state and law regarding the universal duty to work.⁴⁷

It is clear that the "voluntary employment" still to be found in some branches of Soviet industry is far from our concept of free labor.

Jobs are frozen. Worker and manager are under equally heavy penalties, both criminal and civil. Millions of future Soviet citizens, while still only 12 to 14 years old, are assigned for training at jobs selected for them by the authorities, without necessary regard for personal preferences or those of their parents or guardians. Professionals, for considerable time after graduation, are denied the right to go into a job of their own choosing. This is the general picture of "free" labor in the Soviet State.

For other reasons of premature dismissal, see Gsovski, Soviet Civil Law, Vol. I, p. 801.

⁴ Act of November 20, 1932, R. S. F. S. R. Laws, 1932, text 371.

⁵ Act of December 28, 1938, U. S. S. R. Laws, 1939, text 1.

⁶ Interpretation of January 9, 1939, *Izvestiia*, January 9, 1939.

⁷ Edict of Presidium of the Supreme Soviet, *Vedomosti*, Nos. 20 and 28, 1940. This edict is treated as being still in force in 1949, by Z. Vyshinskaja, Crimes in the Field of Labor Relations (in Russian 1949), pp. 83, etc., 89.

⁸ U. S. S. R. Laws, 1941, text 63.

⁹ Aleksandrov, joint author, Soviet Labor Law (in Russian, 1946), p. 279.

¹⁰ The author refers to Dubovsky "Concept of Absenteeism" in Soviet Justice (in Russian), No. 1, 1940.

¹¹ The author refers to Moskalkenko, "The New Rules of Internal Order" *idem*, No. 11.

¹² U. S. S. R. Supreme Court, Criminal Trial Division, Decision of January 25, 1943, quoted from Judicial Practice of the U. S. S. R. Supreme Court (in Russian), 1943, No. 4, p. 14. ¹³ *Lex cit. supra*, note 5.

¹⁴ Edict of December 26, 1941, sec. 2, *Vedomosti*, 1942, No. 2.

¹⁵ U. S. S. R. Supreme Court, Ruling of July 7, 1941, Collection of Rulings of the U. S. S. R. Supreme Court from June 23, 1941, to March 1, 1942, p. 9. Aleksandrov, *op. cit. supra*, note 9, p. 283.

¹⁶ *Idem*. Ruling of December 15, 1941, *op. cit.*, p. 21.

¹⁷ *Idem*. Ruling of October 22, 1942 in Judicial Practice of the U. S. S. R. Supreme Court (in Russian), 1942, No. 2, p. 4; Aleksandrov, *loc. cit.*

¹⁸ Edict of Presidium of the U. S. S. R. Supreme Soviet of October 19, 1940, *Vedomosti*, 1940, No. 42. For citations of decrees specifying jobs coming under the edict, see Gsovski, Soviet Civil Law, vol. I, p. 830, note 132. The edict is treated in Z. Vyshinskaja, *op. cit. supra*, note 7, as being still in force in 1949.

¹⁹ Edict of Presidium of the U. S. S. R. Supreme Soviet of August 10, 1940, *Vedomosti*, 1940, No. 28.

²⁰ Collection of legislation for Workers of Railroads (in Russian, 1944), pp. 186-188.

²¹ Aleksandrov, *op. cit. supra*, note 9, p. 51.

²² Moskalkenko, "Legal Problems Involved in Collective Agreements" in Trade-Unions (in Russian), 1947, No. 8, p. 16; also Aleksandrov, *op. cit.*, p. 203, 211, etc.

²³ Aleksandrov and other compilers, Goliakov, editor, Legislation concerning Labor (in Russian, 1947), p. 65, also Gsovski, *op. cit.*, Vol. I, p. 808.

²⁴ Aleksandrov and Moskalkenko, Soviet Labor Law (in Russian, 1944), p. 94.

²⁵ Act of August 15, 1938, U. S. S. R. Laws, 1938, text 214, also *idem*, 1939, text 119. ²⁶ *Vedomosti*, 1940, No. 20 and No. 28.

²⁷ Decrees of the Council of People's Commissars, U. S. S. R. Laws, 1940, texts 385, 386, 387. ²⁸ *Vedomosti*, 1941, No. 30.

²⁹ Instruction of the People's Commissar for Labor of June 1, 1932, sec. 3, Aleksandrov, *op. cit. supra*, note 23, p. 135.

³⁰ Act of June 20, 1942, sec. 12; Order of Attorney General of June 23, 1942, Aleksandrov, *op. cit. supra*, note 23, p. 136.

³¹ *Id.*, p. 135; Instruction *cit. supra*, note 29, secs. 1, 2.

³² Aleksandrov, *op. cit. supra*, note 9, p. 311, etc., and note 23, p. 242.

³³ U. S. S. R. Laws, 1928, text 495.

³⁴ Aleksandrov, *op. cit. supra*, note 9, p. 313 and note 23, p. 243.

³⁵ *Id.*, p. 314.

³⁶ For enumeration of cases belonging to one or another category, see Gsovski, Soviet Civil Law, 1948, Vol. I, p. 804-805, notes 46-49.

³⁷ Aleksandrov, *op. cit. supra*, note 9, p. 137.

³⁸ *Vedomosti*, October 9, 1940, No. 37. For these and other acts on this subject, see Labor Reserves of the U. S. S. R. (in Russian), 1950.

³⁹ *Id.*, 1947, No. 21.

⁴⁰ Edict of December 28, 1940, *Vedomosti*, 1941, No. 1.

⁴¹ U. S. S. R. Laws, 1940, texts 602, 603, 604, and 673; *Izvestiia*, June 5, 1941.

⁴² U. S. S. R. in Large Soviet encyclopedia (*Bolshaya Sovetskaya Entsiklopediia*), 1947, pp. 163-164.

⁴³ Bureau of Labor Statistics, Notes on Labor Abroad January 1951, No. 17, p. 15.

⁴⁴ Aleksandrov, *op. cit. supra*, note 9, p. 139; Higher Education (in Russian, 1945), p. 170.

⁴⁵ Orders of the U. S. S. R. Commissar for Justice of September 25, No. 125/171 and of December 4, 1939, No. 173/207, Aleksandrov, *op. cit. supra*, note 23, p. 12.

⁴⁶ For citation and translation, see Gsovski, Soviet Civil Law, Vol. I, p. 832, etc., Vol. II, p. 548, etc.

⁴⁷ Dogadov, "History of Development of the Soviet Labor Law" in *Uchenye Zapiski* of Leningrad University, Series of Legal Sciences, No. 2 (in Russian 1949), p. 163, 166.

¹ Code of Industrial Labor, Sec. 62, subsec. (1) (1913 ed.) *Svod Zakonov*, Vol. XI, Part 2.

² Soviet Labor Code, sec. 47, subsec. (f) as enacted in 1922.

³ *Idem*, as amended on August 22, 1927, R. S. F. S. R. Laws, 1927, text 577.