Supreme Court of India
The Corporation Of The City ... vs Its Employees on 10 March, 1960
Equivalent citations: 1960 AIR 675, 1960 SCR (2) 942
Author: K Subbarao
Bench: Subbarao, K.

PETITIONER:
THE CORPORATION OF THE CITY OFNAGPUR

Vs.

RESPONDENT:
ITS EMPLOYEES

DATE OF JUDGMENT:
10/03/1960

BENCH:
SUBBARAO, K.
BENCH:
SUBBARAO, K.
GAJENDRAGADKAR, P.B.
GUPTA, K.C. DAS

CITATION:
1960 AIR 675 1960 SCR (2) 942
CITATOR INFO :

R	1963 SC1681	(12)
E	1963 SC1873	(15,18)
E	1968 SC 554	(10)
RF	1969 SC 530	(2A)
R	1972 SC 763	(12)
E&R	1978 SC 548	(4,66,67,70,75,77,84,85,92,115
D	1981 SC2101	(5)
RF	1988 SC 782	(65)
R	1988 SC1182	(12)
RF	1988 SC1353	(4)
RF	1988 SC1700	(4)
RF	1990 SC2047	(7)

ACT:
Industrial Dispute-Services undertaken by City Corporation-If and when industry - Test-'Industry'. Meaning of-Central Provinces and Berar industrial Disputes Settlement Act, 1947 (C.P. & Beray XXIII of 1947). S. 2 (14) -City of Nagpur Corporation Act. 1948 (Madhya Pradesh 2 of 1950).

HEADNOTE:
The question for determination in these appeals was whether and to what extent the municipal activities of the

Corporation of

943

Nagpur City fell within the term 'industry' as defined by s. 2 (14.) of the C.P. and Berar Industrial Disputes Settlement Act, 1947. Disputes having arisen between the said Corporation and its employees in its various departments, the State Government referred them for adjudication to the State Industrial Court under s. 39 of the Act and that Court by its award held that the Corporation and all its departments were covered by the said definition. Against that award the Corporation made an application to the High Court under Art. 26 of the Constitution. The High Court rejected its contention that the Corporation was not an industry within the meaning of the said section and remanded the case to the Industrial Court for determination as to which of its departments fell within the definition and making an award accordingly. Thereafter The Industrial Court found all the departments of the Corporation except those dealing with (1) assessment and levy of house-tax (2) assessment and levy of Octroi, (3) removal of encroachment and removal and pulling down of dilapidated houses, (4) prevention and control of food adulteration, and (5) maintenance of cattle pounds, to be industries within the meaning of the definition and passed its award accordingly. The Corporation appealed to this Court by special leave but there was no appeal on behalf of the employees of the five departments excluded from the definition.

Held, that the decision of the Industrial Court except so far as it related to the five departments in respect of which the re was no appeal, must be affirmed.

The definition of the word 'industry' in S. 2 (14) of the C.P. and Berar Industrial Disputes Settlement Act, 1947, although in a language somewhat different from that of S. 2 (1) of the Industrial Disputes Act, 1947, is very comprehensive. It is in two parts, cl. (a) defines it from the standpoint of employers and cl. (b) from that of the employee. An activity that falls within any of the two clauses must be -,in industry.

D.N. Banerji v. P. R. Mukherjee [1953] S.C.R. 302 and Baroda Borough Municipality v. Its Workmen. [1957] S.C.R. 33, applied.

It is not necessary that an activity of the Corporation must share the common characteristics of an industry before it can come within the section. The words Of S. 2 (14) of the Act are clear and unambiguous and the maxim noscitur a socii can have no application. The history of industrial disputes and the legislation, however, recognises the basic concept that the activity must be an organised one and not one that pertains to private or personal employment.

State of Bombay v. The Hospital Mazdoor Sabha. [1960] 2 S.C.R. 866 and Heydon's Case (1584) 3 Rep. 7 b., referred to.

But the definition, however wide, cannot include the regal, primary and inalienable, functions of the State though statutorily delegated to a corporation and the ambit of such functions cannot be extended so as to include the welfare activities of a modern state and must be confined to legislative power, administration of law and judicial power.
120
944

Richard Coomber v. The Justices of the County of Berks, Berks.(1883-84) 9 A.C. 61 and The Federated State School Teachers' Association of Australia v. The State of Victoria. (1928-29) 41 C.L.R. 569, County Council of Middlesex v. Assessment Committee of St. George's Union. (1896) 2 Q.B.D. 143, Verisimo Vasquez Vilas v. City of Manila, 220 U. S. 345, and The Federated Municipal and Shire Council Employees' Union of Australia v. Mclbourne Corporation. (1918-19) 26 C.L.R. 508, referred to.

The real test as to whether a service undertaken by a-corporation is an industry must be whether that service, if' performed by an individual or a private person, would be an industry. Monetary cosideration cannot be an essential characteristic of industry in a modern State. It was, therefore, incorrect to say that only such activities as were analogous to trade or business could come within S. 2 (14) of the Act.

D. N. Banerji v. P.R. Mukherjee, [1953] S.C.R. 302, explained.The Federated Municipal and Shire Council Employees' Union of Australia v. Melbourne Corporation. (19l8-19) 26 C.L.R. 508, Federated Engine-Drivey and Fireme's Association and Ors. v. The Broken Hill Proprietary Company Limited and Ors. (1913) 16 C.L.R. 23 5 and The Federated State School Teachers' Association Australia v. The State of Victoria, (1929) 41 C.L.R. 569, referred to.

Where a service rendered by a Corporation is an industry, the employees of the departments connected with that service, whether financial, administrative or executive, would be entitled to the benefits of the Act.

Baroda Borough Municipality v. Its Workmen. [1957] S.C.R. 33, referred to.

If a department of a municipality discharges many functions, some within and some without the definition of industry given by the Act, the predominant functions of the department shall be the criterion for the purposes of the Act.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 143 & 144 of 1959 and 545 of 1958.

Appeals by special leave from the Award dated December 14, 1957, of the State Industrial Court at Nagpur in Industrial References Nos. 18 of 1956 and I of 1957 respectively. C. B. Aggarwala, S. N. Andley, J. B. Dadachanji, Rameshwar Nath and P. L. Vohra, for the appellants (in all the appeals).

A. V. Viswanatha Sastri, W.S. Barlingay, S. W. Dhabe, Shanker Anand and A. G. Ratnaparkhi, for respondent No. 2 (in C. A. No. 144/59 and respondent (in C. A. No. 143 of 1959).

H. R. Khanna and R. H. Dhebar, for respondent No.

A. V. Viswanatha Sastri, W. S. Barlingay, Shankar Anand and A. G. Ratnaparkhi, for the respondents (in C.A. No. 545 of 1958).

1960 Feb. 10. The Judgment of the Court was delivered by SUBBA RAO, J.-This batch of three connected appeals raises the question whether and to what extent the activities of the Corporation of the City of Nagpur come under the definition of "industry" in s. 2(14) of the C.P. & Berar Industrial Disputes Settlement Act, 1947 (hereinafter called the Act).

The appellant is the Corporation of the City of Nagpur constituted under the City of Nagpur Corporation Act, 1948 (Madhya Pradesh Act No. 2 of 1950). Disputes arose between the Corporation and the employees in various departments of the Corporation in respect of wage scales, gratuity, provident fund, house rent, confirmation, allowances etc. The Government of the State of Madhya Pradesh by its order dated October 23, 1956, referred the said disputes under s. 39 of the Act to the State Industrial Court, Nagpur and the reference was numbered as Industrial Reference No. 18 of 1956. The appellant filed a statement before the Industrial Court questioning the jurisdiction of that Court, inter alia, on the ground that the Corporation was not an industry as defined by the Act. On February 13, 1957, the Industrial Court made a preliminary order holding that the Corporation was an industry and that the further question whether any department of the Corporation was an industry or not, would be decided on the evidence. The appellant challenged the correctness of that order by filing a petition under Art. 226 of the Constitution in the High Court of Bombay at Nagpur, but that petition was dismissed, as the award was made before its hearing. On June 3, 1957, the Industrial Court made an award holding that the Corporation was an industry and further that all departments of the Corporation were covered by the said definition. It also revised the pay scales of the employees and accepted the major demands made by them. On July 15, 1957, the appellant again filed a petition in the High Court of Bombay at Nagpur, questioning the validity and the, correctness of the aid award. A division bench of the said High Court, by its order dated September 11, 1957, rejected the contention of the appellant that the, Corporation was not an industry as defined by the Act and remanded the case to the State Industrial Court to decide the activities of which departments of the Corporation fell within the definition of "industry" given in the Act and to re-examine the schedules and categories of persons and to restrict the award to the persons concerned within the definition of the word "industry" in the Act. On remand, the said Industrial Court scrutinized the activities of each of the departments of the Corporation and hold that all the departments of the Corporation, except those dealing with (i) assessment and levy of house-tax, (ii) assessment and levy and pulling down of dilapidated houses, (iv) prevention and control of food adulteration and (v) maintenance of cattle pounds, were covered by the definition of "industry"

under the Act. It further gave findings in regard to the disputes between be parties and also as to the persons entitled to the reliefs. It is not necessary to give the particular-. of the findings arrived at or the relief given by the Industrial Court, as nothing turns upon them in this appeal. The appellant by special leave filed in this Court Civil Appeal No. 143 of 1959 against the award of the Industrial Court. It also filed in this Court by special leave Civil Appeal No. 144 of 1959 against the order of the High Court holding that the activities of the Corporation came under the definition of "industry" in the Act and remanding the case to the Industrial Court for decision on merits in respect of each of the activities of the Corporation.

Civil Appeal No. 545 of 1958, the third appeal in this batch, arises out of a reference made by the State Government of Madhya Pradesh in regard to the disputes between the appellant, i.e. the Corporation of the City of Nagpur, and the employees of the Corporation in the Fire]Brigade Department, representing themselves and other employees. The said reference was numbered as Industrial of 1957. As there was overlapping of the disputes raised in Industrial Reference No. 18 of 1956 and Industrial Reference No. 1 of 1957, the Industrial Court heard both the references together and, by consent, the evidence in Reference No. 18 of 1956 was treated as evidence in Reference No. 1 of 1957. On December 14, 1957, an award was made in Reference No. 1 of 1957 and it was based on the findings in the award made in Reference No. 18 of 1956. The Industrial Court held that the Fire Brigade]Department was an industry within the meaning of the Act and, on that basis, gave the necessary reliefs to the employees. Mr. Aggarwala, learned counsel appearing for the appellant in the first two appeals, raised before us the following points: (1) No service rendered by the Corporation would be an industry as defined by s. 2(14) of the Act. (2) Assuming that some of the services of the Corporation are comprehended by the definition of " industry " in the Act, the said services, in order to satisfy the definition, must 'be analogous to a business or trade. (3) Even otherwise, the activities of the Corporation to be called industry must partake the common characteristics of an industry. (4) The, finding of the Industrial Court holding that the various departments of the Corporation are industries is not correct, as the services rendered by the said departments do not satisfy either of the aforesaid two tests. The first question need not detain us, for it has now been finally decided by two decisions of this Court against the appellant. In D. N. Banerji v. P. R. Mukherjee (1), the chairman of a municipality dismissed two of its employees, namely, the Sanitary Inspector and the Head Clerk, and the Municipal Workers' Union questioned the propriety of the dismissal and claimed that they should be reinstated and the matter was referred by the Government to the Industrial Tribunal for adjudication under the Industrial Disputes Act. In that case two questions were raised before this Court-one was whether the said dispute was industrial dispute within the meaning of s. 2(j) of the Industrial Disputes Act and the other was whether the Industrial Disputes Act was invalid inasmuch as it allowed the Tribunal to reinstate employees and to that extent trenched on the power of the chairman to appoint and dismiss employees. This Court held that the Act was not invalid, as it was in pith and substance a law in respect of industrial and labour disputes and that the conservancy service rendered by the municipality was an industry and the dispute between the municipality and the employees of the conservancy department was an industrial dispute within the meaning of the Industrial Disputes Act. This decision was followed by this Court in Baroda Borough Municipality v. Its Workmen (1). In that case the effect of the earlier decision was summarized thus, at p. 38:

" It is now finally settled by the decision of this Court in D. N. Banerji v. P. R. Mukherjee (2) that a municipal undertaking of the nature we have under consideration here is an " industry " within the meaning of the definition of that word in s. 2(j) of the Industrial Disputes Act, 1947, and that the expression " industrial dispute " in that Act includes disputes between municipalities and their employees in branches of work that can be regarded as analogous to the carrying on of a trade or business."

In that case the workmen employed in the electricity department of the Baroda Municipality demanded bonus. The electricity undertaking of the Baroda Municipality was held to be an industry and the dispute between the Municipality and its employees an industrial dispute. Bonus was refused on other grounds and we are not concerned with that aspect of the case here. These two cases, therefore, have finally and authoritatively held that municipal undertakings could be " industry " within the meaning of the Industrial Disputes Act.

A faint argument is attempted to sustain a distinction between the definition of an "industry" in the Industrial Disputes Act and the definition of the same word in the Act in question. Section 2(j) of the (1) [1957] S.C.R. 33.

(2) [1953] S.C.R. 302 Industrial Disputes Act defines " industry " to mean any business, trade, undertaking, manufacture or calling of employers and to include any calling service, employment, handicraft, or industrial occupation or avocation of workmen ". Section 2(14) of the Act divides the definition into three parts, namely, " (a) any business, trade, manufacturing or mining undertaking or calling of employers,

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees, and (c) any branch of an industry or a group of industries." A comparative study of these two sections brings out the following differences: While the definition of " industry " in the Industrial Disputes Act means certain things and includes others, the definition of " industry " in the Act includes the three categories described therein; while the definition in the former Act places 'undertaking' in a category different from ' manufacturing or mining ' , in the latter Act it is qualified by the words 'manufacturing or mining'. In our view these differences do not justify us in taking a different view from that accepted by this Court in the foregoing decisions. Clause (a) of the definition defines industry with reference to the employers and cl. (b) with reference to the employees. Excluding the words "manufacturing or mining undertaking " from cl. (a) of the definition, the other words in cls. (a) and (b) thereof are comprehensive enough to take in all the categories which the definition of "industry" in the Industrial Disputes Act will take in. That apart, a perusal of the decision of this Court in D. N. Banerji v. P. R. Mukherjee (1) does not indicate that this Court would have come to a different conclusion if the word " undertaking " in the Industrial Disputes Act was qualified by the words " manufacturing or mining ". The decision was founded on a broader basis, having regard to the history of the legislation, the cognate definitions in the Act and the inclusive part of the definition corresponding to s. 2(14)(b) of the Act. We, therefore, hold that a service rendered by a corporation, if it complies with the conditions implicit in the definition- which we would consider at a later stage (1) [1953] S.C.R. 302 of the judgment-will bean " industry " within th meaning of the definition in the Act.

The next question is whether activity of the Corporation is not " industry " unless it shares the common characteristics of an industry. The following five characteristics are stated to be the conditions implicit in the definition: (i) the activity must concern the production or distribution of good or services; (ii) it must be to serve others but not to oneself; (iii) it must involve co- operative effort between employer and employer between capital an labour; (iv) it must be done as a commercial transaction and (v) it must not be in exercise of pure governmental functions.

We have considered this aspect in State of Bombay v. The Hospital Maazdoor Sabha (1) in the context of the definition of " industry " in the Industrial Disputes Act and formulated certain broad principles. But as this case is concerned with the definition of "industry" in a different Act, we shall briefly resurvey the law on the subject with specific reference to a corporation.

Let us scrutinize the definition of " industry " to ascertain whether all or some of the conditions are implicit in the definition and whether the said conditions constitute the necessary basis for it. The true meaning of the section must be gathered from the expressed intention of the Legislature. Maxwell in his book "On the Interpretation of Statutes", 10th Edn., rightly points out at p. 2 that " If the words of the statute are in themselves precise and unambiguous no more is necessary than to expound those, words in their natural and ordinary sense, the words themselves in such case best declaring the intention of the legislature ". The words used in the section are clear and unambiguous and they prima facie are of the widest import. We have pointed out that the section is in two parts: cl.

(a) defines " industry " with reference to employers and cl.

(b) defines it with reference to employees. Clause

(c) extends the definition to any branch of an industry or a group of industries, i.e., industries Coming within the definition of cls. (a) and (b). It is said that in (1)[1960] 2 S.C.R. 866.

construing the definition we must adopt the rule of construction noscuntur a sociis. Maxwell explains this doctrine at p. 332 thus:

" When two or more words which are susceptible of analogous meaning are coupled together noscuntur a sociis. They are understood to be used in their cognate sense. They take, as it were, their colour from each other, that is, the more general is restricted to a sense analogous to the less general." On the basis of this doctrine, it is argued that the words following the words " any business, trade, manufacturing or mining undertaking " shall partake the characteristics of any business, trade, manufacturing or mining undertaking, and the words " any calling, service, employment, handicraft or industrial occupation or avocation of employees " shall share the qualities of an industrial occupation or avocation. In other words, the general word " calling " in cl. (a) is controlled by the words preceding it, and the general words " calling, service etc." in cl.

(b) are restricted by the succeeding words " industrial occupation or avocation ". This doctrine was dealt with by this Court in State of Bombay v. The Hospital Mazdoor Sabha (1). Therein this Court

has considered the scope of this doctrine and has observed thus:

" It must be borne in mind that noscuntur a sociis is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the Legislature in associating wider words with words of narrower significance is doubtful that the present rule of construction can be usefully applied. It can also be applied where the meaning of the words of wider import is doubtful; but where the object of the Legislature in using wider words is clear and free of ambiguity, the rule of construction in question cannot be pressed into service. The said doctrine, therefore, cannot be invoked in cases where the intention of the Legislature is clear and free of ambiguity. The phraseology used in the (1) [1960] 2 S.C.R. 866 section is very clear and it is not susceptible of any ambiguity. The words used in the first part of cl. (b) are unqualified; and the qualification is introduced only in the later part. If the words " calling, service, employment, handicraft " are really intended to be qualified by the adjective " industrial ", one should expect the Legislature to affix the adjective to the first word " calling " rather than to the last word " occupations." The inclusive definition is a wellrecognized device to enlarge the meaning of the word defined, and, therefore, the word , "industry " must be construed as comprehending not only such things as it signifies according to its natural import but also those things the definition declares that it should include: see Stroud's Judicial Dictionary, Vol. 2, p. 1416. So construed, every calling, service, employment of an employee or any business, trade or calling of an employer will be an industry. But such a wide meaning appears to overreach the objects for which the Act was passed. It is, therefore, necessary to limit its scope on permissible grounds , having regard to the aim, scope and the object of the whole Act. To arrive at the real meaning of the words, Lord Coke in Heydon's case, (1) says that the following matters are to be considered: (1) What was the law before the Act was passed ; (2) What was the mischief or defect for which the law had not provided; (3) What remedy Parliament hap, appointed; and (4) The reason of the, remedy. The word " employers " in el. (a) and the word " employees " in cl.

(b) indicate that the fundamental basis for the application of the definition is the existence of that relationship. The cognate definitions of "industrial dispute", "employer", " employee ", also support it. The long title of the Act as well as its preamble show that the Act was passed to make provision for the promotion of industries and peaceful and amicable settlement of disputes between employers and employees in an organized activity by conciliation and arbitration and for certain other purposes. If the preamble is read with the historical background for the passing of the Act, it is manifest that the Act was introduced as an (1)[1584] 3 Rep. 7 b.

important step in achieving social justice. The Act seeks to ameliorate the service conditions of the workers, to provide a machinery for resolving their conflicts and to encourage co-operative effort in the service of the community. The history of labour legislation both in England and India also shows that it was aimed more to ameliorate the conditions of service of the labour in organized activities than to anything else. The Act was not intended to reach the personal services which do not depend upon the employment of a labour force. Before considering the positive aspects of the definition, what is not an industry may be considered. However wide the definition of " industry " may be, it cannot include the regal or sovereign functions of State. This is the agreed basis of the arguments at

the Bar, though the learned counsel differed on the ambit of such functions. While the learned counsel for the Corporation would like to enlarge the scope of these functions so as to comprehend all the welfare activities of a modern State, the learned counsel for the respondents would seek to confine them to what are aptly termed " the primary and inalienable functions of a constitutional government ". It is said that in a modern State the sovereign power extends to all the statutory functions of the State except to the business of trading and industrial transactions undertaken by it in its quasi- private personality. Sustenance for this contention is sought to be drawn from Holland's Jurisprudence, wherein the learned author divides the general heading "Public Law " into four sab-heads and under the sub-head "Administrative Law " he deals with a variety of topics including welfare and social activities of a State. The treatment of the subject " Public Law " by Holland and other authors, in our view, has no relevancy in appreciating the scope of the concept of regal powers-which have acquired a definite connotation. Lord Watson, in Coomber v. Justices of Berks (1), describes the functions such as administration of justice, maintenance of order and repression of crime, as among the primary and inalienable functions of a constitutional Govern-

(1)(1883-84) 9 App. Cas, 61, 74 ment. Isaacs, J., in his dissenting judgment in The Federated State School Teachers' Association of the Australia v. The State of Victoria (1), concisely states thus at p. 585 -

Regal functions are inescapable and inalienable. Such are the legislative power, the administration of laws, the exercise of the judicial power. Non-regal functions may be assumed by means of the legislative power. But when they are assumed the State .acts simply as a huge corporation, with its legislation as the charter. Its action under the legislation, so far as it is not regal execution of the law is merely analogous to that of a private company similarly authorised. "

These words clearly mark out the ambit of the regal functions as distinguished from the other powers of a State. It could not have been, therefore, in the contemplation of the Legislature to bring in the regal functions of the State within the definition of industry and thus confer jurisdiction on Industrial Courts to decide disputes in respect thereof. We, therefore, exclude the regal functions of a State from the definition of industry. This leads us to the question whether the Corporation can be said to exercise regal functions by legislative delegation. The Corporation functions under a statute and its powers, duties and liabilities are regulated by it. It is a juristic person and it can sue and be sued in its name. The statute constituting it may confer upon it some strictly regal functions and other municipal functions. In County Council of Middlesex v. Assessment Committee of St. George's Union (2), certain premises were used for the administration of justice and also for municipal purposes. The question raised was whether the said premises were rateable and the Court held that they were rateable in so far as they were occupied for municipal purposes and not rateable in so fares they were occupied for the administration of justice, which was held to be a function of the Crown. So too, the Supreme Court of America in Verisimo Vasquez Vilas (1) (1929) 41 C.L.R. 569.

(2) (1896) 2 Q.B.D. 143.

v. City of Manila (1) expounded the dual character of a municipal corporation thus:

" They exercise powers which are governmental and powers which are of a private or business character. In the one character a municipal corporation is a governmental sub- division, and for that purpose exercises by delegation a part of the sovereignty of the State. In the other character it is a mere legal entity or juristic person. In the latter character it stands for the community in the administration of local affairs wholly beyond the sphere of the public purposes for which its governmental powers are conferred. "

Isaacs and Rich, JJ., in The Federated Municipal and Shire Council Employees' Union of Australia v. Melbourne Corporation (2) in the context of the dual functions of State say much to the same effect at p. 530:

" Here we have the discrimen of Crown exemption. If a municipality either (1) is legally empowered to perform and does perform any function whatever for the Crown., or (2) is lawfully empowered to perform and does perform any function which constitutionally is inalienably a Crown function-as, for instance, the administration of justice the municipality is in law presumed to represent the Crown, and the exemption applies. Otherwise, it is outside that exemption, and, if impliedly exempted at all, some other principle must be resorted to. The making and maintenance of streets in the municipality is not within either proposition." A corporation may, therefore, discharge a dual function : it may be statutorily entrusted with regal functions strictly so-called, such as making of laws, disposal of certain cases judicially etc., and also with other welfare activities. The former, being delegated regal functions, must be excluded from the ambit of the definition of "industry". The next head of exclusion from the definition is put by the learned counsel for the appellant thus : A municipality in the modern polity is also a trading (1) 220 U.S. 345. 356; 55 L. Ed. 491, 495.

(2) (1918-19),26 C.L.R. 508, 530-531.

and industrial corporation and in that capacity is empowered to carry on undertakings partaking the Character of business and trade, and that the definition of "industry" in the Act only takes in such undertakings and no other statutory activities. To state it differently, the contention is that activities which partake the character of trade and business in the hands of a private individual would be an industry if undertaken by a corporation. Some observations made by this Court in D. N. Banerji v. P. R. Mukherjee (1) are relied upon in support of this contention. Chandrasekbara Aiyar, J., speaking for the Court made the following observations at p. 317:

"Having regard to the definitions found in our Act, the aim or objective that the Legislature had in view and the nature, variety and range of disputes that occur between employees and employees, we are forced to the conclusion that the definitions in our Act include also disputes that might arise between municipalities and their employees in branches of work that can be said to be analogous to the carrying out of a trade or business."

Emphasis is laid upon the words " analogous to the carrying out of a trade or business" and an argument is built upon those words to the effect that this Court held that only such activities of municipalities analogous to trade or business would be industry within the meaning of the definition of "industry" in the Act. This argument, if we may say so, is the result of an incorrect reading of the

decision. There the question was whether the sanitary department of a municipality was an industry within the meaning of the Industrial Disputes Act and whether the dispute between the municipality and its employees in that department was an industrial dispute thereunder. At p. 311, the learned Judge specifically deals with a contention based upon the collocation of the words in the section and observes :

"Though the word "undertaking" in the definition of "industry" is wedged in between business and trade on the one hand and manufacture on the other, and though therefore it might mean only a business or trade undertaking, still it must be (1) [1953] S.C.R. 302 remembered that if that were so, there wag no need to use the word separately from business or trade. The wider import is attracted even more clearly when we look at the latter part of the definition which refers to "calling, service, employment, or industrial occupation or avocation of workmen." "Undertaking" in the first part of the definition and "industrial occupation. or avocation" in the second part obviously mean much more than what is ordinarily understood by trade or business. The definition was apparently-intended to include within its scope what might Dot strictly be called a trade or business venture." This passage leaves no room for doubt that this Court construed the terms of the definition of "industry" in a way which takes in activities which are not strictly called trade or business. Therefore the words "not strictly be called a trade or business venture" and the words "analogous to the carrying out, of a trade or business" emphasize more the nature of the organised activity implicit in a trade or business than to equate the other activities with trade or business. This is made more clear by the learned Judge when be expressly reserves the Court's opinion on a wider question in the following words at p. 318:

"It is unnecessary to decide whether disputes arising in relation to purely administrative work fall within their ambit."

We cannot, therefore, agree with the contention that the said decision, when it expressly accepted the comprehensive meaning which the words of the section naturally bear, intended to circumscribe the wide sweep of the section to business or trade and activities in the nature of trade or business. Nor a fair reading of the section bears out such a construction. We have already indicated our view on the construction of the section, having regard to the clear phraseology used therein, that the section cannot be confined to trade or business or activities analogous to trade or business.

A more workable and reasonable test is laid down in an Australian decision cited at the Bar, and that test has also been accepted and applied by this Court. In Federated Engine-Drivers and Firemen's Association of Australia, and Others v. The Broken. Hill Proprietory Company Limited and Others (1) a distinction was drawn between trading and non-trading operations, but the question as to how far non-trading operations attracted the definition of "industry" was left undecided. That question fell to be decided in The Municipal and Shire Council Employees' Union of Australia v. Melboure Corporation (2) and that decision, if we may say so, is illuminating and throws considerable light on the question to be decided in the present appeal. It was held by the High Court of Australia that the Commonwealth Court of Conciliation and Arbitration had authority to determine by award a dispute between an organization of employees registered in connection with "municipal and shire councils, municipal trusts and similar industries", and municipal corporations constituted under State laws.

The dispute there related to those operations of municipal corporations which consisted of the making, maintenance, control and lighting of public streets. The learned Judges discussed at length the meaning of the word "industrial dispute" in s. 51 (XXXV) ofthe Constitution of Australia. It is manifest from this decision that even activities of a municipality which cannot be described as trading activities can be the subject-matter of an industrial dispute. Isaacs, J.,in his dissenting judgment in The Federated State School Teachers' Association of Australia v. The State of Victoria (3), has concisely expressed this idea at p. 587 thus:

"The material question is: What is the nature of the actual function assumed is it a service that the State could have left to private enterprise, and, if so fulfilled, could such a depute be "industrial" ?" This test steers clear of the argument that to be an industry the activity shall be a trading activity. If a service performed by an individual is an industry, it will continue to be so notwithstanding the fact that it is undertaken by a corporation. Another test suggested by the learned counsel may be scrutinized. It is said that unless there is a (1) (1913) 16 C.L.R. 245. (2) (1918-19) 26 C.L.R. 508, 530-

(3) (1929) 41 C.L.R. 569 quid pro quo for the service, it cannot be an industry. This is the same argument, namely, that the service must be in

-the nature of trade in a different garb. This Court in D. N. Banerji v. P. B. Mukherjee (1) has held that neither the investment of capital or the existence of profitearning motive seems to beta sine qua non or necessary element in the modern conception of industry. The conception that unless the public who are benefited by the services pay in cash for the services rendered to them, the services so rendered cannot be industry is based upon an exploded theory. As observed by Chandrasekhara Aiyar, J., "the conflicts between capital and labour have now to be determined more from the standpoint of status than of contract". Isaac and Rich, JJ., in The Fede rated Municipal and Shire Council Employees' Union of Australia v. Melbourne Corporation (2) formulated the modern concept of industry at p. 554 thus:

" Industrial disputes occur when, in relation to operations in which capital and labour are contributed in co-operation for the satisfaction of human wants or desires, those engaged in co-operation dispute as to the basis to be observed, by the parties engaged, respecting either a share of the product or any other terms and conditions of their cooperation.

The learned Judges proceeded to state at p. 564: " The question of profit-making maybe important from an income tax point of view, as in many municipal cases in England; but, from an industrial dispute point of view, it cannot matter whether the expenditure is met by fares from passengers or from rates. In each case the 'municipality is performing a function; and in the one case it performs it with a variation in contrast with the other. Isaac, J., elaborated the theme in his dissenting judgment in The Federated State School Teachers' Association of Australia v. The State of Victoria (3) at p. 577 thus: " The contention sounds like an echo from the dark ages of industry and political economy..... Such disputes are not simply a claim to share (1) [1953] S.C.R. 302 (2) [1918-19] 26 C.L.R. 508, 539-531. 122 (3) [1929] 41 C.L.R. 569.

the material wealth jointly produced and capable of registration in statistics. At heart they are a struggle, constantly becoming more intense on the part of the employed group engaged in co-operation with the employing group in rendering services to the community essential for a higher general human welfare, to share in that welfare in a greater degree. All industrial enterprises contribute more or less to the general welfare of the community, and this is a most material consideration when we come to determine the present question apart from the particular contention raised at the Bar.

Monetary considerations for service is, therefore, not an essential characteristic of industry in a modern State. The learned counsel then sought to demarcate the activities of a municipality into three categories, namely, (i) the activities of the department which performs the services;

(ii) those of the department which only impose taxes, collect them and administer them; and (iii) those of the departments which are purely in administrative charge of other departments. We do not see any justification for this artificial division of municipal activities. Barring the regal functions of a municipality, if such other activities of it, if undertaken by an individual, would be industry; then they would equally be industry in the hands of a municipality. It would be unrealistic to draw a line between a department doing a service and a department controlling or feeding it. Supervision and actual ,performance of service are integral part of the same activity. In other words, whether these three functions are carried out by one department or divided between three departments, the entire organizational activity would be an industry. This aspect of the question was incidentally touched upon by this Court in Baroda Borough Municipality v. Its Workmen and the following passage at p. 49 reads thus: " We have already pointed out that under the Municipal Act a municipality may perform various functions, some obligatory and some discretional. The activities may be of a composite nature,: some (1) [1957] S.C.R. 33 of the departments may be mostly earning departments and some mostly spending departments. For example, the department which collects municipal taxes or other municipal revenue, is essentially an earning department whereas the sanitary department or other service department is essentially a spending department. There may indeed be departments where the earning and spending may almost balance each other."

We have extracted this passage only because the observations are apposite to the discussion on hand but not to express our concurrence with the conclusion drawn in that case. The question of bonus does not fall to be considered in the present appeal. These observations and support to our view that integrated activities of a municipality cannot be separated to take in some under the definition of "

industry " and exclude others from it.

We can also visualize different situations. A particular activity of a municipality may be covered by the definition of "industry". If the financial and administrative departments are solely in charge of that activity, there can be no difficulty in treating those two departments also as part of the industry. But there may be cases where the said two departments may not only be in charge of a particular activity or service covered by the definition of "industry" but also in charge of other activity or activities falling outside the definition of "industry".In such cases a working rule may be evolved to advance social justice consistent with the principles of equity. In such cases the solution to the

problem depends upon the answer to the question whether such a department is primarily and predominantly concerned with industrial activity or incidentally connected therewith.

The result of the discussion may be summarized thus: (1) The definition of " industry " in the Act is very comprehensive, It is in two parts: one part defines it from the standpoint of the employer and the other from the standpoint of the employee. If an activity falls under either part of the definition, it will be an industry within the meaning of the Act.

(2) The history of industrial disputes and the legisla- tion recognizes the basic concept that the activity shall be an organized one and not that which pertains to private or personal employment. (3) The regal functions described as primary and inalienable functions of State though statutorily delegated to corporation are necessarily excluded from the purview of the definition. Such regal functions shall be confined to legislative power, administration of law and judicial power. (4) If a service rendered by an individual or a private person would be an industry, it would equally be an industry in the hands of a corporation. (5) If a service rendered by a corporation is an industry, the employees in the departments connected with that service, whether financial administrative or executive, would be entitled to the benefits of the Act. (6) If a department of a municipality discharges many functions, some pertaining to industry as defined in the Act and other non-industrial activities, the predominant functions of the department shall be the criterion for the purposes of the Act.

The following are the various departments of the Nagpur City Corporation: (1) General Administration Department; (2) Octroi Department; (3) Tax Department; (4) Public Conveyance Department; (5) Fire Brigade Department; (6) Lighting Department; (7) Water Works Department; (8) City Engineer Department; (9) Enforcement (encroachment) Department: (10) Sewage Pumping Station Department; (11) Sewage Farm Department; (12) Health Department; (13) Market Department; (14) Cattle Pound Department; (15) Public Gardens Depart- ment; (16) Public Works Department; (17) Assessment Department; (18) Estate Department; (19) Education Department; (20) Printing Press Department; (21) Workshop Department; and (22) Building Department. Out of these departments, the State Industrial Court has held that all the departments except those pertaining to (i) assessment and levy of house-tax, (ii) assessment and levy of octroi,

(iii) removal of encroachment and pulling down of dilapidated houses, (iv) maintenance of cattle pounds, and (v) prevention and control of food adulteration, are industries. Even in regard to the departments which the State Industrial Tribunal held to be industries it denied relief to persons who are not covered by the definition of " employees " in the Act. As the employees have not preferred any appeal against the award in so far as it went against them, nothing further need be said in regard to the aforesaid five departments.

Before we consider whether all or any of the departments of the Corporation fall within the definition of " industry " in the Act, it will be convenient to notice the scheme of the City of Nagpur Corporation Act, 1948 (Madhya Pradesh Act No. 2 of 1950). Section 7 makes the Corporation a body corporate with perpetual succession and a common seal. Section 6 describes the municipal authorities charged with the execution of the Act and they are: (a) the Corporation;

(b) the Standing Committee; and (c) the Chief Executive Officer. Chapter II of Part II contains the aforesaid sections and it further provides for the constitution of the Corporation and the mode of election to the said body. Chapter III of the said Part prescribes the procedure for the conduct of business of the Corporation. Chapter IV thereof provides for the appointment of municipal officers and servants and for their punishment and removal. Chapter V deals with powers, duties and functions of the municipal authorities; it gives the obligatory and discretionary duties of the Corporation. Under s. 57, the Corporation shall make adequate provision, by any means or measures which it may lawfully use or take, such as for lighting public streets, cleaning of public streets,disposal of nightsoil and rubbish, maintenance of firebrigade and other welfare activities in the interest of the public. Section 58 confers a discretionary power on the Corporation to provide for other amenities not covered by s. 57, and which are comparatively not absolutely essential but are necessary for the happiness of the people of the State. Provisions of Ch. VI enable the municipality to hold and acquire properties, to manage public institutions maintained out of municipal funds. Section 79 enjoins on the municipality to apply the fund available with it to discharge its statutory duties and pay salaries and allowances of its various servants. Chapter IX enables the municipality to raise loans on the security of its properties for discharging debts and for meeting the capital expenditure. Part IV empowers the municipality to impose taxes for the purposes of this Act and also describes the procedure for collecting the same. Part V confers powers and imposes duties on the Corporation and its officers in respect of public health, safety and convenience. This Part deals with public convenience, drains and privies, conservancy, sanitary provisions, water supply and drainage, regulation of factories and trades, markets and slaughter places, food, drink, drug and dangerous articles, prevention of infectious diseases and disposal of the dead. Part VI empowers the Corporation to draw up townplanning schemes, to regulate erection and re-erection of buildings, to close public streets, to remove obstruction in streets, to regulate laying of new streets, to dispose of mad and stray dogs, to control public begging, to prohibit brothels etc. Part VIII lays down the general provisions for carrying on the municipal administration and also enabling the Corporation to make by-laws for carrying out the provisions and intentions of the Act. Shortly stated, the Act creates the Corporation a juristic person capable of holding and disposing of property, confers power on it to impose and collect taxes and licence fees, to borrow money, to decide disputes in the first instance in respect thereof, constitutes the amounts so collected as the fund of the municipality from and out of which the liabilities of the Corporation are met and the salaries of its employees are paid, imposed on it duties to carry out various welfare activities in the interest of the public, confers on it powers for, implementing their duties satisfactorily and also powers to make by-laws for regulating its various functions. In short, a corporation is analogous to a big public company carrying out most of the duties which such a company can undertake to do with the difference that certain statutory powers have been conferred on the corporation for carrying out its functions more satisfactorily.

With this background let us take each of the departments of the Corporation held by the State Industrial Court to be governed by the Act.

(i) Tax Department: The main functions of this department are the imposition and collection of conservancy, water and property taxes. No separate staff has been employed for the assessment and levy of property taxes: the same staff does the work connected with assessment and collection of

water rates as well as scavenging taxes. It is not disputed that the work of assessment and levy of water rate and scavenging rate for private latrines is far heavier than the other works entrusted to this department. No attempt has been made to allocate specific proportion of the staff for different functions. We, therefore, must accept the finding of the State Industrial Court that the staff of this department doing clerical or manual work predominantly does the work connected with scavening taxes and water rate. The said rates are really intended as fees for the service rendered. The services, namely, scavenging and supply of water, can equally be undertaken by a private firm or an individual for remuneration and the fact that the munici- pality does the same duty does not make it any the less a service coming under the definition of "industry". We would, however, prefer to sustain the finding on a broader basis. There cannot be a distinction between property tax and other taxes collected by the municipality for the purpose of designating the tax department as an industry or otherwise. The scheme of the Corporation Act is that taxes and fees are collected in order to enable the municipality to discharge its statutory functions. If the functions so discharged are wholly or predominantly covered by the definition of " industry ", it would be illogical to exclude the tax department from the definition. While in the case of private individuals or firms services are paid in cash or otherwise, in the case of public institutions, as the services are rendered to the public, the taxes collected from them constitute a fund for performing those services. As most of the services rendered by the municipality come under the definition of industry ", we should hold that the employees of the tax department are also entitled to the benefits under the Act.

(ii) Public Conveyance Department: This is a tax which is a wheel-cum-road tax. Conveyance department is meant to regulate the using of cycles, rickshaws, bullock-carts etc. This department recovers registration fees for rickshaws, licence fee from rickshaw drivers and wheel tax from bullock-carts. It also recovers cycle tax on every cycle used in Corporation limits. (See the evidence of Witness No 1 for Party No. 1). These taxes are therefore really fees collected by the Corporation for the services rendered to the owners of cycles and other conveyances by way of maintenance and construction of roads. These services can equally be performed by a private individual or a firm for remuneration. It satisfies the tests laid down by us. This department, therefore, is 'an industry within the meaning of the definition in the Act.

(iii) Fire Brigade Department: Ex. N. A. 22 gives the duties of the driver-cum-fitter of the Fire Brigade Department. This exhibit indicates that the function of this department is to attend to fire calls. Witness No. 3 for Party No. 1 says that it is the duty of the firebrigade to supply water at marriage functions and other public functions. The firebrigade employees are not paid any extra amount for supplying water at public or private functions. Though the department renders some extra services, the main function of the department is to attend to " fire calls". Private bodies also can undertake this service. It is said that under s. 333 of the City of Nagpur Corporation Act powers are conferred on specified officers to remove or order the removal of any person who interferes with or impedes the operation for extinguishing the fire, to close any street or passage in or near which any fire is burning, to break into or pull down or use for the passage of hoses or other appliances, any premises for the purpose of extinguishing the fire and generally to take such measures as may appear necessary for the preservation of life or property, and that the services of the firebrigade cannot be satisfactorily rendered without such powers and that no private individual can perform the same. Here 'the argument tends to be fallacious as it ignores the distinction between he services

and the statutory powers conferred to satisfactorily discharge the said services. A private person or a firm can equally do the same services and nothing prevents the legislature from conferring similar powers on an individual or a firm. These services also satisfy all the tests laid down by us and therefore we hold that this department is also an industry.

(iv) Lighting Department: Lighting Department looks after the arrangements for lighting the streets in the Corporation area. There are two systems of lighting streets, namely, (1) by electricity, and (2) by kerosene oil lamps. Electric street lighting is given on contract to Nagpur Light and Power Co., Nagpur, by the Corporation. Kerosene oil street lighting is done departmentally by the lighting department. Electric Light and Power Co., is responsible to the Corporation for street lighting. The said Company has to fix electric lights according to the programme given to it by the Corporation. The burning hours are also fixed by the Corporation. The Corporation does not charge the public for street lighting. (See the evidence of Witness No. 5 for Party No. 1). We have already indicated that quid pro coin the shape of payment of money for particular services rendered is not a necessary condition for the application of the definition of "industry ". The services rendered by the department satisfy the terms of the definition. They also satisfy both the positive and negative tests laid down by us. We, therefore, hold that this department is an indus- try.

(v) Water Works Department: This department maintains three head-works, Kanhan, Gorewara, and Ambazeri. There are pumping stations at Kanhan and Gorewara. At the pumping stations the water is filtered and pumped into service reservoir at Nagpur. The Corporation has a separate staff at each pumping station. It has also a separate staff for distribution. In addition it maintains an assessment. department to assess water cess for the distribution of water. (See the evidence of Witness No. 9 for Party No. 1). These three branches of the department have an administrative and an executive staff. Whether the services rendered by the department are concerned With manufacturing process or not, they are certainly covered by the wide definition of " industry" in the Act. They also satisfy both the positive and negative tests laid down by us. None of them comprises delegated regal functions of State and they are such that a private individual can equally undertake to do. We, therefore hold that the said department comes under the definition of "industry".

(vi) City Engineers Department: The function of this department is to exercise supervisory an administrative control over, its subordinate departments. The City Engineer is the head of this department. (See the evidence of Witness No. 5 for Party No. 1). As we are of the view that the departments subordinate to this department come under the definition of "industry", this department, which has administrative control Over those subordinate departments, must be considered a part of those departments. If so, it follows that this department is also an industry.

(vii) Enforcement (encroachment) Department: The function of this department is to remove encroachment and unauthorised constructions and dilapidated houses. This department is a section of the Estate Department. (See the evidence of Witness No. 5 for Party No. 1). It is contended that the functions of this department are all statutory and that no private individual can perform them. Statutory powers are conferred on the Corporation to remove encroachment and unauthorised construction and dilapidated houses. These powers are necessary for the Corporation to protect its properties and to prevent encroachment thereon and to remove dilapidated houses in the interest of

the public. But if a distinction is made between the powers and the nature of the services rendered, it would be obvious that the services rendered are not peculiar to a corporation. A private firm may undertake to manage the properties of others. It will have to. appoint persons to detect encroachment and to take steps to recover possession of lands encroached upon. The only difference between a firm and a municipal corporation is that the corporation can, in exercise of its statutory powers, remove the encroachment, but it does not prevent the aggrieved party from going to a civil court to establish his title to the property : but in the case of a firm, it cannot take the law into its own hands: it has to get the encroachment removed through a court of law. So far as the nature of the service is concerned, namely, protecting its properties in the interest of the public from encroachment and to recover possession of the lands encroached upon, there is no essential distinction between the said service of the Corporation and a similar service performed by a private firm. The service satisfies not only the terms of the definition, but also the tests laid down by us. Even so, it is contended that, the said reasoning cannot be invoked in the case of the-service rendered by the municipality in removing dilapidated houses and it is said that the said service is rendered in exercise of a governmental function which a private individual cannot himself discharge. Here again the incidental power is confused with the service. To illustrate, a firm may undertake to remove dilapidated houses and render the said service to those who engage it. It may not have the power to remove dilapidated houses of persons other than those who employed its services. The difference does not in any way affect the' character of the service. We, therefore, hold that this department is also an industry.

(viii) Sewage Department; The sewage pumping station is meant for pumping sewage at the outfall of the underground sewers. The sewage is utilised on the land on broad irrigation system, and some crops are also grown on the farm. (See the evidence of Witness No. 8 for Party No. 1). In the cross-examination of the said witness it was elicited that whatever sewage is left after irrigating the farm maintained by the Corporation will be sold to the neighbouring farms. For the said reasons, it must be held that this department is also an industry.

(ix) Health Department: This department looks after scavenging, sanitation, control of epidemics control of food adulteration and running of public dispensaries. Private institutions can also render these services. It is said that the control of food the adulteration and the control of epidemics cannot be done by private individuals and institutions. We do not see why. There can be private medical units to help in the control of food adulteration and in the control of epidemics for remuneration. Individuals may get the food articles purchased by them examined by the medical unit and take necessary action against guilty merchants. So too, they can take advantage of such a unit to prevent epidemics by having necessary inoculations and advice. This department also satisfies the other tests laid down by us, and is an industry within the meaning of the definition of "industry" in the Act.

(x) Market Department: The function of the Market Department is to issue licences, collect ground-rent and registration fee and to detect short weights and measures. Rents are collected for permitting persons to enter the Corporation land and transact business thereon. Detection of short weights and measures is a service to the people to prevent their being cheated in the market. The setting apart of market places, supervision of weights and measures are services rendered to the

public and the fees collected are remuneration for the services so rendered. 'These services can equally be done by any private individual. This department; also satisfies the tests laid down by us. We, therefore, hold that this department is an industry within the meaning of the Act.

(xi) Public Gardens Department: The functions of this department are the maintenance of public parks and -gardens and laying of new gardens and parks; and planting of trees on road sides. (See the evidence of Witness No. 5 for Party No. 1). This service is covered by the definition of " industry" Any private individual can certainly perform the functions stated above and the fact that the municipality has undertaken those duties does not affect the nature of the service. This also satisfies the tests laid down by us. We, therefore, hold that this Department is an industry. (Xii) Public Works Department : This department is in charge of construction and maintenance of public works such as roads, drains, buildings, markets, public latrines etc. For the convenience of the public this department is divided into zones and every zone has its office. The outdoor staff in the P.W.D. consists of assistant engineer, overseers, sub-overseers, time- keepers, mates, carpenters, masons, blacksmiths and coolies. The other staff, consisting of clerks and peons performs indoor duties. (See the evidence of Witness No. 5 for Party No. 1). This department performs both administrative and executive functions.The services rendered are such that they can equally be done by private individuals and they come under the definition of "industry)', satisfying both the positive and negative tests laid down by us in this regard.We, therefore, hold that this department is an industry.

(xiii) Assessment Department: This department deals with the assessment of taxes, fees and rates. The same staff does the assessment work connected not only with taxes strictly so called but also other fees and rates. As the services rendered, namely, scavenging and supply of water can be done by private individuals, the State Industrial Court held that they come under the definition of "industry" and therefore the department assessing fees and rates is also part of that industry. There is no reason why a distinction should be made in regard to the assessment of taxes so-called and that of fees and rates. The taxes are collected only for enabling the Corporation to render service to the public and, as most of the services come under the definition of "industry", this department also, in our view, is an industry within the meaning of the Act. That apart, the State Industrial Court has held that the same staff does the work of assessment of house-tax as well as other fees and rates and the work of this department is predominantly connected with the assessment of scavenging tax and water rate. Applying the test of "paramount and predominant duty ", this department falls within the definition of " industry " in the Act.

(xiv) Estate Department : This department maintains the record of property acquired, vested or transferred to the Corporation and all buildings and roads constructed by the P.W.D. This department lets out lands and houses belonging to the Corporation by public auction and gets income therefrom, which no doubt is credited to the common fund. A department like this is equally necessary in a private company which carries out functions similar to the Corporation. Maintenance of records of the properties acquired, buildings and roads constructed and properties leased, is a necessary administrative function correlated to the corresponding services. If the service such as construction of buildings, roads etc., is an industry, its administrative wing is also an industry. The department as a whole, both with its administrative and executive wings, for reasons stated in connection with the other departments, is an industry.

(xv) Education Department: This department looks after the primary education, i.e., compulsory primary education. within the limits of the Corporation. (See the evidence of Witness No. 1 for Party No. 1). This service can equally be done by private persons. This department satisfies the other tests. The employees of this department coming under the definition of " employees " under the Act would certainly be entitled to the benefits of the Act. (xvi) Printing Press Department: The printing press is maintained by the Corporation for printing passes. It is also used for printing of by-laws and the rules and proceedings and forms, and the by-laws and the rules so printed are sold to the public. For the reasons stated supra in the case of the Water Works Department' this department is also an industry.

(xvii) Building Department: This department is really a " building permission department ". The function of this department is to regulate construction of buildings by private individuals and to take action against those who violate the by-laws and the provisions of the Corporation Act pertaining to this department. It is said that the functions of this department are statutory and no private individual can discharge those statutory functions. The question is not whether the discharge of certain functions by the Corporation have statutory backing, but whether those functions can equally be performed by private individuals. The provisions of the Corporation Act and the by-laws prescribe certain specifications for submission of plans and for the sanction of the authorities concerned before the building is put up. The same thing can be done by a co-operative society or a private individual. Cooperative societies and private individuals can allot lands for building houses in accordance with the conditions prescribed by law in this regard. The services of this department are therefore analogous to those of a private individual with the difference that one has the statutory sanction behind it and the other is governed by terms of contracts. This department functions in the interest of the public and the services rendered by this department satisfy both the positive and negative tests laid down by us. We, therefore, hold that this department is covered by the definition of "industry ".

(xviii) General Administration Department : This department co-ordinates the functions of all the other departments. The State Industrial Court describes the functions of this department thus: " This department consists of treasury, accounts section, records section in which are kept records of all the different departments and public relations section. It also consists of a committee section the duty of which is to look after the convening of meetings, to draw up agenda, minutes of proceedings and to draft by-laws. In the record section are kept records of most of the departments including health and engineering." Every big company with different sections will have a general administration department. If the various departments collated with this department are industries, this department would also be a part of the industry. Indeed the efficient rendering of all the services would depend upon the proper working of this department, for, otherwise there would be confusion and chaos. The state Industrial, Court in this case has held that all except five of the departments of the Corporation come under the definition of "industry" and if so, it follows that this department, dealing predominantly with industrial departments, is also an industry. Hence the employees of this department, are also entitled to the benefits of this Act.

The State Industrial Court held that five of the departments of the Corporation did not fall within the terms of the definition of "industry " in the Act. The employees of these -departments did not file

any appeal against the finding of the State Industrial Court and we do not propose to express our final opinion on the correctness of the decision of the Industrial Court in regard to these activities.

In the result the appeals fail and are dismissed with costs.

Appeal dismissed.