Conference

on

Trends

in

Industrial Relations

13th and 14th MARCH
1950

Industrial Relations Section
UNIVERSITY OF MONTREAL

PRINTED BY

Laplante & Langevin

MONTREAL

PART I

Collective Bargaining Trends

by

PROFESSOR GEORGE W. TAYLOR.

13th March, 1950.

FOR MANY MONTHS I have looked forward to the pleasure of being here. Last year, my friends Eric Taylor and Father Bouvier invited me to come up here but, almost at the last minute, I found myself unable to come. So my anticipation about this year's conference was keen in a large measure because of the great admiration that I and many of my colleagues in the United States have for the pioneering work which these men are doing here.

In talking about collective bargaining and collective bargaining trends, one immediately realizes a difficulty with semantics. What is collective bargaining? What do you mean by the term? I suppose, if we went around the room here and asked people: "what is collective bargaining?", there would be as many definitions as there are people in the room. We have adopted as an institution, something that is called "collective bargaining" and it is not very well defined.

One occasionnally finds, at the end of an unsuccessful conference between labour and management that each one of the participants blames the other for the break-up, because of a refusal to engage in *genuine collective bargaining*. Collective bargaining means almost all things to all men.

I thought it might be helpful, therefore, to start out by mentioning some of the things that seem to be impliedly accepted by one who accepts collective bargaining, or that a nation accepts when it adopts collective bargaining, as the institution for dealing with industrial relations questions.

To begin with, collective bargaining involves some subordination of the individual to the group of workers of which he is a part. Inevitably, collective bargaining involves group determination of certain conditions of employment. It involves the working out of certain provisions which are acceptable to the group, though not necessarily acceptable to each person in the group. The majority rule approach prevails.

And, of course, it is out of that concept of group relationship that there has arisen one of the great problems in industrial relations based on collective bargaining. With respect to what must the individual employee be subordinate to the group? I suppose most of us can relatively easily accept the point-of-view in that wages can be equally determined on a group basis or that, in many plants, it is not possible to adjust wages to meet the circumstances or needs of individual employees. It is very difficult to bargain individually on wages, particularly in large scale industries. Perhaps many of us might go farther and say "it is an undesirable thing to have competition between individuals in the determination of wages". The most impressive sights I ever saw as an emphasis for the need of collective bargaining was in my own city of Philadelphia. In the last depression, an industrial relations manager appeared before a vast number of unemployed job-seekers who had gathered before the gates and he said: " I have three jobs operating a lathe. How many of you unemployed people will take the job for fifty cents an hour?". Some hands went up. He said: "Of those of you who raised your hands, how many of you would work for forty-five cents an hour?". And a few hands went down. He said: "How many would take it for forty cents an hour?".

That was individual bargaining in the raw with respect to wage determination process. That kind of wage determination led to great difficulties in the depression period. A precipitous downward spiralling of wage rates was engendered and this resulted in an extreme problem for us. Whenever I talk about the downward wage spiral of the 1930's, I think of the lowest wage rage I ever encountered and which resulted from individual bargaining. In my own State of Pennsylvania — not in Mississipi or Georgia — there was a strike which I ran across one day. I stopped my car to ask the pickets what was wrong. One fellow said to me: "The wages are terrible in this place". To my inquiry "what are your wages and how low are they", he replied

"well, last week I worked for this company for 56 hours and got a bill for six cents". "There are fines for being late for work and poor workmanship that were more than my piecework earnings". Well, that is an exceptional case, but it is the lowest wage I ever came across.

It was decided, after some experiences like that, that certain interferences with competition would be introduced. Rigidities in the wate-rate structure was appraised as having some advantages in protecting against downward precipitous spiralling of wage rates. When one accepts collective bargaining, one accepts a group determination of wages as distinct from an individual determination and the rigidities which are involved.

Perhaps many of us have little trouble in saying: "yes, as far as wages are concerned, that is a group problem and should be handled on a group basis." But there does group determination end. Some of my union friends in the 1946 election were very anxious to elect Democrats to the Congress. In a few unions assestments were levied against all of the members which would make up a contribution to the campaign fund of the Democratic Party. The failure of any member to pay the assestment could result in a loss of job, under the union and closed shops prevailing. It was argued by the union officers: "but it is in the interest of the group as a whole that democratic legislators be elected to the Congress. The individual must subordinate himself to the group as respect to that aspect". Now I for one have great difficulty in accepting political conviction as one of the matters to which the individual must subordinate himself to the group.

In trying to make collective bargaining work, therefore, great difficulties are encountered in deciding what subjects should be dealt with by the collective bargaining method. The scope of collective bargaining, if you will, is subject to considerable controversy.

What are the subjects which should properly be made part of this joint determination process? One of the dilemnas already referred to has to do with the rights of the employee as an individual. How much of his subordination can properly be required in order better to assure economic security for the group as a whole but without a loss of essential individual liberties? How much of the subordination of the individual to the group actually increases his liberty by giving him a right to participate as part of a

group in matters about which he can have little or no say as an individual employee? The other aspect of this question relates to the management security issue. Management security is commonly concerned as involving the necessity of preserving certain rights to manage which are variously defined. In other words, what subjects, if any, should be excluded from the bargaining process or the joint-determination process in order that management will be in a position to perform its functions of risk-taking, of making operating decisions and of working toward a more efficient production which contributes to economic progress? Management indeed has certain vital functions to perform.

If we are to maintain the free enterprise system — and I have no doubt about the fact that we will long retain the essential features of the free enterprise system in the United States — the managerial function must be performed. At the same time, I know from experience that the accepted ideas of what can effectively be included within the collective bargaining process changes materially from year to year. I recall a standard management contention not too many years ago, to the effect that: we dare not submit disciplinary actions taken by management to the bargaining process. The discipline, firing or lay-off of an employee was conceived as not reviewable. Management reasoned that if it could not direct its own work force and take the steps which it deemed necessary to insure an effective work force operation, it would be giving up rights which were inherent in the management function and, probably more importantly, primary rights which were absolutely necessary for the performance of the management function. And yet I suppose very few people representing management in collective bargaining relationships today would now say that the discipline function was not subject to review in the collective bargaining mechanism. Prevailing concepts about the scope of collective bargaining have changed over the years and are continuing to change.

The problem of degree has again been employed. Where is the point where group determination of some of the conditions of employment will interfere with the necessary decision-making and with the forward moves of risk-taking that is involved in management direction of business enterprise. In my opinion, such matters as price policy, location of plants, the determination of the type of product are not amenable to collective bargaining. This conclusion is not grounded upon the protection of "rights" or "prerogatives"

but on the basis of what is essential to a functioning economy which progress to more goods and resources. At the same time, I do not believe it is preferable to define the scope of bargaining by law.

After the close of World War II, President Truman called a conference of leading labour and management representatives who were asked to work out a program that would avoid or minimize industrial conflict in the post-war period. Many management representatives, wanting to eliminate conflicts over the scope of collective bargaining, concluded there should be a designation of those subjects which should not be dealt with in collective bargaining but only as the result of unilateral management decision. A failure to agree upon such an approach was one of the reasons for the impasse which developed.

The attempt to define precisely these subjects involving management decisions which had to be kept out of the bargaining process constituted, I believe, a wrong approach for the simple reason that there are certain industries and certain relationships which can incompass more areas than others.

I'll give you an illustration. For many years now, I have served as impartial chairman in the men's clothing industry, in Philadelphia. The relationships between management and the union are just about the finest I have ever seen — a cooperative relationship with an absence of conflict in the mutual approach to solving problems. The companies were encountering considerable difficulty in hiring efficient people. The small companies — and most of the companies are small — lacked resources to set up industrial plant personnel department or to undertake selection programs, or anything of the sort. They just did not have the means or the facilities. It was suggested that maybe the Union would run an employment office for the industry. Some employers in another industry might easily be excused for saying: "That's the most horrible thing one could think of. Such a procedure would unquestionably be unworkable in most industries". But it has worked out very well indeed in the case mentioned.

If the job of management and of organized labour is to work together to the end of more effectively performing certain functions which have to be performed, the problem is to develop the best way of meeting a problem. If management can truly say: the best way that a function can be

performed is by union participation — if that results in a performance better than if management goes out alone — then what is there wrong about the parties in Philadelphia agreeing to make the hiring function a joint determination? Those manufacturers would think you were very incompetent if you suggested that their hiring system be thrown overboard.

But I'll say without reservation that when a management believes rightly or wrongly, that its security is dependent of retention of unilateral control of some areas, an issue involving this cannot be resolved by conflict. If in the mentioned case the union had suggested that it participate in the hiring function and if management had opposed, a strike on the subject could not have solved that problem satisfactorily.

The question of the subjects to be included within collective bargaining cannot be *fought out*, they must be *worked out*. Many labour union people are having great difficulty in understanding that economic force has its limitations. One cannot, by economic force, compel cooperation. The strike is an instrument of limited usefulness, not all-inclusive usefulness. In the clothing case that I mentioned where management agreed to allow union participation over the hiring process, the salutary result was possible because there was a voluntary agreement on the subject made around the conference table and not behind a picket line. Too much in recent days have unions felt the strike is an all-purpose weapon used to resolve these matters.

We have moved to a consideration of a second attribute of collective bargaining. People talk a great deal about the right to strike without defining exactly what is meant by the right to strike. Have you ever thought of the right to strike — a right of the majority to determine that none shall work? Is it a right to deprive the minority of the right to work, if that's against the will of the majority. That's the way the labour unions conceive the right to strike. Great conflict can be generated by an opposing point of view — that the right of the individual to work is just as important as the right to strike. In many ways the two are incompatible. In the United States, we are having great trouble over these concepts. How to protect the right of the individual to work and at the same time protect the right of the majority of a group to decide

that none will work? There are great incongruities in our Taft-Hartley Act because of our inability to grapple with the philosophical question which is involved in that right to strike notion.

I often think that we would be better off if we would stop talking so much about the right to strike and talk about the function of a strike, just as I suggested earlier, we might be better off if we talked about the functions of management and how they can best be performed.

Have you stopped to think about why the right to strike has been given and why people say it must be preserved? Why must there be the right, to strike in a collective bargaining system? Under free collective bargaining, there is only one way to determine the conditions of employment — just one way — by agreement. There is no other way to fix the terms and conditions of employment except by agreement between representatives of the employees and representatives of management. That was true even when, under war conditions, we had had plant seizure as a result of a work stoppage. Or when injunctions have been resorted to. After those actions, the parties still must sit down and get agreement which was necessary for a solution. The injunction settles nothing; plant seizure settles nothing fundamental about a dispute. A labor dispute finally gets settled only when you get agreement. We should never take our eye off that ball.

The only way by which the terms and conditions of employment can be fixed in collective bargaining is by agreement of the parties. That's a very idealistic concept and it might not work. I think it will. Those who are interested in what we call a democratic way of life know that it has to work, because the most likely alternative is government determination of the conditions of employment. But why emphasize the strike after saying that an agreement is the only way to settle the terms of employment? Well, the strike is an inducer of agreement. The function of the strike and of the threat of a strike is to put pressure upon both parties, to modify their extreme demands to such a point as to make agreement possible. That's why it is an institution which has a function to perform. In a world where the golden rule is not universally embraced, there has to be some reason to induce people to move from extreme positions so that a compromise agreement, a meeting of the minds will be possible. In many situations, the principal

criterion for wage determination, for example, is what it is worth to avoid a strike on both parties. It's the power that makes agreement possible. That's true even after a strike has taken place. The work stoppage puts inexorable pressure upon both sides to modify extreme positions and to make an agreement.

But a strike will not perform its function in the most efficient manner if it actually occurs. The strike has to perform its job by being an inducer of voluntary agreement, because the public will not put up with an undue use of actual economic power. They start moving in then and question the whole collective bargaining process.

That's the real trouble with the public emergency disputes. The strike cannot perform its function. It brings the public to its knees before it brings the other side to terms and the government has to move in and do something. The big job in public emergency disputes is to develop other means of inducing compromise and agreement where the strike cannot be relied upon. If we would once take such an approach, instead of the punitive approach that we are taking in the United States through the Taft-Hartley Act, we would begin really to grapple with the heart of a very different problem. In the public emergency dispute, the strike cannot be permitted to run its course and to do its job of bringing the parties to terms. At the same time, it seems that the strike is still rather acceptable where public emergency disputes are not involved. For instance, I could imagine that in the case of a strike in the confetti industry, the public would be rather complaisant about letting the strike run its course.

Why are we willing to depend on the strike to bring about agreement? Why are we developing this complicated system of collective bargaining? Because the most likely alternative is government determination of the conditions of employment — and that we seek to avoid.

There are four ways by which terms of employment can be established in a private enterprise economy. First the management may be strong enough to impose its will on the employees. Perhaps that's a condition we had in the United States before the Wagner Act was passed — management was so strong that the terms it decided were fair and equitable and could be imposed upon the workers. Second, unions may be so strong that they can reject collective bargaining and impose the terms they decide upon

management. Unions have been known thus to reject collective bargaining. The third way is government determination which has so many disadvantages, but a discussion of them would take a long time.

There is a fourth way of settling the terms and conditions of employment: that is by collective bargaining which is based upon the notion that mutually satisfactory terms of employment can be worked out by unions and management. Management and labour can be accorded the right to work out their own arrangements. They can be entrusted with legislative power, if you will, for their industry or their plant. That's what making a labour agreement entails. Here is a legislative responsibility of first magnitude. Collective bargaining is thus a form of self-government. Collective bargaining assumes that labour leaders representing workers will exercise restraint in the use of this power which they have; that they will not unnecessarily take their people out on strike and they won't unnecessarily interfere with production. It is further assumed that management can be entrusted to, at least, give reasonable consideration to the public interest; that they won't gang up with labor against the public. It's a pretty idealistic notion, this collective bargaining!

Can labor leaders and management representatives be entrusted to work out terms of employment that will be mutually acceptable to them and yet not unduly oppressive of the public interest? Of course, there is a danger that collective bargaining might not work. In the United States, we took a pessimistic view of collective bargaining a few years ago when the Taft-Hartley Act became law. We said: management and labour cannot be entrusted to settle some of these issues of working relationships and concluded that Congress can do it better.

For example, Congress said, in effect, to management and labour: "you people have been messing around with union security for a long time. Unions have been too oppressive of the rights of the individuals and their membership. We will, therefore, deprive management and labour of the right of making a closed-shop or a union-shop". I have watched that provision of Taft-Hartley Act at work and I have no doubt at all that we are worse off now than we were before. I don't know of a single case where the ban on the closed-shop or the union-shop has resulted in the elimination of the closed-shop or the union-

shop. I do know of many cases where the parties have put so-called "bootleg" clauses in their contracts in order to give the same kind of a shop that existed before but while not breaking the law. The Act resulted, in my judgment, in encouraging a lot of management and labour people into skirting the law — living up to its letter but not its spirit.

This thing we call collective bargaining then involved the partial subordination of individual rights to the group, granting power to the parties to work out their own relationships and recognizing the use of economic power as an agreement-making force. Collective bargaining is truly a complex institution and insufficient thought has been given through as to its meaning or to the responsibilities it carries to those who are engaged in it.

I think the principal trend in collective bargaining, in the last two or three years, has been a greater appreciation of what collective bargaining is and what it takes to engage in it. In other words, there is a growing understanding of some of these factors which I have just referred to. That is forward progress and is important to the strengthening of what we call democracy. Part of the ideological battle now going on depends upon the ability of our unions and our management to conduct their own affairs without government interference.

So, the first trend in collective bargaining which should be referred to is a growing appreciation of the responsibilities and the draw-backs of collective bargaining, of the nature of that process. But there has developed too. a misconception about collective bargaining which is leading to what I consider the most dangerous trend of all in our industrial relationship. It is what I call "the battle for exclusive loyalties". It is the attempt of some managements to battle with unions — of some unions to vie with management — for the exclusive loyalty of their employees. Much of the communication programs — about which we hear so much nowadays — has been predicated upon the assumption that it is possible to drive a wedge between workers and their union. There is also strong manifestation of it on the union side. All one has to do is to look at some union newspapers, in order to discern evidence of attempts to gain exclusive loyalty of the worker for the union and against the employer.

I believe that no management can drive a wedge between its employees and the union which they have selected to represent them. I have seen too many attempts to do so fail. To an increasing extent, and to a majority degree in our country, workers want unions. There can be no mistake about it. I do not have time to marshal all the evidence on that point but it is very strong and convincing. If the union needs revamping for any reasons, it is up to the members to make changes. Conversely, it seems to me that unions don't understand that loyalty to the union is compatible with loyalty to the company. A worker can be a very good union member and still be very proud of the company he works for. He looks to the company for certain things that he is not going to get from the union. And he doesn't want to work for a company which has a bad reputation with workers or with the community — that would be a reflection on him. I don't think unions are following the right track at all when they try to convince the worker that he is working for a terrible company. By the same token, I think that the attempt to drive a wedge between workers and management is having an adverse effect on collective bargaining. It is stimulating hostility rather than cooperation.

In some industries, collective bargaining is being developed as a militant kind of relationship instead of a cooperative one. There are differences between labour and management, to be sure, but those differences are reconcilable in the views of those who accept collective bargaining. Contrary to the views of the extreme left, the differences can be reconciled without necessity of a change in the private enterprise system. If that is true — and I believe it is — how can there be such a concept of the exclusive loyalty which is being followed in some circles? So, although the trend toward the direction of a better cooperation in collective bargaining is a great one and a strong one, there is a discordant note which is also prevalent in some areas.

There are two other points that I would like to discuss. They relate to the scope of collective bargaining. The first point — inclusion of pensions in collective bargaining — I will refer to briefly because Carroll Daugherty is going to say some things about this subject later on in the conference. My reasons for referring to pensions are that here is one of the most important new developments and because it is associated with the question of scope which I mentioned earlier.

Is it proper to bring within the scope of collective bargaining the social responsibility of providing for old-age necessities of the workers? Some workers probably do not understand exactly what they are getting in some of the contracts containing pension provisions. Of course, it is not possible to provide for the old-age necessities of the workers under collective bargaining agreements if the same kind of labor turnover is to be experienced in the future as in the past. Plants are going to be closed when they become obsolete, consumer demand is going to change between one product into another and most workers are going to change jobs. If we are going to keep a dynamic society, great industrial changes will take place. An actuary who worked on the pension program of a very large plant which introduced pensions, recently commented to me that on the basis of past experience — labour turnover, plant shut-downs, and all the rest of it — but one out of twenty of the number of people covered by the pension agreement in the contract would ultimately collect. In some cases, it will be one out of ten. What about the nineteen out of twenty or about the nine out of ten? Where do they fit in? And why should the one out of twenty or the one out of ten get a pension? What are we trying to do by collectively bargaining over pensions?

Some studies show that most wage-earners get a new job every three and a half year on the average. But there are some employees, however, who stay with one company or who work in one industry for many, many years. There comes a time when the long-service employees are superannuated. They cannot perform their regular job any more Because they have been with the company a long period of time. they cannot equitably be thrown out or precipitously fired. A dismissal wage is provided to them in view of their past service and it is called a pension.

It's not fair to give workers the notion that everyone of them is going to get the collectively bargained pension. To be forthright about it, we should face up to the industrial pension as a means of meeting a super-annuation problem in our plants and industries rather than a broad social problem of old age.

Parenthetically, it appears that one of the great consequences of current pension settlements and which is not fully anticipated by management, is the next demand which is going to evolve out of the pension programs. The

dismissal wage question seems certain to come up as result of these pension plans that are being introduced and because of the way they are being introduced. How can that be? You say: we are not going to give any vesting rights in our industrial pension plan. You cannot give vesting rights if you are going to keep the cost within reason and still find reasonably adequate benefits. But assume that a company which has a pension plan (no vesting rights) — and an employee must be with the company or industry 25 years and be 65 years of age in order to become eligible for pension benefits. Suppose in this company there is a plant employing a lot of people who have 10, 15, 20 years of service at the time the plant becomes obsolete. It is decided to abandon that plant in favour of a more efficient operation being set up nearer to sources of supplies or to gain other advantages. When the obsolete plant is closed, workers with 15 or 20 years of service will be laid-off and told: "we are sorry, fellows, the pension deal is all off". "We are closing this plant, so long". How would you react if you were an employee? And that's just the way they are going to react! The demand for dismissal pay will follow as the next problem.

There is just one final point that I want to mention about current trends in collective bargaining. A current conflict in industrial relations is developing about the claims that unions create a monopoly and that if large business accumulation of power should be subject to State regulation, so should large accumulation of power in the hands of the unions. That's a big issue that seems likely to be fought over within the next few years.

Here is a fundamental issue related to the practice of industry-wide bargaining. That connotes the fixing of terms of employment — and their standardization for various competing companies even though the companies may have their own problems. And, of course, the tendency is all in the direction of multi-employer bargaining. I don't think management is quite fair with itself when it says it opposes industry-wide bargaining or fixing conditions of employment as an inter-company proposition. No company wants to pay any more than its competitor. Pattern wage determination gives strong evidence of management's recognition of the fact that wage determination is no longer strictly an intra-plant matter.

Consider the incongruitous position of management in our recent coal disturbance. Management berated Mr. Lewis

for having monopolistic power in the industry. Mr. Lewis — for tactical reasons perhaps — then said: "all right, I'll bargain with you individually. We won't engage in industry-wide bargaining". And management cried: "Foul". It said: "You can't set wages that way — the wage has to be the same for all". Yes, even before unions came into the picture, management called up its competitors to find out what wages they were paying. Even from the management point of view, there seems to be a growing recognition of the fact that wage-fixing is not exclusively an intra-plant matter in many industries. And so, some of these proposals to break down industry-wide bargaining won't do because both parties are viewing collective bargaining as encompassing more than the operations of a single plant.

There is a current proposal to the effect that in the coal industry no more than 25% of the industry may be covered by one contract. Contracts must expire on different dates as a means of breaking up the "monopoly" power of the coal union and thus avoid public emergency. How do you think the operators are going to react to that one? The union can pick on one vulnerable mine and use the old whip-sawing tactics with which some of you are undoubtedly familiar. Nor can we pass laws requiring local unions to make different demands on different employers.

There is a great concern, nevertheless, about the power of particular unions to regulate production and to interfere with the flow of necessary and productive goods by shutting down extra basic industries. I don't know how we are going to grapple with this one. For my part, I would like to see another labour-management conference tried. The other one in 1945 failed for a lot of reasons. A possible approach to this monopoly problem, however, would be through a conference of the leading representatives of management in the country and the leading representatives of labour. They must ultimately turn to voluntary arbitration as the road to avoid stoppages which create a real public emergency. The choice in those industries where great power is concentrated in the hands of unions — where it can be used to bring the public to its knees — the actual choice of both labour and management is between voluntary arbitration and compulsory arbitration.

We have made great head-way in the United States in the use of arbitration. I remember years ago when so-called grievance arbitration was a rare and unusual policy. Today,

80% of the contracts, in the United States, provide for arbitration of disputes arising under the terms of labour agreements — 80% of the contracts make that provision for arbitration for the simple reason that strikes cannot occur during the term of a contract without cutting in on necessary employment to the workers and needed continous production for management. That's terrific shift. But it is almost universal now — the use of arbitration to settle grievances that are unresolved by the parties.

Now, the next challenge is whether the parties themselves can — in full recognition of their inability to resort to strike — develop mechanisms to avoid the abuse of great power by use of strikes which create national emergencies.

Well, the thoughts that I have tried to develop here have covered a wide field. My hopes for this meeting will be achieved, however, if you ask yourselves: what is collective bargaining? what is involved in developing that kind of an institution? Of course, you won't accept all the concepts which I have suggested. Maybe some of these ideas will appear to you to be worthy of acceptance, some worthy only of rejection — which does not bother me at all. It is important that you think through a program which you believe is implicit in the adoption of collective bargaining as an institution. How does collective bargaining fits in with the ideological fight that's going on in the world today? We are a part of that fight as respects the area in which we are working out our ideas — in the industrial relations field. I have great confidence in the way we are going to work through. Thank you!

— *MR. ERIC G. TAYLOR:*

In order to stimulate the discussion and because I take issue with George W. Taylor every opportunity I have, I suggest to him that either I was not listening correctly or he failed to talk about an important point. He suggested there were four approaches to the determination of wages: one was when management made a unilateral decision and imposed its view; the second was when there was good faith, the parties worked out between themselves what might be equal to legislation. I wonder if you would mind giving us the third and the fourth points which possibly were rolled into other remarks?

—MR. GEORGE W. TAYLOR:

Well, one is when management has overwhelming power and makes a unilateral determination of the conditions of employment. The second is when unions have overwhelming power and they make a unilateral determination. The third is when government makes the determination and effectuates it. And the fourth is the collective bargaining method by which there is a reconciliation of points of view and a mutually acceptable program is worked out with agreement of the parties being the key to it. We have already rejected, in our country, the notion that management should have the right of unilateral determination. That rejection was made when the Wagner Act was passed. It said: workers should have a right to participate. We have some unions which come along and say: "no, this is not enough". I think this issue in the United States with the International Typographical Union is a case in point. The union says: "we meet in convention, we fix certain industrial relations laws. These industrial relations laws are not subject to collective bargaining. They are our determination of the conditions of employment. We don't want to bargain about them. We will unilaterally determine". That is an example of unilateral union determination.

The third is government determination, where neither party is satisfied. In the other two, one party is satisfied in each case, presumably. Government determination is an imposition of terms on both parties by the Government.

The fourth way of doing it is by a reconciliation of extreme demands to a point that becomes mutually acceptable. That's collective bargaining.

They are the only four ways by which conditions of employment can be fixed. I don't think management is going to get away with unilateral decisions and I don't think unions are, because the government will step in in each of these two cases. So our real choice is between government determination and this very challenging concept which we call collective bargaining. Does that make it clear, Eric?

—MR. ERIC G. TAYLOR:

That's fine.

Well, now, gentlemen, if you have questions, which I imagine some of you have discussed between yourselves in the ten-minute recess . . . This is not a formal atmosphere,

as you know from your experience of last year. I have no intention of posing questions which you may want to pose. So, if we may, I'd like you to lodge your questions with the speaker. If you want to enter into a debate with him about a point, do so. Nothing is more undesirable for us than silence.

— QUESTION:

I should like to ask a question, Mr. Taylor. In your experience of collective bargaining, do you find that most differences between employers and employees are on questions of the economic situation in the industry? About whether the industry can afford a certain suggestion? Now, the union leaders hold that this is not their concern. They state what their members need and that it's up to the industry to find the means. It should be a great responsibility of union leaders; but they will not take into account the economic situation of the industry.

— MR. GEORGE W. TAYLOR:

Yes, but not in the sense that you are talking about. Management does not seem to want union leaders to know too much about the economics of a company or of an industry. What I refer to is the reluctance of management in many cases to provide data so that collective bargaining can be on a factual basis. I mentioned before that I thought the possibility of a strike made both parties exercise restraint in demands. There is another restraint which is a powerful one, and that is the possibility that a wage-rate too high will diminish employment. No union can fix a rate which will jeopardize too many jobs. And that's rapidly coming to the fore among effective restraints. In a sense that's an epitome of these economic forces to which you refer.

Now, on the other hand, we should get this one point straightened out. Many companies take the position that there must be a standard wage for competing companies. I don't know how many of you here use the so-called "most-favoured-nation clause". One of management's demands is typically: "Mr. Union, if you give anybody, not involved in this case, terms better than ours, we must secure the same benefits". The very "pattern type" wage determination which management supported and went along with indicated an acceptance of the fact that there should be a standard

wage. You cannot make an individual concern's ability to pay a criterion for deviation from the standard.

Let's talk about this private enterprise system (in which I believe) in this connection for just a moment. Under it, a company has the right to make high profits if it pays the standard rates of wage. It has also another right which it doesn't like: the right to loose its investment if it does a bad job. That's in the private enterprise system too. I happened to have arbitrated — not so very long ago — a wage dispute in an important street railway. I can mention it because the decision was published and spread around. In that case, the company said: "we think we should pay less wages than other transit companies because we are poor — for a number of reasons we lack ability to pay". I ruled that lack of ability to pay in that instance was not a reason for paying less than other transit companies. That company could not go to the producer of busses and say: "I'm poor, give me a discount on busses". It could not get a rebate on coal and it could not get a lower rate on its steel rails, because of lack of ability to pay. Should it then pay less than prevailing wages?

— *QUESTION:*

Was the utility to which you referred in your example free to raise its rates?

— *MR. GEORGE W. TAYLOR:*

No. It must go to a public utility commission which determines the proper rate under those circumstances. But I don't know whether or not you agree that collective bargaining is becoming a multi-plant determination. Now, once that's true, there is a tendency toward a standard wage which is not ideally adapted to the means of any one company. At that standard wage there may be some profits and some losses. In setting wages for multi-plant operations the level must be fixed, however, so that you don't put too many jobs in jeopardy and not too many companies in jeopardy. In a sense, we are really getting pretty close to the old Marshallian concept of the representative firm for which the wage determination should be made and around which competition should develop.

— *QUESTION:*

Professor Taylor, on that point — speaking of industry-wide bargaining — there is a question of the urban vs. the

plant which is located in very small centers, where there is a legitimate differential based on the cost of doing business in smaller centers and the cost of living in smaller centers. You have many examples that you can think of where industry-wide bargaining makes allowances for these differences.

—*MR. GEORGE W. TAYLOR:*

Yes it does. And when I say industry-wide bargaining that does not necessarily imply a rigid standard rate, but rather a uniform policy. Provisions might be made for differentials within that policy. Now — this is a little technical, but I'll throw it out — in multi-plant wage determination, the first thing to look for is the range of costs around the average. If there is a narrow grouping of differentials then there is more latitude in setting wages. If the spread is wide i.e. great differences between the high-cost and the low-cost firms, fixing a standard wage can be very difficult. In these cases there is reason for a standard policy rather than a standard wage. I would relate the differentials to that kind of a situation much more than to differences in cost of living. In the United States, the difference in the cost of living — rural or urban and the rest of it — is in large measure a difference in the standard of living rather than a difference in the cost of living.

—*QUESTION:*

I'd like to ask Professor Taylor what he feels the scope of bargaining is with respect to productivity — and that covers quite a wide field — productivity with relation to the individual and, extended further, the question of productivity with relation to the three-day limitation of coal production, for example.

—*MR. GEORGE W. TAYLOR:*

I have found this: when things are going along pretty well, management does not want any interference with its productivity determination and the union is not very interested in going into it. But let the going get rough. And then they all want to cooperate. It's a very significant thing to me that the prime examples that we point out in the United States as the great examples of union-management cooperation have been in the face of the great adversities. They were all driven to cooperate as the alternative to something that's pretty bad. Along the same line — about the participation of unions — this business of showing books

as a basis for going into productivity: well, I arbitrated a lot of cases in the early thirties and management would come, at that time, and say: "we are making a loss, we'll have to have a wage cut. Look at our books. Let the accountants look at our books. Let the union, let everybody look at our books!"

I do believe this: that by joint union-management committees of an advisory nature there can very frequently be great headway in eliminating waste and getting suggestions for better methods of performance. If we could ever harness collective bargaining and make it a really cooperative enterprise when we are not in the face of adversity, I think we would realize great untapped potentialities. But what I am really saying is: the unions, in my experience, get very much interested in productivity when jobs may be lost as result of it.

I don't think there is any doubt, however, about the fact that union interest is gradually extending into the price area and the productivity field. They say to a management: "we want *real* wages not just monetary wages and we are interested in what your price policy is going to be". It seems to me, to get back to the question of productivity, I can recognize the workers' interest in it; but I just don't think you can operate a private enterprise system and don't think you can get the goods rolling out, like we need, if pricing is put into the collective bargaining set-up. It won't work. I think some of the productivity factors will.

— *QUESTION:*

In the production of coal, is the quantity of coal produced a proper subject for collective bargaining?

— *MR. GEORGE W. TAYLOR:*

Well, I don't think so. Let's see what the answer to it is. I think that no union should have the power to determine whether there will be a three-day's coal production or not. But there is a problem there about whether or not we are going to protect the sub-marginal producer in order to assure ample supply. I don't think management should have the right to decide. It was worked out in Pennsylvania in a reasonably satisfactory manner. I don't know whether some of you know of the agreement in the anthracite regions in Pennsylvania where, under law, a board of union representatives, management representatives and government representatives sits down each week and decides how much

coal shall be mined that week. And they allocate the total supply over the various mines. It's a joint participation. And it seems to me that if, for any reason, we are going to modify competition in coal, as we have already done in oil and agriculture and so on, if we are going to go down that road, there's a great decision to be made as respects the extent to which we are going to hold an umbrella over the high-cost producer in order to insure continuous, adequate supply. If we go down that road and production controls are going to be necessary, I think it has to be a three-way proposition, with union participation, management participation and government participation. You can argue that we ought to let competition run its course and force out the high cost mines and the high cost producers. That brings up a fundamental argument which it would take a long time to go into. But I don't think the unions should have the right or the power to decide this question.

—*QUESTION:*

Mr. Taylor, there are a few points on which I should like you to elaborate a little further. First, the scope of collective bargaining; and, second, the scope of the grievances under a collective agreement. Is it fair to say, according to what you have stated, that the scope of collective bargaining is the one agreed between the parties and that it is just the same for the scope of grievances under the collective bargaining agreement?—

—*MR. GEORGE W. TAYLOR:*

Well, I say this. I don't want legislation to determine the scope of bargaining. If there is an issue over collective bargaining scope, it can be fought out with economic force. But I also said that we have learned that issues over the scope cannot be satisfactorily resolved by the use of strike and must be by agreement of the parties. I think an issue about whether the union should handle the hiring function in the men's clothing industry is one that can only be worked out satisfactorily by a meeting of minds. We have to *work out* the scope issue.

Grievances are a broad subject, but to my way of thinking, the grievance procedure is the heart of collective bargaining. I don't subscribe to the notion that collective bargaining stops when an agreement is signed and that the process of grievance determination is merely an application of the terms of the contract. When, in your collective agree-

ment, you agree that management should have the right to discharge for cause, but that a union has the right to appeal through the grievance procedure, have you agreed upon a discipline program or have you agreed upon a procedure for gradually working out a discipline program in later collective bargaining? You have not defined "for cause". That has yet to be defined. But you have agreed on a very important procedure. You have agreed that management has the right to initiate discipline. You don't say: "if management wants to discipline, it goes to the union and bargains about whether or not to fire a man". No, management can take the action — you have agreed upon that. But you have also agreed upon the procedure by which that action may be appraised. Now, in the actual handling of the case, as it comes along, you gradually hammer out a discipline policy and it's collective bargaining when you do so. Under the same clause, I have seen discipline very loosely developed in one plant where people cannot get fired for anything short of setting fire to the plant. On the other hand, under the same clause in another plant you see a very tough discipline policy developed. It depends upon the way grievances are handled. The real agreement, as respects discipline, in my opinion, derives from the manner in which complaints about disciplinary action get settled. To me, the grievance-settling process is a very vital part of this collective bargaining business. This point of view seems to me to be most important, because it takes into account what happens when the steward and the shop chairman get together on some of these matters. They are making an agreement. All of you must have had the experience of stewards or shop foremen setting a pattern — for example, promoting on seniority alone, even though the clause of the contract is merit plus seniority. That's a common one you come across. You have an agreement clause which provides for promotions on the basis of merit plus seniority. And the foremen start doing it on a straight seniority basis. What's your agreement? It's straight seniority. It becomes established practice. It's the interpretation of the clause of the contract that follows. Incidentally, it seems to me that is one practical reason why foremen should not be in the union. They are engaged in the most important kind of collective bargaining activity — the settling of grievances. Management, in my judgment, has the right to representatives of its own choosing in that bargaining operation.

— *QUESTION:*

Professor Taylor, you have mentioned favouring voluntary private arbitration between two parties instead of government intervention. I am enclined to agree with that. I should like you to elaborate on this question and tell us why, in your experience, it is preferable.

— May I combine this with a second question? I feel that there is a marked trend to voluntary arbitration and, in my very short experience, voluntary arbitration is a second choice weakening collective bargaining. I have found that if you sit around the table to settle something you never settle what is to be reported to the arbitrator, with the result that both labour and management do not accept the responsibilities they have. Instead of sittting and arguing it out, they leave it to some third party to settle the difference.

— *MR. GEORGE W. TAYLOR:*

Yes, I think we can discuss the two questions. I don't think there is any doubt about the fact that the ready availability of arbitration — voluntary or compulsory — interferes with the bargaining process. One, the weaker side, after it gets an offer on the table, will go to arbitration because there is nothing to loose and something might be gained. And the parties can avoid their responsibilities by making the arbitrator or the board the goat. That's natural. That's what happens when you have the machinery set up in advance. Now, two problems come as a result. One is: what about arbitration under the terms of a contract? Does the provision of a permanent arbitrator interfere with settlement? In my experience, I think it does not. The permanent arbitrator, under a contract, does not interfere with grievances if he understands there is always a danger that the parties will not carry out their own responsibilities and will throw the burden to the arbitrator. Some of you might have seen a paper I have given on that point, before the National Academy of Arbitrators in Washington about a year ago. I indicated my belief that as we become mature, we shall look upon arbitration under the contract more as a mediating process than as an arbitrating process. Once that is done and the arbitrator realizes the danger of his supplanting collective bargaining, I think we can operate under terms of existing contracts. I have not had any experience with compulsory arbitration provisions that you have, so I am going to speak about my experience with compulsory arbitration in another area.

— *QUESTION:*

In contract negotiation disputes?

— *MR. GEORGE W. TAYLOR:*

Yes, in contract negotiation disputes, where parties know in advance that if they disagree about the terms of a contract — any terms of a contract — the matter will be submitted to a compulsory arbitration board. Suppose you are a union leader and you know that any disputes not settled between you and management will go to arbitration. Do you think that makes more unresolved or less unresolved issues? More! The questions that would otherwise wash out in the early stages of negotiations persist. You might have them thrown out finally by the arbitration board, but they might be approved. What have you got to loose? And so the tendency is, when the arbitration board is known to exist that neither party wants to make an offer in collective bargaining. Why? Management says: "Why should we make an offer in collective bargaining? That will be the springboard for the compulsory arbitration board. The union knows they cannot get less than what management offered and might get more." So management says: "Oh! boy! We are just not going to reveal our hands; we won't bargain at all". So you get collective bargaining stymied with the parties afraid to reveal positions. No union leader is going to say that items A, B and C are in there for window dressing which he intends to throw out in bargaining. You get more issues, less bargaining on the issues and a break-down of collective bargaining. In my experience in a number of States which have used compulsory arbitration, it has been used only in public emergency disputes. During the war, we had an agreement in the United States that any disputes not settled would be submitted to the War Labor Board. So everything got submitted to the War Labor Board not solely because the board was there, but because you could not strike. The alternative to agreement at negotiations was the board and the parties were not as afraid of the board, for some reason, as they were of a strike. So the board settled everything. Collective bargaining went out the window. The mere availability of the machinery invites the use of it.

— *QUESTION:*

Mr. Taylor, relative to this subject, I should be interested in hearing your thoughts on the possibility or the necessity for sanctions under voluntary arbitration.

— MR. GEORGE W. TAYLOR:

You don't have sanctions under voluntary arbitration. When people agree to arbitrate, they make this decision: they say: "Sure we know this arbitrator is liable to do something that is not valuable. We understand that there are risks involved in that, but we appraise arbitrators' decisions, not in terms of whether we think they are good or bad according to our standards, but in terms of what would happen if a strike resolved the issue". That's the test of an arbitration award. How does it compare with the resolution of the difference by a strike? The arbitration process is an alternative to strike. The parties then say: "We would rather take the risks of arbitration than the risks of strikes. We think it is going to be less costly and it is going to be a better deal". And why do they necessarily accept the award? Because they agreed that this procedure was preferable. It is in the collective bargaining tradition if they say: "We will take this procedure and live up to its results." It's because men live up to their word in our society. And so your basis of sanction is living up to your word. Any voluntary arbitration process — any procedures for settling labour disputes — will work if the parties want them to work; and they will fail if the parties want them to fail, or if one party wants them to fail. So voluntary arbitration connotes a determination of both sides to set up a procedure that both want to work. Sanctions are not necessary and once you put sanctions in it, you get away from voluntary arbitration.

PART II

The recent steel labour dispute and its effect on pensions

by
PROFESSOR CARROLL R. DAUGHERTY
13th March, 1950.

IT IS VERY nice to be here and I am indeed honoured to be able to stand before you and impart to you a few of the reflexions that I have had on this pension issue.

The fact that there was a strike in the basic steel industry, last fall, in the United States, over whether the pensions to be provided in that industry should be contributory or non-contributory and the fact that this was a major issue in the dispute before the Steel Labour Board and that it received a tremendous amount of publicity simply serves, it seems to me, to indicate a growing movement, of which we have not yet seen the end, for greater security. There seem to be, in fact, in human history, certain periods of consolidation, one might say, periods following other periods of economic and political adventure, during which there is a greater desire for maintaining the positions one has reached than for further adventure. One can think of the almost thousand year middle-age period following a period of previous adventure in which the main emphasis was on security. After people got a bit tired of that stability and almost stagnation, the forces working within that system released people's desire and urge for adventure — in the intellectual sphere, the political sphere and the economic sphere. And we had all those things which led up to the various so-called revolutions — the agricultural revolution, the commercial revolution, the industrial revolution, and so on. And the technical changes and the other changes that were set in motion by that adventure have given rise — it has become commonplace to say — to problems which have turned people, once more, to thinking a great deal, if not primarily, about security and a safer status in a rapidly changing and dynamic world.

The Steel Board and the steel industry simply happened to be a focus for these forces. If it had not been in that industry, if it had not been that time, it would have been some other time and place. This basic urge, this basic drive has to find expression somewhere, it seems to me. And the end, of course, is not yet. You are all here, quite properly, giving serious consideration to how this desire for retirement benefits, which is part of the drive for security, can be properly channelled to the good of the nation and to the good of unions and plants and industries.

In reviewing some of these matters, this afternoon, I would like first to talk, certainly not exhaustively, about certain economic aspects of the pension movement. Then, second, I would like to give you a short briefing on what the Steel Board was faced with and why it came to the conclusions that it did, and thereby served as a vehicle for spotlighting the movement I just talked about.

In order to consider then, first, the economic aspects of pensions that I have in mind, I submit to you certain tools of analysis or a certain frame-work of thinking about the matter which has proved useful to me and which, I hope, may serve in some way to guide your own thinking.

In the first place, looking at the whole matter of security, broadly, there is one basic economic thing I think we always must remember, and that is the fact that human resources, in fact all resources — not merely economic resources — are limited in terms of people's wants or desires. That's an elementary economic fact that we all learned in our first week or so in Principles of Economics, in college. Resources are limited in relation to wants. Therefore, there is a need for allocating these resources among the wants which compete for satisfaction in such a way as to give the greatest total satisfaction. And since wants compete for satisfaction and all of them cannot find full satisfaction, it follows that whatever you give, however you allocate resources, to one of those wants, it takes away from satisfying some other want. It's what the economists call the "principle of opportunity cost or real cost". The real cost of getting more health insurance or of installing a program of health insurance is giving something else up, given the fact of existing resources. You can have more spectacles, and have more sets of dentures, have a lot of medical service, but the cost, the real cost of having those things is giving something else up. That's the real cost. And as

long as the quantity of resources and the technological skill with which you use those resources don't change, that cost will continue. The only way in which you can have more of everything is to improve the quantity of resources and improve skills and technology with which you utilize the resources. That's a basic economic fact — that there is no getting away from it. With existing resources, I repeat, whenever you get some one thing you want, the real cost is giving something else up. The only way that you can have more of everything is to enlarge the quantity of resouces used for producing goods and improve the technology which you are using. I am going to apply that to the pension situation in a moment.

Now, there are some other fundamental economic principles that the welfare economists tell us about; and social insurance in general — health insurance, unemployment compensation, pensions, and so on — are part of the drive for security and the economic welfare. Welfare economists tell us that there are a number of considerations rather important in the effort of an economy to do what they call "maximizing want satisfaction" which is a way of saying; get as much welfare or satisfaction as possible out of existing resources. We are told that, in respect to the distribution of money claims on one satisfaction, when you take through taxation, for example — through progressive income taxation— income claims from the wealthier classes and re-distribute their income through the social services or in one way or another — family allowances or whatever manner — to the poor, you increase the total of satisfaction in the community as long as the gain to the poor exceeds the loss to the rich. And up to that point, you have not yet reached the stage of maximum want satisfaction from the standpoint solely of re-distribution of income.

That brings up a second point. If, in trying to redistribute income in accordance with the general principle I have just stated, you impair the incentive to produce by taxing the rich, i.e., by taking away from those classes and giving to the poor, then you may have a smaller pie to cut up more equally. In other words, progressive income taxation is a discriminatory tax. Someone has said that income taxes cannot be passed on to anybody; the person who is taxed is the final bearer of the tax. That's correct, I suppose, with respect to the people who bear the tax. But it is possible to pass that tax on to the whole economy and thereby have the whole economy suffer because that tax discriminates

against work in favour of leisure. And it also discriminates against saving in favour of consumption. So it is possible — without ever reaching the point where the loss to the rich is just matched by the gain to the poor in a purely distributive sense — it is possible to reduce the amount of economic progress, which I stated a moment ago, was the only way you could have more of everything. In other words, there is the possibility that you can impair the incentive to produce in installing pension systems or other systems which, in effect, re-distribute income.

There is another basic economic principle, a basic principle of welfare economics: in distributing or allocating the resources among various desired consumption goods, the factors of production — that is labour and capital — must be free to move from a dying industry — a declining industry, whose products are not desired so much as previously by consumers — into expanding industries whose products are becoming more and more wanted by the households. Capital and labour must have what we call mobility, must be free to move from employment to employment. It's perfectly clear from studies that we have had made known to us that there are many barriers to labour mobility, for example, existing within the people themselves who own the labour. The workers are not very eager to move. Their habits, social connections, ignorance of better opportunity and so on are all barriers to labour mobility, regardless of this business of pensions or other forms of welfare that we are talking about. And of course the fact is that wage-rate differentials, as we have seen during the war for example, do operate many times to cause labour to move. It is desirable that labour should move from an industry where, because of technological improvement or lack of desire for its products, the demand for labour is declining, to other industries where the demand for labour is increasing. Maybe the Congress of the United States is not fully aware of that fact. Just to give an example: they subsidize the farmers so that resources do not flow from farming to other places where it might be more advantageously used in our country. Such mobility is desirable.

Another principle is that, in order to have maximum want-satisfaction in an economy, the quantity of resources that are available, whether they increase or not, should be fully utilized. And I don't think there is much question but that the unemployment of available resources provides the greatest loss in want-satisfaction that an economy can

have. That is to say, there may be a loss in want-satisfaction because the factors of production do not move freely, because there is lack of mobility; there may be a loss in want-satisfaction because economic progress is not as rapid as it should be. But I think those losses all pale into insignificance compared to the loss in want-satisfaction that occurs during a depression, when a large proportion of the resources — capital and labour generally — are unemployed and not used.

Now those are, it seems to me, the basic items of welfare economics in which framework I should like to discuss the economic aspects of pensions. In talking about pensions and before we come to apply these tools, it might be well to remind ourselves that pensions can be either operated by private industry — arrived at through collective bargaining or unilaterally (that's the sort of thing that was before the Steel Industry Board) — or there might be government pensions. The government may assume the responsibility for providing the retirement benefits. Another thing that we should bear in mind is that pensions may be paid on a pay-as-you-go basis, that is to say, out of the current revenue of the establishment that is providing the pensions, or may be what we call funded. And of course, that funding covers only the period during which the workers who have already accrued past service in the establishment, must be taken care of. In other words, ultimately, every company that embarks on a pension program and accepts these past service liabilities, will reach the end of the funding period and from there on the program is not very much different from simple pay-as-you-go. There are some differences, but the main period of financial urgency is the period immediately after the installation of a plan, when the company must take care of its workers who have been with the company for ten, twenty, thirty years or more and who have already worked up quite a right to benefits.

Then we ought to remember also that pensions, as far as the workers are concerned, may be what we call vested on the worker to same extent or not vested. That is to say, when the worker leaves the plant, he can either take along with him what the company has contributed plus any of his own contributions, if he has made any, or have a paid-up annuity based on the amount of those contributions; or he may lose entirely the contributions that the company has made on his behalf. Now, let's consider pensions in the light of these matters.

Let's consider first, private pension plans — company pension plans. In terms of that first principle that I have talked about, namely whatever you get of one good, means that you must give up some other good. I don't think pensions are necessarily something we need to worry about. Health insurance would be, but not pensions. Why do I make that distinction? Well, health insurance, health benefits, medical benefits and hospitalization, are something that comes out of current production. Whatever goes to that, the real cost is something given up also out of current production. The pension problem is not quite like that. Some people are going to give up present consumption but other people, namely the aged, the retired, the superannuated are going to get higher present consumption. So there is no giving up of any particular quantity of consumption goods in favour of some other quantity of consumption goods. It's mostly a matter of a change in the distribution of income. Of course, a lot of workers and a lot of unions seem not to recognize that fact; they seem to think that they don't want any reduction in take-home pay. But with a given full employment of resources and a given national income, they must come to realize that if the benefits to the class above sixty or sixty-five are going to be increased, to whatever figure, somebody else has got to give something up. The workers who favour non-contributory plans, for the most part, don't want to give anything up. They wish management to make the contribution and they wish thereby to effect a re-distribution of income, that is to say, they want management to pay pensions out of profits, and thereby the owners of the companies to provide the pensions. And that, if successful, — if their desires were realized — would mean, of course, a re-distribution of income. But the economic fact is that the owners seem to be unwilling to go along with such desired re-distribution. The Steel Board said to the steel industry, in effect, in its report: "we don't think there is any justification for a price increase, under the contributions that we have suggested you make. We think you might even reduce prices in view of the substantial profits you have been making and in view of the fact that you have used your profits, as we said, quite desirably for the good of the nation, to modernize plant and equipment." But the steel industry did raise prices — that's their prerogative under our economic system. So, if that should happen universally — and my discussion is to be thought of in terms of universal pension systems, either private or public or a combination of the same — if that should happen universally, then there would

not be any re-distribution of income, because all of us would be helping pay pensions for all of us. There would be no essential re-distribution of income; it would not come out of profits. The higher prices that we pay for products would be our contribution. And we in the Steel Board said: "That's all right with us, everybody pays in the prices of the products he buys, something for the depreciation of the non-human machinery." It's a proper cost of doing business and we said: "Because labour is subject to the direction of management and works under the conditions — pretty largely — that management decrees or helps decree, management has a responsibility to pay for the maintenance and depreciation of the human machine." We didn't mean to imply — although I'd be less than honest if I did not admit that our report tended in that direction — that workers are the same as machines or that they are the same as slaves, whereby management would have the full responsibility of paying the full depreciation.

But in so far as management has some responsibility, and we believed it had, then management should make some contribution to the depreciation of the so-called human machine. In any event, in so far as management adds that to the cost of production and makes it an element in price policy, there is no essential re-distribution of income involved, under private pension plans.

Now, we come next to the matter of economic progress under private pension plans. A private pension plan, to be safe, in most industries, must be a funded one, at least during the period of its inception and for a period of years during which the funding must take place. There are only a few plants or industries, in the country, in which demand for their product is so stable in prosperity and depression both, that they can pay pensions out of current revenues. In most industries, the demand for the product is not stable enough to give any assurance that profits will be even relatively level over a period of years. Sales and profits are extremely sensitive to cyclical and special temporary declines and the ability to pay pensions on a pay-as-you-go basis is, to say the least, problematical. For the worker to be sure that he is going to get his pension, such companies must fund their accrued past service liabilities. And the union will get just as much blame if the plan goes sour as management itself. That means that most companies are going to do a lot of saving on behalf of the workers, and they are going to insure their plans with insurance com-

panies in order that the pensions will be there for the workers when they become payable. This will involve a tremendous addition to the ordinary savings which our economy produces. I have seen various estimates — from 10 to 50 per cent increase in total savings. But whatever the amount of increased savings that would come about through universal private pension plans, these plans, for the most part, to be safe, must be funded and the funds invested in an insurance company.

Now, there are two economic factors that we have to think about in this connection. The one is whether this increased amount of savings would get invested. I'll come to that question in a moment. What I'm interested in right now is whether they will get invested in the sort of thing that makes for economic progress. Insurance companies, by law or simply by prudence, do not buy the stocks of risky, venturesome enterprises, of industries which are just beginning to produce some new pproduct. With the greatly increased amount of savings, in the hands of insurance companies, whence will come the amount of capital — risk capital, venture capital — that is needed for what we call economic progress. I don't know. I have great doubts that there will be a requisite amount of venture capital available under a universal private pension system. And if that is so, it follows that there is a danger that the rate of economic progress may be greatly slowed down.

The next point is that, given this net increase in the amount of savings in the economy, will there be an *investment* of these savings? Because the decisions to invest are different from the decisions to save, in our economy. When households make a decision to save, it does not follow, of course, that firms — those who make decisions in firms or companies — are going to invest those savings. And we are told by economists that to the extent that the planned savings of households exceed the amount of investment desired by firms — investment in new plant or equipment or replacement of existing plant or equipment — there will inevitably come a decline in economic activity. The national income and the amount of employment will decline. So that it might well happen that if a universal private pension system were adopted within a short period of time, there would be an economic recession and depression set off by the greatly increased amount of savings failing to find investment outlets.

Now let us turn to government pensions in the light of these criteria. First, in respect to the distribution of income. In so far as a universal system of government pensions are paid through the collection of payroll taxes from employees and employers, or both, it seems to me there is no essential redistribution of income involved. The workers are helping to contribute to their own pensions, the firms are contributing to payroll taxes and treat that as a cost of production. Prices are increased more or less in proportion to the increase in that cost and we all pay again. So that if the government pays pensions merely out of payroll taxes, no vital re-distribution of income seems to me to be involved. But in so far as the government pays pensions out of general funds coming into the Treasury and in so far as those funds are collected by progressive income taxation, then you have pretty substantial re-distribution of income involved. Of course, the system involves all these things: payroll taxes from employers and employees and government contribution based on progressive income taxation. There have been many proposals that the government pay pensions mainly out of its own funds or solely out of its own revenue and that they pay them out of progressive income taxes. If that were true, there would be a very substantial re-distribution of income involved. Which leads to the next point: that in so far as progressive income taxes are pretty steep — taking increments of income, for example, more than 50% — there may well be an impairment of incentive to work and to invest which would slow down the rate of economic progress. No one knows the point at which income taxation — personal income taxation — gets too steep. There is no way of telling. You just have to guess. But that there is some point, it seems to me, follows rationally and logically from the considerations that I have advanced.

Let us look, then, at government pensions from the standpoint of the allocation of resources among existing desired goods. We said that private pensions, unless they are vested in the workers — unless the workers can carry with them the accumulations that they have built up in leaving one plant and going to another — impede labour mobility. Private pension plans do contribute to the existing impediments to labour mobility. This does not exist in government plans, because the worker carries his social security number and his benefits — his accumulations — with him, no matter where he goes. Only in the case that the

government pension plan were not universal in coverage, would there be any impediment to labour mobility. Workers might be disinclined to go from covered industries to non-covered industries because of losing any further accumulation towards their pensions. But the government plan does have the advantage of not impeding labour mobility, if it's universal.

What about this matter of lack of equality between planned savings and investment, which I said might well lead to depression and economic stagnation. Under a government plan, there is no increase in savings if the government pays pensions "as-you-go" — pays pensions out of current revenue. Because if the government pays pensions out of current revenue, it follows by definition that there is merely a partial re-distribution of income — from those who are working to those who are super-annuated and no longer working. Those who are working make contributions, those who are not working — because of age — receive it. There is a re-distribution there, but no increase in savings. So under government pensions, it seems to me, you avoid adding to any likelihood that savings will exceed investments and thereby tend to lead into depression. But, as I have said, private pension plans, except for a few companies that have relatively stable demand — in prosperity and depression — cannot afford to have a pay-as-you-go system. So, for the time during which funding must be made, there is the difficulty I have mentioned.

In broadest terms, if we are going to have pension plans, let's have them as cheaply as possible; let's give up as little as possible in terms of social and economic cost. I think this conclusion clearly points to the fact that the government should be the agency for the payment of pensions. The government is the only economic unit — outside of those few firms that I mentioned — that is big enough and strong enough to pay pensions on a pay-as-you-go basis. And it is only through government pensions that a universal system can be financed out of current revenue. The government is not the same as a private firm; the government is all of us. Only in international relations can the government be compared to a private firm and because of that fact, because of its sovereignty, the government can afford to pay pensions "as-you-go". And that's the cheapest way, it seems to me, to arrange for universal

pension coverage and satisfy this basic desire that I mentioned at the beginning.

You may well say, at this point: Mr. Daugherty, if you believe these things why didn't you put them in your steel report? Why didn't you recommend that the union drop its desire for pensions and urge that the federal government raise its pension benefits and set forth the reasons, therefore, just the way you set them forth to us this afternoon? Aren't you a highly inconsistent individual? And so I think I have an obligation to explain to you why this seeming inconsistency exists.

The simple fact is that the Steel Board had not only an economic problem but an industrial relations problem. The industrial relations problem had, indeed, some serious economic aspects, because a strike in the industry certainly would have had some unfortunate economic repercussions, and the strike that did happen had some unfortunate economic repercussions. But the emphasis was on the industrial relations aspect. A Board like ours, made up of presumably public-spirited persons (and I want to assure you that we felt we were public spirited and we didn't feel that we had any obligation to repay any political debtor, any of that sort of thing, nor did anybody in Washington give us any such hint) has to consider the various aspects of the public interests that are involved. And our Board conceived the public interest to contain at least the two following points. In the first place, we wanted to make recommendations that would be as sound economically and as beneficial to the whole economy as possible. That was one very important aspect of the public interest as we conceived it. Our recommendations should have economic sense and not do economic damage to the country. But there was another very important aspect of the public interest. It was our specific function to try to settle a big labour dispute in a basic industry. And that meant, of course, to come out with recommendations that would be acceptable to both sides, and to put public opinion behind such recommendations — public opinion acting as a sort of enforcing agent.

It is quite evident that there may well be, in any particular case of that sort, some conflict between those two aspects of the public interest. Maybe if our Board had been an economic dictator we would have said to the union: "Perhaps you ought to forget about all your demands. Drop all your demands and devote your energies to getting the federal government to introduce an improved pension

system — a scale of benefits that takes into consideration the large increase in the cost of living that occurred since the original plan was formulated. "We thought it would be a bad thing for a fourth-round of wage increases to be put into effect. We didn't know what the effect might be but we thought it might be unfortunate for the country, to employment and to stability. We thought that what the country needed was stability with costs and prices levelling off at a high employment level. So we recommended that the union withdraw its demand for a wage rate increase. That certainly, we thought, was highly desirable from the standpoint of the country's economic welfare — to stop this spiral in the wage-price conditions that had existed since the war. Not that we thought it necessarily would have meant an additional spiral — we were afraid, in fact, that it might mean unemployment rather than continued high employment with more inflation. We didn't know, but we just had the feeling that economic stability was highly desirable for the country.

Faced with the labour relations problem, we knew well that we could not ask the union to give up its other demands also. You don't do that — not in a situation such as the one which faced us. As labour relations people, you all know that compromise is one of the basic principles of democracy and that all arbitrators and conciliators practice it, and that collective bargainers when they are face to face — without the aid of conciliation or without arbitration — practice it also, if they bargain in good faith. And so we had to practice it. We gave what we thought would be the minimum acceptable to the parties. And we truly thought that we had a formula which would provide industrial peace. As a matter of fact, I'm convinced that we did have, and that the dispute would have been settled without a strike if it hadn't been for the so-called political factors that surrounded the dispute, that is to say, the split in the American labour movement, the rivalry among labour leaders and unions, the internal conditions of the CIO, the fact that there was a left-wing movement that had to be dealt with during the convention that was to be held — and was held — in October. All that sort of thing militated against the acceptance of our proposal. But — and I want to emphasize this very strongly — our proposal was not as simple as it seemed on the surface. Our main proposal with respect to pensions (don't forget we were working against the deadline of time and could not make the studies our-

selves) was that a study be made, a joint study between management and labour in the steel industry, to get to some of these basic economic facts, to marshal some statistical data and to find out just what the pension problem involved in private industry and how best it could be dovetailed in with the existing federal system. And even whether there should *be* private pensions. All that sort of thing, we thought, might come out in a study which, if made in good faith by both sides, would really lead the way on this very important issue. This recommendation was ignored and for the reasons I have given you, I think. Neither side, in its own political position, (I don't mean "political" vis-a-vis the Republicans or Democrats, that sort of politics) in the structure of American unionism, in American industry, felt that it could go along with that recommendation. But that is what the Steel Board most wished for. Such a study is now being conducted between the General Motors Corporation and the United Automobile Workers who, in an atmosphere of relative calm and stability, are able to direct their energies to finding out the facts on which they can install something that is worthy of the name of being a suitable, safe and sane pension plan. I don't think that the plans which were ultimately bargained out in the steel industry are here to stay — I don't think that for a moment. They were a settlement. It was desirable that a settlement be made, but as far as being adequate pension plans, I think most people would agree that they leave a great deal to be desired; and, in fact, the wording of the contracts indicates that the parties themselves recognize this and will, in time, work the plans into something that is more in keeping with economic necessity and with the federal plan.

Now you may say: This may all well be and is even conceivably interesting, but what has it got to do with our immediate problem here? I am head of such and such a union; or I represent such and such a company and our union comes to me with a demand for pensions; or I'm helping to mediate a case in which this situation has arisen. What are we going to do about it? Well, I think the answer is pretty clear: the problem should be studied in Canada as well as in the United States with a view to working out something that makes economic sense — and that can be worked in with your existing federal system. Otherwise, there will be nothing in the end but unrest and other undesirable results. THANK YOU.

—QUESTION:

First of all, I would like to make a statement; secondly, I would like to ask a question. My statement is that when other social benefits were advocated by labour such as minimum wages and workmen's compensation, employers and governments have always stated that it would be too costly, that incentive would be impaired, etc. We, in labour, have always considered such arguments as a mask for basic opposition to such improvements.

My question is this: why should not the government provide pensions and finance them out of general tax fund — out of progressive taxation?

— MR. CARROLL R. DAUGHERTY:

I would like, first to take the opportunity to clarify a little what I said in terms of your first statement. I am not against pensions. I think it must have been clear — I hope it was clear — that I am not against workers having pensions. Now, with respect to the matter of investment, I said the following: I said, in so far as pensions are privately financed and are safe, they must be funded either at once or over a period, the length of which — 10 or 30 years — depends on the financial resources of the company and the accrued liability. If a plan is funded and is safe and is put with an insurance company, I did say that there might be a lack of venture capital, because the insurance companies are not likely to buy the kind of stocks that are associated with the term venture capital. I also said that because the total amount of savings would be increased substantially, it very possibly would be greater than the amount of investment, because the amount of savings comes from one source and the decisions to invest or not invest are made by other people. In times of "bull" market, it is quite possible that investment would be as great as savings. But in ordinary times I think there is great doubt as to whether investment would equal the amount of savings and as a consequence the national income would go down to the point where the savings were reduced.

Now, on your specific question, then, I personally have no very strong feelings as to how a government plan (which I favour for the reasons that I gave) should be operated — whether it should be out of progressive taxation solely, with the government doing the whole thing through its taxation system, or whether it should be partly that and

partly from contributions from the employees and the employers. I have no strong feelings about it, but I believe that taking account of costs and advantages, the tripartite system of contributions would be most desirable. I don't put too much stock in the argument that a worker, if he gets something completely for nothing from the government, is thereby debased, because if that is so, then certain executives of the United States Steel Corporation have suffered a great deal of debasement, and I don't know why the workers themselves would necessarily show any moral debasement. But there may be something to that idea — I'm not prepared to say there is not anything at all to that idea. And in so far as there is something to the idea, it might well be desirable for employees to feel they were giving up something now for what they hope to get later. So I think my own preference, which is subject to change, would be for contributions by employees, employers and government also. And the government contribution might well then be out of progressive taxation, because I don't think the taxes would need to be so steeply progressive as to seriously impair incentive whereas they might be under a plan supported solely by the government.

— *QUESTION:*

Do you think these contributions should be in equal amounts from the three sources?

— *MR. CARROLL R. DAUGHERTY:*

Yes, as a rule, I don't know any better way to break it up.

— *QUESTION:*

I wonder, Mr. Chairman, if the speaker would tell us about how the Steel Panel came up with a cents per hour approach. It does not, in itself, take care of accrued liabilities.

— *MR. CARROLL R. DAUGHERTY:*

In the amount of time that we had, we had not time to go into any other system. There might well be better ways of making the contribution than cents per hour, because, when employment falls, the amount contributed is reduced. For instance, if you work 2000 hours a year at, say, 6 cents per hour, it equals $120. per year; if the total number of hours worked equals 1000, you would have to make a 12 cent contribution to yield an equal amount. You may

recall that we talked about $120. per year rather than 6 cents per hour in our report. However, we did stick to 6 cents per hour, and if the number of hours worked per year in a depression fell from 2000 to, say, 1000, then the amount of contribution would not be $120. per year; it would be $60. per year. We talked about yearly amounts. We always used the phrase: on the basis of 2000 hour work year.

— QUESTION:

I hope I'm not taking too much time. I was looking for the reasons providing for the real value of benefits — like some of us would discuss benefits rather than costs.

— MR. CARROLL R. DAUGHERTY:

Oh! I'm sorry, I missed the point of your question entirely. Whether we mentioned merely some figure, whether it is cents per hour or dollars per year for employees, rather than what you could buy with it. Is that the question?

— QUESTION:

Yes.

— MR. CARROLL R. DAUGHERTY:

We didn't know a thing about how much you could buy with so many dollars per year or so many cents per hour. That's one reason why we recommended that a study be made. We weren't actuarial experts and from the evidence before us, which was highly conflicting — Mr. Latimer, from the union, claimed that with the $11\frac{1}{4}$ cents per hour you could buy $125 a month pension plus $150 disability, under wide open conditions, without regard to the length of service and so on, and the companies, on the other hand, submitting their benefits to insurance companies for funding, came out with estimates ranging from 25 to 55 cents per hour per employee. With that range between the two parties and with the short time at our disposal and our lack of expert actuarial knowledge, we could not do anything of course, but to recommend the study. In respect to what they call social insurance, that is to say medical benefits and hospitalization, there had already been a good study made jointly by the union and the United States Steel Corporation, and the parties were in substantial agreement as to how much in the way of benefits you could buy with a given amount of contributions.

There was an unfortunate phrase in our report which, to a good many people, indicated that we took the union's estimate as to how much you could buy with a certain amount of contributions. We said: "On the basis of the union presentation that you can buy $125 a month with 11¼ cents, you could then buy $70 a month, or something like that, with 6 cents." But that was purely a hypothetical statement on our part, although, as I read it now from the distance, and not at 2 o'clock in the morning, I think it was unfortunately phrased.

—QUESTION:

Mr. Chairman, there is a statement made by Professor Slichter that I should like the speaker to comment. Professor Slichter said something like this: "Employers cannot continue to pound the drums of productivity and still lay off workers at the age of 65." In other words, he was developing the thought that with the section of population reaching 65 increasing all the time, that left a smaller section of the population to produce.

—MR. CARROLL R. DAUGHERTY:

Well, that covers a wide range of possibilities and problems. If there is sufficient investment in the economy I think there is going to be employment for both the old and the young. It seems to me that this brings us down to a question as to whether or not there is enough investment, enough total spending if household consumption spending plus company investment spending plus government spending is at a sufficient level, there will be employment provided for the young as well as the old. I just don't understand what you mean by "pounding the drums of productivity" but I suppose you mean just what I said — you didn't mean technological improvements so much as that we had to produce more, in order to provide the employment. Well, it seems to me that that's something beyond the scope of any single company, no matter how large it is. The total spending in the economy is something that's beyond the control of any private economic unit. The only agency that is big enough to see that total spending gets to the point of full employment is the government through its control of the budget. If employers say that the private pension plans are being subjected to costs which they cannot meet, then they are simply saying what I said earlier: that there is not going to be enough investment. And if there is not enough private investment spending to maintain

a level of full employment, then the government is going to have to increase its own net spending.

— *QUESTION:*

Mr. Speaker, if the government were to be the sole agency to pay pensions to everybody, would it mean that it would take pensions out of the collective bargaining field or could union and management bargain for more?

— *MR. CARROLL R. DAUGHERTY:*

Well, certainly in a free economy a union and management can bargain about anything they like, I guess. But if the government in our country had provided what would be considered more adequate pensions in view of the price inflation, I think a lot of the heat, a lot of these pressures for these private pensions would have been removed. Of course, the pension plan of Mr. Lewis is hardly worthy of the name in my judgment. Maybe our War Labour Board in its effort to keep industrial peace made an unwise decision during the war in granting Mr. Petrillo the right of charging a royalty on records for his welfare plan. I don't mean to suggest that Mr. Lewis wouldn't have been perfectly capable in his own right of dreaming up something of that sort anyway.

— *QUESTION:*

I understand that the original design behind social security in the United States was the hope that they may have a percent of payroll system that would increase gradually over the years. Is it correct to say that this has now been abandoned — that the contributions are not going to be increased to 3%?

— *MR. CARROLL R. DAUGHERTY:*

Well, I don't think quite correct. It was originally conceived that the federal social security plan was to be worked out on an actuarial basis, just as if the government were a huge private insurance company. Then it came to be seen, I think, that this was not so, that the government is not the same as a private insurance company and does not need to build up reserves in the same way that a private insurance company needs to. The level of benefits in the original plan, which probably will be amended to take care of the increased cost of living, was bound to be independent of the contributions. For example, nothing but

bookkeeping happens in Washington or Baltimore. The funds, under our constitution go into the general Treasury and may be used to build battleships. And the funds that are now used to pay benefits come out of the general funds of the Treasury and may come from excise taxes or income taxes or custom duties. In other words, it came to be felt more and more, in the United States, that pensions might well be paid "as you go", out of the general funds of the Treasury and there was not much use in keeping up that scale of contributions. So it is not because the contributions did not go up to 3% by 1949, as they originally were intended to, that the level of benefits was not increased. I expect they will be increased, but I don't think it necessarily will happen that the contributions will be raised above their present level. In other words, the government will be able, from its various revenues, to pay higher benefits without raising the rate of contribution.

— QUESTION:

You mentioned that collective agreements negotiated, following the settlement of the steel dispute, contain provisions with respect to pensions which may be modified as time goes on or as these agreements come up for renewal. What type of amendment would you speculate could occur?

— MR. CARROLL R. DAUGHERTY:

Well I think it's conceivable that there might be a contributory feature. I think also that the companies will press the idea of funding — and the workers themselves, the unions themselves, might well want the plans to be funded, especially if we get into some sort of economic recession. It is noteworthy that the United Automobile Workers have publicly stated that they are fully aware, in their industry, of the need for funding in order to keep the plan safe. And they have said in so many words to me that they think the union will get just as much blame as the company if pensions are not safe.

— QUESTION:

Mr. Chairman, Professor Daugherty mentioned in passing that if his board had had jurisdiction to make a binding report, in other words, had been acting as arbitrators, it is possible their recommendations and decisions might have been different. I am not necessarily asking him to tell us what the decision would have been in that case but I would be interested if he could enlarge upon that distinction.

—MR. CARROLL R. DAUGHERTY:

If we had been arbitrators, I think it is probable we would have come to very different conclusions. But I don't think an arbitrator — a private arbitrator at least —goes too far from assessing the opposing forces in coming to a conclusion that he thinks will satisfy each as well as possible. No, I said that, if we had been economic dictators who could have just gone down the line without regard to reactions, I, myself, at least, would have recommended that the government take over the whole thing.

—MR. GEORGE W. TAYLOR:

Carroll, you said something about *either* a national program for pensions *or* a collectively bargained program. And yet, it seems to me, the spheres are different. If you are going to have the social problem taken care of, then there is no alternative but to take government pensions. The problems of each industry are quite different and the jobs that are being done by the two forms of pensions are essentially different. The collectively bargained plan must be tailored to the industry and can only take care of part of the problems. I was wondering whether you meant it as an "either or" proposition.

—MR. CARROLL R. DAUGHERTY:

Well, it's perfectly true that the problems of industry vary and collective bargaining agreements usually give recognition to the fact that industries have particular problems and that those specific things must be taken care of. But it is a fact that on something like pensions, a pattern tends to be set up. Ideally I think I would go solely for government pensions but the difficulty is that you have a strong movement for pensions through collective bargaining and I don't think for a moment that you are going to stop it. I think that the real solution lies in attempting dovetailing the two together with a minimum of disturbance to the private sector of the economy.

—MR. GEORGE W. TAYLOR:

Yes, the point I developed this morning was that the only thing you could do in collective bargaining was to provide for some benefits for that over-age group of people who stayed with the company for a long time — which will be a small percentage. The problem of the collectively bargained pensions seems to me to be entirely different from

the federal program; one having to do with the super-annuation of the older of employees in the company — to take care of long-service employees who are no longer able to do the job. You are not going to cast them off, but recognize long service. But the actual problem of providing pensions for everyone cannot possibly be done by collective bargaining if you are going to have turnover and plant changes which you need for dynamic economy. There are two different pension problems altogether.

— *QUESTION:*

What was mainly behind your thinking when you suggested that these schemes should, instead of being operated unilaterally or even under collective bargaining between two contracting parties, be operated on a national basis and have all the people contributing and all the people benefiting.

— *MR. CARROLL R. DAUGHERTY:*

I think unorganized workers as well as organized workers need pensions just as much, the weakly organized just as much as the strongly organized, from the standpoint of social desirability. I think it's just something that has to be looked at nationally.

— *QUESTION:*

I think in discussing pensions we have to look at the welfare part of the arrangement too. How do these miscellaneous benefits fit into the picture?

— *MR. CARROLL R. DAUGHERTY:*

Medical benefits? Well, that's a very tough question. As Mr. Taylor said, I was in New Zealand for a while and I got to know some of the people and some of the physicians there and according to them, the government system of health insurance left a lot to be desired. There are certain elements about health insurance that don't appear in the pension set-up and I think my own preference at this stage — again my mind is quite open on it — is to allow private plans to develop with perhaps government subsidies and some requirement for uniformity or something like that. In embarking on a national plan of health insurance, you are taking a tremendously forward step — I mean a step that's not likely to be fully considered and a step it will be hard to go back from. Because of the dangers of shabby

medical service, and so on, I would like to see more experimentation with private plans. And I don't see why in a given industrial community those plans need be confined necessarily to companies.

— QUESTION:

I quite agree with the speaker that the desired plan is the tripartite plan with respect to pensions. Perhaps the $100 a month objective would be the right answer. But, in my opinion, would that not be just a jumping-off spot through collective bargaining to, say, $250, as our minimum wages and other things have been?

— MR. CARROLL R. DAUGHERTY:

It might be. There is little consistency in union demands. You will recall that the United Auto Workers did adopt the principle of increased wage rates commensurate with increases in the cost of living, then threw it over-board when the cost of living went down. They will stress productivity one time and forget about it the next time. That's not inconsistent in terms of a general principle — which is a good American principle as far as I can make out — of always trying to get more. You might expect increased demands, but I do think that basic economic education would be very helpful on all sides in order to make everybody realize just what is involved in these matters. On something like pensions — and that's why I am very much for the government doing it, as I indicated — you cannot take just a narrow company or even industry view. The implications are too great.

— QUESTION:

Is it not true that if there were a higher level of benefits as the result of a government scheme, the resulting compulsory savings would also present a terrific investment problem which might have a very marked and direct effect on the economy?

— MR. CARROLL R. DAUGHERTY:

Yes, if the government tries to operate it as one vast insurance company. But, as I suggested in my talk, if the government does it "you pay as you go", then it's simply a matter of transferring its revenue from certain persons' incomes to certain other persons'. There is no unnecessary increase in savings.

— *QUESTION:*

I would like to ask Professor Daugherty how he thinks a pension plan — private pension or government pension — should go in supporting a man in his later years? Isn't there a danger in pensions in bringing about a type of thinking in which everybody live up to their full income at all times. Is that a danger, do you think or is it desirable?

— *MR. CARROLL R. DAUGHERTY:*

There are some moral issues and I don't know whether I possess the competence to deal with them. Let us assume that everybody is compelled to engage in the virtues of thrift. If we all make those private savings that are necessary to provide the old age pensions that we think we ought to have, there is no difference in the economic results. There might well be too much saving that way as in relation to investment in the private pension plans. There is some thought that the best time for individual thrift was just exactly when it was emphasized, namely when there was a vast new country to be opened up and there was a terrific rate of new investment required — we needed really the savings. Whether that still holds, I am not prepared to say. So you are left with the question as to whether it is better for a man's morale to make his own savings and take care of himself. You are left with the question as to whether, with what he gets in terms of take-home pay, he is able to do it. Goodness knows, all the sales managers try their best to get his income out of him right away without permitting any savings.

— *QUESTION:*

Professor Daugherty mentioned the necessity for some general education on the question of pensions. I am wondering whether he would enlarge on this.

— *MR. CARROLL R. DAUGHERTY:*

We thought that, out of the study that we recommended, it would be possible (if the study were conducted in good faith, in an attempt to find what the conditions were with respect to the average of the steel employees, the rate of turnover and all those factors) that maybe the unions with the companies might figure it out this way: "If the plan is a non-contributory plan, maybe for it to be safe and sufficient, without costing too much, we won't get enough

benefits without contributing ourselves; maybe we ought to make some contributions ourselves." We didn't say that explicitly in the report, but we did say it explicitly with respect to the medical and hospitalization benefits. We thought the companies ought to contribute 4 cents, and if the workers wanted to contribute some sum, such as 2 cents, it would be perfectly all right with the Board. We possibly should have been more explicit about the pensions. Our hunch was that that sort of thing might come out of the study.

— QUESTION:

Mr. Chairman, I wonder if either the speaker of this morning or this afternoon would comment on the growing development, in both countries, of the trusteed type of profit-sharing plans. Do they offer possibilities to industry?

— MR. CARROLL R. DAUGHERTY:

I am not familiar with the plans that you mentioned, but, in general, I think they have to operate in a company that has rather stable profits. And that does not cover too large a proportion of the companies. In other words, profit-sharing is something after costs have been deducted from prices. However you want to treat those profits and divide them up, put them into annuities or anything of that sort, it's not a factor that is going to have some of the economic effects that I mentioned. It's possible in connection with pensions. It does mean that the workers come to count on these things and if the companies are not in a position, during periods of economic recession, to tap the profits, then I think you will have a labour relations problem on hand and it probably might do more harm than good. In other words, you have to have the sort of companies that I mentioned, that could pay pensions as-you-go themselves.

— MR. GEORGE W. TAYLOR:

I'm against profit-sharing under collective bargaining set-ups. I think that when you undertake profit-sharing, whether it's as a supplement to wages or provides for pensions, retirement savings, you are saying to the employees: "Become joint risk-takers with us. Your position depends upon fluctuations in profits". As I understand it, one of management's main function is to be the risk-taker. If we say that employees as a group have an interest in the size of the profits, they also must be given a right to participate in

the determination of the factors upon which profits depend. Some of you might know that, in our own country, Sears-Robuck has done a terrific job in profitable operations and in sharing of profits. But it has been a steadily increasing profit, without any reductions taking place. It seems to me that if we are going to maintain a private enterprise system, management has the job of the risk-taking responsibility and that it should not be shared with employees who are seeking security. There is much more that could be said about this but that expresses my general view.

QUESTION:

If a manufacturer has to buy a machine, it costs him $1,000 or $10,000 or $100,000 and he pays it. But he can acquire the human being for nothing. The two things are necessary for production. Since the employer has to replace that machine, I think he should give even greater consideration to replacing the loss of the human being which he gets for nothing.

MR. CARROLL R. DAUGHERTY:

Well, I think I covered that briefly in my remarks. We said in the report that the employer does make provision for the maintenance and depreciation of the machines that he owns. We didn't say anything about getting the workers for nothing, because we did not think he does get them for nothing. They don't buy workers like machines; workers are free, they are not slaves. But the workers do work for the employer under his direction and undertake work of varying responsibility and disagreeableness and hazards. Therefore we said, in effect, that the employer has a share of the responsibility to maintain the worker while he is being employed and to take care of him afterwards. The extent of this share depends on what could be bargained out or worked out through government. We did think he has responsibilities. We said it is one of the first charges that should be considered.

QUESTION:

Then does the funding of past service liabilities have a direct relation to depreciation of the equipment?

MR. CARROLL R. DAUGHERTY:

These fellows have been working for 30 years, so it is difficult for any employer, of course, to descend on the employee and say you are not taking care of his depre-

ciation up to this point. That does raise quite a problem, just as if the employer had not put aside depreciation reserves for his nonhuman machines, and now all of the sudden he had to take out of his current revenue enough to take care of their replacement.

— *QUESTION:*

Professor Daugherty, when you talk about the private schemes of benefits — whether sick benefits, or pensions, or things like that — do you mean these private schemes should be jointly administered by union and management or only management? Which one do you prefer?

— *MR. CARROLL R. DAUGHERTY:*

That's the first time the question of administration has come up. Unions, of course, believe in joint administration and the employer (in the non-contributory plan which we are now talking about) says: "If I make any contribution, I'll administer it." I don't think it's a very significant point. The reason I think it's not terribly important is that if the principles are worked out through collective bargaining, it almost follows that it has to be administered in accordance to those principles. But I don't see why the union shouldn't be on a joint board. If the thing is worked jointly, if there is a study being made, why should not the union be on a joint board.

— *QUESTION:*

Where there is a tripartite government plan, should the administration be left to the administrative branch of the government, in your opinion?

— *MR. CARROLL R. DAUGHERTY:*

Well, I think so, but I certainly think that there should be an advisory council made up of employers and union people.

— *QUESTION:*

Professor Daugherty, I wonder if you would mind answering this question which, probably, is not too much to the point. I was wondering whether, under private pension plans, the problems of discharge would be affected greatly? In other words, do you feel that through bargaining pressure or through the influence by a particular social trend, that a larger number of inefficient workers will be kept

at work? What do you think will be the over-all effect of private pensions on separation of employees?

— *MR. CARROLL R. DAUGHERTY:*

I should think that this will be an additional problem. As you know, there already has been — for security reasons — a union desire to put restrictions on discharges and lay-offs, and so on. That's to remove, of course, the union member from discrimination by the employer and to provide protection against arbitrary action of supervisors. And if the worker has a sizeable pension accumulation, I think this certainly would cause the union to review dischargees even more closely.

— *QUESTION:*

Do you think it desirable that there should be tax exemptions for contributions and similarly exemptions in terms of receipt of pensions?

— *MR. CARROLL R. DAUGHERTY:*

Yes, I think there might well be some exemption of such a fund. As a matter of fact, there are some trends in that direction already in our tax system — you get larger exemptions now if you are blind and that sort of thing.

— *QUESTION:*

Mr. Chairman, I would like to come back to Professor George Taylor's speech this morning. I'm a little bit nervous about his statement about the duality of loyalty. "One man can be loyal to his union and be loyal to his company at the same time". Would you mind elaborating on that? It seems very idealistic.

— *MR. GEORGE W. TAYLOR:*

I think the dual loyalty concept is truly idealistic. On the other hand, it is difficult to conceive of good collective bargaining taking place if the union representatives know that management is trying to drive a wedge between them and the members of the union; I cannot conceive of good bargaining taking place under these circumstances. Nor can I conceive of good bargaining taking place if the union paper comes out the day before a bargaining process, and pictures the employer as a plutocrat, with his foot on the neck of the worker. I would just think that those situations, on both sides, make good collective bargaining difficult. If we are going to have good faith bargaining, there has to be a recognition that there are some areas about which a

worker looks to his union for guidance — looks to his union for leadership — while there are some other areas about which the worker looks to management for leadership. This, many unions have been slow to realize. On the second score, workers do look to management for continuity of employment, steady work and matters of that sort. They know that such matters are dependent largely upon employer policies and the employees are loyal to the company which provides adequately for this. Employees are very proud to work for a company that meets its obligations to employees. When the dual-loyalties are recognized — when both union and management recognize them — it's amazing how many problems go out the window. Many problems wash away when there is a conviction on the part of the union officials that management is not undermining them. Such a recognition is essential to the confidence between the bargainers themselves upon which a good relationship depends. You might say: "Yes, but our union has policies that make it pretty difficult to deal with. Must employees' loyalty to the union as respects such policies be accepted? Shouldn't management tell the employees that their union is irresponsible?" I'll say to you that even though you don't like the policies a union may follow, you cannot drive a wedge between a union and its members. I do not think myself that union leaders follow the practice of shoving things down their members' throats. I don't know how it is up in your country, but in my country most union leaders have to cut down the demands of the rank and file. The rank and file demand much more than union leaders know is possible. They have to go out then and cut down these demands. Some very heavy responsibilities are attached to union leadership in that regard. I don't think our workers are puppets on a string that can be manipulated at will. I think the union leader just be responsive to them.

On the other hand, unions should realize too that they cannot drive a wedge between management and the workers, with respect to some of these other areas which are the province of management. Union members want to be proud of their union and also of the company they are working for. Who wants to think that his place of business is a sweat-shop with an anti-social fellow running it?

There is one peculiar aspect of labour relations. What people tell you privately is frequently so different from what is said around the conference table. The very union

leader who publicly berates the employer for being a plutocrat may get along very nicely with him privately — they may have a lot of respect for each other. Management has come to have great respect for many leaders in the ranks of labour but don't like to say so publicly. Why do we have to carry on this fiction of the necessity of a warfare for the exclusive loyalty of the workers? I emphasized that this morning, because it seems to me that one of the ingredients of getting along in the collective bargaining venture is a more co-operative attitude on both sides. It seems to me that that battle for exclusive loyalties is what is impeding good collective bargaining in a lot of areas.

— *QUESTION:*

Well, suppose for example you are loyal to the union and loyal to the company but the union is requesting — for example, a guaranteed annual wage, which would cut in the profits of the company. Well, then, of course, the union does not want the company to go down, but still the company does not want to lose the profits.

— *MR. GEORGE W. TAYLOR:*

What you are saying is that there may be important differences with respect to the terms of employment. Of course, there can be and will be. But I believe that if a sound basis of confidence is established, on an acceptance of mutual loyalty to unions and to the company, these differences will resolve themselves around a conference table. If union demands are too heavy, there is a real responsibility on the part of management to explain that the demand — for a guaranteed annual wage, for example — in a highly seasonal industry, is just unthinkable. If management felt strongly about this, it would say: well, we will take a strike on that one. That would be one of the issues that would have to be fought out. And if the union felt that its objective was achievable and management should give it, they would have the right to strike about it. The strike would be the final arbitrament. But with a good relationship between them based upon mutual understanding the strike would not be likely — extreme demands would probably be modified. I don't mean to imply that dual-loyalties constitute an identity of interests, because I don't think it does. When I espouse the concept of dual-loyalties, it is suggested that the workers look to the union to work certain matters out for them on a group basis, — they want certain protection against discharge, they want certain

rights to participate in promotions; they look to the union to do those things and are loyal to the union with respect to those and other matters. I think they are loyal to the company in expecting the company to provide steady employment, a decent work-place and so forth.

— QUESTION:

You are supposing a lot on the part of employers and employees. You are supposing they are ready for that?

— MR. GEORGE W. TAYLOR:

I am expecting a great deal because collective bargaining is a very exacting process. I agree further with you: it's idealistic. The sceptic says it won't work. I believe collective bargaining is idealistic and difficult, but that we can make it work. It's as idealistic and as practical as democracy. They are both very challenging notions but there is no basis for discouragement about the manner in which the processes are developing. After all we have had collective bargaining in our countries but for a very few years. It's essentially a new kind of a system of industrial relations. In the United States, for 150 years, we fought over whether or not there should be collective bargaining, whether we should accept the principle of group determination of the conditions of employment. We didn't resolve it really, in the United States, until 1937, when the Supreme Court said that the Wagner Act was constitutional. Organization of unions then started. There was very little labour movement in the United States in 1935. Sure we had the building trades unions and railroad unions, but we had no large labour movement. Beginning in 1935, there occurred the great organizational drives, with all the tensions that go with them. And then came the war and government determination of these processes was interjected. So that, really, collective bargaining is a very brand new thing, except for coal and building trades and railroads. It's a brand new social institution we are dealing with. I am confident, however, that we are making real progess in the development of responsibility on the part of management and labour under collective bargaining. I have great hopes that the process will be constructively developed even farther, as I indicated this morning. If it fails, however, then we will doubtless get government determination of the conditions of employment *and* the sanctions that go with it. That to me is the wrong approach. I would prefer to bank on this process we call collective bargaining — challenging though it is.

PART III

Trends in Arbitration and Conciliation

by

PROFESSOR JAMES C. CAMERON

14th March, 1950

IN BRITAIN, in the United States, in Canada, and in some other democratic countries, it is public policy to recognize the right of employees to bargain collectively with employers over wages, hours and other conditions of employment. Public policy in both the United States and Canada has, however, gone beyond mere recognition of unions. It actually endorses collective bargaining and requires employers to bargain with organizations representing their employees. This is very important. The adoption of this policy and the exercise of the rights conferred by law through trade-unions has made it evident, in both countries, that labour disputes may seriously affect the public interest. Consequently, efforts have been made, as the rights of unions were extended, to encourage trade-unions to recognize their responsibilities to the public and to employees by using the strike only as a last resort. In both countries, governments have established conciliation systems to assist employers and unions in reaching agreements. The use of arbitration in the settlement of disputes has also been encouraged.

In neither country, under ordinary circumstances, has there been any requirement that disputants must take their quarrels to conciliation or arbitration. However, the *Taft-Hartley Act* does make conciliation a necessary step before a legal strike can be undertaken in some cases, and it does impose some restrictions on the right to strike.

In Canada, the law establishing conciliation services has, from the very beginning, required that a union submit a dispute to conciliation before it calls a strike. Canada has, in fact, gone much further than the United States in re-

quiring the use of conciliation and arbitration, and in limiting the right to strike.

This paper deals with conciliation and arbitration of industrial disputes in Canada. It is concerned with the way in which conciliation and arbitration should work, how they do work, and how they might be made much more satisfactory processes for dealing with labour disputes.

Contract — Negotiation Disputes

It will be convenient, for the purpose of this paper, if I deal with labour disputes under two headings: first, disputes over the negotiation of the contract; second, disputes over the interpretation or alleged violation of the contract.

The essential difference between the two types is this: when a contract is being negotiated, there is little or no basis on which an outsider may determine the "right" wages and the "right" working conditions; whereas, when there is a dispute over the meaning of the contract, the terms of the contract itself should, theoretically at least, provide a third party with a yard-stick by which he can gauge the "rightness" or "wrongness" of the actions of the disputants.

Let us look at contract-negotiation disputes for a little; later, I shall devote some time to disputes over the interpretation of the contract.

Contract-negotiation disputes, as I said a moment ago, cannot be settled by reference to any well-established or generally accepted principles. What is the "right" wage? What are the "right" hours? What are the "right" working conditions? What is the "right" form of union security? You see, one has only to ask such questions as these to indicate the difficulties involved. Employer and union must hammer out the answers themselves, or they can continue to argue over the questions indefinitely, or they can agree to disagree over the points at issue.

In Canada, it is public policy to encourage employers and unions to work out the answers for themselves. It is public policy to require the parties to bargain in good faith and to make every reasonable effort to reach an agreement. If they fail to do so, they are encouraged to submit their problems to conciliation. Public policy regards the conciliation procedure as the appropriate procedure for the settlement of disputes of this kind — disputes which cannot be settled by reference to any well-established or

generally accepted principles. Of course, as you know, the disputants are *required by law* to use a mediation procedure before resorting to either a strike or a lock-out. Now, I'm talking generally. There are some variations in detail in the provincial legislation, which I don't intend to discuss.

The aim of the conciliator is to get the disputants to arrive at a mutually satisfactory agreement, i-e. a voluntary agreement on matters which cannot be settled by reference to any generally-accepted principles. In practice, the conciliator usually clarifies the issues; he may suggest (diplomatically of course) what appear to him to be reasonable settlements; he may try to persuade the parties to modify their views; he may suggest face-saving devices — one of the most important functions, I think, of a conciliator; he may flatter, cajole, encourage, and even press the parties in an effort to find solutions that are acceptable to both parties. Throughout the proceedings, the conciliator must keep his main objective in mind. *His job is not merely to split differences.* Some conciliators may think that that is the job. I must disagree with them. I'm sure there is no one in this audience who does conciliation work who thinks that his job is to split differences. The mid-point is not necessarily the "right" point of settlement.

The most important contract-negotiation disputes that develop between labour and management come from conflicting interests. The disputes are, by their very nature, not arbitrable. They cannot be settled promptly by reference to any "right answer". In this particular field, conciliation is of primary importance. It provides the best methods so far developed to reach settlements.

Quite a number of the Provincial Statutes now in effect in Canada follow a pattern set by the federal *Industrial Disputes Investigation Act* of 1907. This statute's successor is the *Industrial Relations and Disputes Investigation Act* — most of you know it. This Act stipulates that disputes over the negotiation of a contract *must* go to conciliation. Strikes and lock-outs are illegal until such disputes have been submitted to conciliation. The statute also provides for compulsory arbitration of disputes over the interpretation of an agreement.

Briefly, the Federal Act deals with contract-negotiation disputes, in this way. When the parties encounter difficulties in reaching an agreement, they may ask the Minister

of Labour for the assistance of a Conciliation Officer. If the Officer fails to bring about an agreement, the parties may ask for a three-man Conciliation Board. The Board continues the work started by the Conciliation Officer. It reports its activities to the Minister at the conclusion of its hearings, and, if it fails to settle the dispute, it presents its recommendations for a settlement. Neither party is bound to accept the Board's recommendations.

Although the recommendations are not formally binding, they may not be set aside lightly. The report of a board is published and is available to the public. If the Board's recommendations appear to the public to be fair — of course, the public is seldom in a position to judge, but it does judge — if the Board's recommendations appear to the public to be fair, the disputants run the risk of losing public sympathy if they ignore them completely. Thus, in practice, the parties appearing before a Conciliation Board are under some informal pressure to accept the Board's findings.

The statutes of the provinces follow the same general pattern of the Federal Act. There are minor differences which I do not propose to discuss here.

In Canada, then, Conciliation services are used by the parties when they reach an impasse when negotiating a contract. When the conciliation machinery is used, there is an underlying assumption that the parties have negotiated in good faith and have made every effort — every reasonable effort — to reach an agreement. That is one sentence that I do want to repeat. Theoretically, at least, and certainly ideally, when the conciliation machinery is to be used, there is an underlying assumption that the parties have negotiated in good faith and have made every reasonable effort to reach an agreement, that is, there is an underlying assumption that each party has made its best efforts or its best offers and that, in spite of this, certain questions remain unsettled. There is the further assumption that each party is going to conciliation with the intention of trying to find a mutually satisfactory settlement of the point at issue. There is an assumption that each party, when it seeks conciliation, is going there with the intention to earnestly seek for a settlement that will be mutually satisfactory.

Now, gentlemen, some of you are laughing up your sleeves; you are saying: Cameron is an idealist, he is not

very practical. This will give you a great deal of comfort! The use of conciliation does not always conform to the ideal which I have just described. When an employer and an union begin to bargain, it is often — let me protect myself — it is sometimes quite clear that they will not reach an agreement. Indeed, it is sometimes considered to be good tactics for the bargainers to press their cases until an impasse develops. Then, they will carry the dispute through all the stages of conciliation, wait for the report of the Board and then settle. It is considered bad tactics to make one's best offer early in the negotiations. Something must be saved to concede to the Conciliation Officer, something must be held back for the Conciliation Board. One labour man put it this way: "We go to the Conciliation Board in the hope that we may embarrass the other fellow in conceding a little more".

Employers, who are not quite as slow as some people think, are aware of this situation, so they govern themselves accordingly. They hope that the Board will regard the union's demands as excessive. They also hold back their best offers for fear that a Conciliation Board may deal with the matter and recommend that they give something more.

There are several criticisms of the conciliation system in Canada as it stands today. I shall deal only with the most important criticisms. First of all, a Conciliation Officer is often in a weak position. In practice, he is often regarded by both parties as an unnecessary nuisance — however, they use much stronger language than that. Why should the disputants talk to a Conciliation Officer when a Board is likely to handle the case later? Is it not better, some people argue, to withold all compromises until the Board sits? But, gentlemen, the Conciliation Officer is a necessary instrument in settling the types of disputes which we are just discussing. There are advantages in dealing with a single Conciliation Officer rather than with a Board. The Conciliation Officer can get down to business more quickly. He can dispense with formalities. He can keep the dispute a private matter. The fact that about 80% of the cases that are conciliated in Ontario are settled by a Conciliation Officer is evidence of their effectiveness.

A second criticism is that the recommendations of Boards are often, in practice, as binding on the parties as the rulings of an Arbitration Board. Public opinion exerts strong pressures. It seems desirable, therefore, to modify

the procedures of Conciliation Boards and to make them what they are intended to be: *conciliators, not arbitrators.* This might be done in the following way: in cases where a Board settles the dispute, it might make a public report, as it does now. In those cases where Boards fail to bring about an agreement, they might only report, for publication, that they were unable to induce the parties to come to an agreement. You see, what I'm suggesting is that there should be no recommendations which will compel the parties to accept a Board's report.

The third criticism of our conciliation system is that Boards are not impartial. Both employers and unions, at times, adopt this stand. There is, of course, some basis for this criticism. It is probably true that, in many instances, both employers and unions brief their nominees and make definite suggestions regarding the positions which they expect them to take. Indeed, in many cases, there is a foregoing conclusion that a man will be appointed only if he agrees to act as an advocate for the party which nominated him.

The Chairman, then, is the member to whom one must look for impartiality. Is he impartial? I must be careful here. Not always. No matter who is appointed Chairman, there is a danger that his views will appear to be unfair to one or both of the disputants. But notice this, gentlemen, — I think that no one can challenge the statement — unions *want* Chairmen who are biased; employers, on the other hand, *want* Chairmen who are biased, provided that they are biased in the proper direction.

If Conciliation Boards were instructed to confine their activities to a search for a solution that was acceptable to the parties, and if they were instructed to report merely that they had or had not found a mutually acceptable solution, much of the difficulty would disappear. It would matter little whether the members of the Board were biased or unbiased.

Some critics go on to argue that a one-man Conciliation Board is to be preferred to a three-man Board. I have great doubts, however, about the willingness of unions and employers to place their fate in the hands of a Board on which they have no representation. However, since the Chairman, in practice, dominates the three-man Board, the parties are, in effect, putting themselves in the hands of one man anyway.

In spite of the fact that there is some valid criticism of the Canadian Conciliation system, the work of Conciliation Officers and Conciliation Boards is, on the whole, quite satisfactory. The system used here is recognized in the United States and in Great Britain as one of the most effective and successful in existence.

Contract — Observance Disputes

Now, I pass on to a discussion of contract-observance disputes. Disputes over the interpretation of the agreement develop because collective labour agreements are what they are. Agreements settle some things for a definite period of time — wages and hours, for example. But many other matters are dealt with in the contract only in a general way. For example, management is to direct the working force, but management's actions and decisions may be questioned by the union. Or, to take another case, an employee who is dissatisfied with anything pertaining to his employment may take the case through the grievance procedure.

The Industrial Relations and Disputes Investigation Act provides that disputes concerning the meaning and violation of an agreement must be settled by arbitration.

Theoretically, arbitration is an appropriate method of dealing with such disputes. Surely a competent third party can study the terms of the agreement and pass judgment on the issues involved. If this is so, then, why not turn the settlement of the disputes over to a law court?

The answer to this question seems quite clear to me. A law court is not the appropriate place in which to settle labour disputes of this kind. The atmosphere of a court is destructive of healthy employer-employee relations. There was not any humor intended in that sentence, but those of you who have been in a law court know something of the atmosphere; it is sometimes pretty smelly. A court's formality, its ponderous red tape and intricate rules, the tension which it often generates between litigants, the long delays that lawyers frequently arrange — all these things make it an inappropriate tribunal for the settlement of labour disputes. Moreover, courts have not commonly dealt with labour disputes in the past. They have not developed either principles or procedures which make them desirable tribunals for handling labour problems. The present arrangements which we have for the arbitration of contract-

observance disputes are, in a sense, experimental devices set up to fill a gap in our judicial system.

There is another important consideration. Most collective agreements contain many provisions that are stated loosely and set out incompletely. That's putting it mildly. Consequently, an arbitrator finds that the rules and principles that are to govern his decision on a labour dispute are much less precise than those to which a judge in the law courts may refer. An arbitrator may find in practice, then, that his first task is to shape rules and principles which the parties to the agreement have only partially constructed. Thus the arbitration of contract-negotiation disputes, in its present state of development, involves much more "law-making" than is to be found in the ordinary courts of law where precedents are more firmly established. This fact makes the arbitration of labour disputes a task for a specially qualified arbitrator familiar with the ways of both management and labour, and able to interpret their contracts in a way acceptable to them both.

Arbitration Boards in Canada are set up much like Conciliation Boards, with a nominee of each party and a neutral Chairman. Tripartite Boards are undoubtedly favoured for the same reason that tripartite Conciliation Boards are considered the most desirable — each of the parties has more confidence in a Board on which it has a representative than in any other sort. The three-man Board, though the most common, is not the only sort of Arbitration Board. Some agreements provide for a five-man board, some provide for a single arbitrator.

There has been some little concern, especially among employers, about the powers which should be conferred on an Arbitration Board. This concern comes from the fact that employers realize that the whole process of grievance procedure and arbitration has encroached on their prerogatives. But arbitrators too should be anxious to have their jurisdictions defined.

In spite of the care which may be taken in defining an arbitrator's jurisdiction, it will ordinarily be difficult for either party to prevent the other from taking any matter which has gone through the grievance procedure to arbitration. And neither party can properly constitute itself an authority competent to classify disputes as arbitrable or not arbitrable. The party that contends that the matter is not arbitrable can so argue before the arbitrator. If it

can make its case good, the arbitrator should declare the matter beyond his jurisdiction and decline to make an award.

The powers of an arbitrator may be left somewhat indefinite through the failure of the parties to state the particular matters in dispute clearly and to outline clearly the questions on which they expect the arbitrator to rule.

Moreover, an arbitrator's power to interpret the clauses of an agreement gives him considerable latitude. In cases where clauses are loosely worded, obscure, or ambiguous, the arbitrator may attach a meaning to a clause which neither of the parties contemplated, a meaning which may alter the terms of the contract significantly. Yet both parties are required to accept his interpretation. This fact should be sufficient to illustrate the desirability of writing a contract that is clear and precise. A careful drafting of the whole agreement provides a most important definition of the powers of an arbitrator.

When management and the union take a dispute to arbitration, they usually want a clear-cut and definite answer to the issue. However, it must be recognized that there are some questions that are so involved that a positive answer one way or the other is impossible, if not wrong.

Most agreements that provide for arbitration are completely silent on the exact meaning of the term "Board's decision". Is the Board's decision the decision of a majority of its members? Must the Chairman be one of that majority or may two members of a three-man board overrule the Chairman? Is the Chairman's decision the binding one, regardless of the concurrence or non-concurrence of the members? Is a minority report permissible? As far as I am concerned, it isn't.

There are precedents for majority and minority decisions in our higher courts of law. It is extremely doubtful, however, if this practice should be followed in the arbitration of labour disputes. The usual Arbitration Board is quite unlike a group of higher court judges. It is composed of a representative of labour, a representative of management and a Chairman who is presumably an impartial man on the Board. Surely then, it is a bit ridiculous to have the decision of such a Board underwritten by one of the partisans and roundly condemned by the other. Even more serious, the criticisms of the dissenting member of

the Arbitration Board may lead one party to the conviction that the Board has not dealt with the question justly. It seems desirable, therefore, to abolish minority report.

Some people maintain that an arbitrator is under no obligation to give reasons for his decision. However, the parties involved in a dispute are often as much concerned about the reasons for a decision as about the decision itself. Thus an award is ordinarily more acceptable to those concerned if the arbitrator's explanation of the way in which he came to his decision is given clearly in his report.

According to the Federal and Provincial statutes, the award of an arbitrator dealing with a contract-observance dispute must be accepted by both parties as final and binding. Is there, then, no appeal from the decisions of an Arbitration Board? Yes, I think there is. There appear to be three grounds on which a law court will deal with an appeal and upset an arbitrator's award: 1) If fraud can be proved; 2) if the arbitrator fails to give the parties a fair hearing; 3) if the arbitrator makes an award outside his terms of reference. However, — this is the part I want to underline — there seems to be no sound basis for an appeal against an arbitrator's award simply on the ground that an arbitrator showed poor judgment or that he was unfair. The parties to an agreement agree to take the arbitrator's award for better or for worse, so long as the arbitration proceedings are conducted according to the terms of the agreement.

One important advantage that arbitration should have over court proceedings is the saving of time which it should effect. Labour disputes are urgent matters. It is of the utmost importance to terminate disputes quickly. A good many agreements, therefore, specify a time limit within which a Board must be set up. They frequently specify too, a second limit within which the Board must hear the case and submit its decision.

The Outcome of Arbitration

The crucial question to ask about any process is: "Does it work?" "Does Arbitration work in settling contract-observance disputes?"

Labour-Management relations as we have them today, dominated by collective bargaining, are so new in some industries that it is difficult to make a fair appraisal of any

factor. There are a few industries, however, where arbitration procedures have been in effect for a number of years. There is a long history of arbitration in the railways, the garment trades, and the printing trades. A large part of Canadian industry, however, has not developed similar permanent arbitration facilities. Most conclusions regarding the effectiveness of arbitration must be drawn from particular situations. It would, therefore, be impossible to support the view that arbitration is *the* way — the only way — to settle labour disputes, even contract-observance disputes in Canada. Experience is too limited to warrant any such sweeping conclusion. However, there is a strong presumption that arbitration is a very desirable procedure in the settlement of contract-observance disputes, in that it can effect settlements without loss to the employer, to the employees or to the general public.

There are certain characteristics of the arbitration process that are worthy of note. The first is that an agreement to arbitrate is a curtailment of management's prerogatives. It is an agreement to accept the decision of an outsider who has no responsibility towards the business on questions which were, in the past, decided by management. But arbitration must not be condemned on that score. The whole process of collective bargaining curtails management's prerogatives. Arbitration is but a part of the larger process. Therefore, it seems difficult to condemn arbitration for depriving management of its rights without condemning the whole process of collective bargaining on the same score.

It is true that an arbitrator frequently deals with issues that are not clearly set out in his terms of reference. It is true that an arbitrator frequently deals with an agreement which is crudely drafted. These are dangers which unions and managements must try to avoid. There is the further danger that an arbitrator may rule unwisely. That is another danger that both parties must face.

There is a further criticism. Unions are sometimes accused of using the arbitration process, not as a device to resolve a dispute over the agreement, but as a tool to continue the process of negotiation and to enlarge their rigths under the contract. But the same misuse of arbitration is open to management. Exploitation of what might be called unfair advantages by either party is likely to destroy not only the effectiveness of arbitration, but the whole collective bargaining relationship.

Arbitration, like many other social institutions, seems to be a sound and reasonable way to accomplish certain desirable ends. The trouble with it, as with many other institutions, develops when human beings are not prepared to play the game according to the rules. Arbitration practices will become less and less open to criticism and objections as labour and management come to use them as they are intended to be used. We have a long, long way to go before we attain perfection.

— *MR. ERIC G. TAYLOR:*

Now, I would like to make this comment in the interest of keeping the discussion on the beam, if I may, because of a genuine confusion in the use of terms, which is bound to exist in this room. We, in the province of Quebec, refer to a function as a council of arbitration which is a function performed in the pursuit of the conciliation of a dispute as well as the arbitration of a dispute. I think we would be well advised if we make our comments in the light of contract-negotiation disputes — disputes arising out of the negotiation of a new contract or of the amendment or modification of one clause of the contract. The general reference which has been made by the speaker has been conciliation respecting the former and arbitration with respect to the latter. In other words, when we are trying to agree on what is going into the agreement, we might get involved in a conciliation process. Once the agreement has been executed, we get involved in arbitration. It's quite true that in the province of Quebec we have both situations in both instances.

— *MR. ERIC G. TAYLOR:*

As it was suggested before we adjourned, when posing the questions we are going to attempt to draw a distinction between conciliation and arbitration. A point or two which I underscored while Professor Cameron was speaking bothered me a little. I have no intention of making any comments on them, but they might serve to stimulate some discussion. In so many agreements, with respect to arbitration, the arbitrator has a great deal of trouble satisfying both parties or satisfying either party because of the poor draftsmanship — the poor clauses — which present problems of interpretation and apparently give rise, in the practical ob-

servance of the contract, to alleged violation. Another remark, which I felt was worthy of some discussion was the fact that decisions of arbitrators could be challenged if one of three things occurred: one ,if there was evidence of fraud; two, if there was evidence that a fair hearing had not been given; and third, if the arbitrator made a decision outside his terms of reference. Another point which I felt might serve to stimulate discussion was the suggestion that one of the criticisms of the conciliation process was that a three-man board was often, in the final analysis, a one-man board and there may be some justification for a one-man conciliation board. If that is so, I think it poses the question: what would be the difference between a one-man board and the conciliation officer who precedes it? Now, obviously, you too have a number of questions. I am just throwing those headings out. The success of this session depends on you and the questions you pose, plus the contributions you make. For Heaven's sake let's not get to the point where we send Jim Cameron away feeling that he has satisfied everybody by answering all the questions. I hope he'll have some questions to ask you. I hope you will make some contributions to the discussion rather than just propose some knotty questions.

— *QUESTION:*

Mr. Chairman, the speaker indicated that he felt that the Conciliation Officer should take the views of labour and management and that his responsibility was solely to bring about a reconciliation of views and find some way — perhaps not necessarily a middle way — to get agreement. He said that he felt that there were no accepted principles to which the conciliator could refer. It seems to me that with terms of reference like that, conciliation should be on the basis of experience rather than on recognizing what should in principle be the area of management rights and the area of labour rights. I wonder whether, if all conciliation is done on that basis, we shouldn't establish a pattern of labour-management relations in industry based on experience rather than on "principles".

— *MR. J. C. CAMERON:*

Society has decided that these are private matters which the disputants have to hammer out for themselves. Society has accepted the proposition that there are no generally-accepted principles. Let me illustrate what I mean. In setting out its fair-wage legislation, the Dominion Government

does not start out by laying down a formula — that certain wages shall be paid and shall be considered "fair wages". But it does say: "Fair wages are the wages that are commonly accepted or commonly paid to competent tradesmen in the district". You see, there is a recognition by the Government that there is no generally-accepted method of discovering what is a "fair wage". Even the government throws it into the laps of the parties. The same thing takes place in the contract-negotiation dispute. The Government, in effect, says: "We are in no position to lay down a commandment or a law, or an exact formula. It must be worked out by the parties themselves. We think it desirable that the parties should hammer out the answers." That is the situation in which the conciliator finds himself.

Now, suppose the conciliator comes in with the idea that there are a set of principles to which he must adhere. He may be imposing on both parties a set of principles which are quite unacceptable to them. That is why I insist that the best settlement is one which the parties can live with. I know no one is going to be offended at what I have to say next — I'm taking that chance. Suppose a conciliator comes in with a set of principles which his Minister — a political Minister — has laid down for his guidance. These principles might vary, from time to time, with changes in the political complexion of the party in power. Would you want that? I don't think so. However, I'll leave the problem — I'd like to hear some discussion about it. Perhaps some of you have quite different views from mine.

— *QUESTION:*

But you are supposing political influence on the conciliator, aren't you?

— *MR. J. C. CAMERON:*

I'm saying this: after all, while all Ministers of Labour — or most Ministers of Labour — would be very, very conscientious, there is a danger to which I'm not willing to expose the Minister; that he may be tempted to direct the conciliator to follow certain principles. That is certainly never done in the province of Quebec and never in the province of Ontario!

— *QUESTION:*

I will speak of the province of Ontario, Mr. Cameron, and say the following: in my short experience as a Con-

ciliation Officer and under the guidance of various Ministers of various political thinking, I have never been instructed as to what I should do with respect to conciliation in a given situation. All our Conciliation Officers are free to work as they see fit to do.

— MR. J. C. CAMERON:

Well, then the next question I want to ask you is this: have you a set of principles by which you establish the clauses that should go in the agreement?

— QUESTION:

There cannot be any set of principles under which Conciliation Officers could work. There are no two situations alike, no two agreements alike. There are very few situations in which a Conciliation Officer can say: "I did this yesterday in a given situation; I'll endeavour to do the same thing today in another situation."

— MR. J. C. CAMERON:

Would you accept then, the important principle which I have laid down: the Conciliation Officer's job is to find the clause under which the parties themselves agree they can live and work.

— QUESTION:

Well, not quite. I'll say this: the Conciliation Officer's purpose is to endeavour to bring about agreement between the parties. There are given situations in which agreement is brought about to meet an emergent situation or something that must be done in order to save a situation. Sometimes, agreements are brought about that, perhaps, one of the parties feel they cannot live with. But the principle is to bring about agreement as satisfactory to both of the parties as possible.

— QUESTION:

Mr. Chairman, I should like to ask Professor Cameron what his preference is between a one-man arbitration board and a three-man board?

— MR. J. C. CAMERON:

I have no preference. The thing that is most acceptable to me is what the parties themselves think is best. But I do see some difficulty, in the manufacturing industries, in

getting either local unions or managements to agree to the kind of board on which they do not have some representation. That's the very practical side of it. Ideally, I think that you can settle the matter by a one-man board. But if that is not acceptable to the parties, I say: "let them take their choice". After all, you are not trying to impose something on them, you are trying to discover the thing that will work best in a given situation. In an automobile plant, a single arbitrator, who has had a long experience, might be very acceptable to both parties. That's the best thing for them. But in another situation, where there is hesitation about accepting a single artitrator, I should hate to press him on the parties.

— *QUESTION:*

Does not that come from the physical setting of the parties involved? For example, in an automobile plant, where there are 5 or 6 thousand workers involved, all are employed in the same location. There is a greater degree of intimacy, a better knowledge of the work. Probably that would be a situation best arbitrated by one individual.

I speak now of arbitration on the railways where we have had what we call "boards of adjustments". One of these boards has, I think, convened once in the last seven years, not to deal with a dispute but to deal with the finances of the board! In this particular case, the board is composed of eight persons — not one or three, but eight — and requires a majority decision. When the parties are unable to reach a majority decision, an outsider is called in. I think in the whole history of the Board of Adjustments No. 2, an outsider was called in about three times. On one occasion, there were about 6 or 7 cases on both sides. The parties were so sickened by the decision that he rendered that they decided they'd better not have any outsider at all. The point to note is the physical problem. The railway covers a very large number of classes of people. One board, for example, has to deal with about 55 occupational classifications. Is it essential to give representation? It's the confidence that these people have in their representatives on the board that spells success. Is that not the psychological factor that makes it so important that we give this representation?

— *MR. J. C. CAMERON:*

Yes, I certainly agree. When people ask me: "Is this a good clause", I throw the question back to them. "You

have lived with it for two or three years, how does it work? Are you satisfied with it? If you are, yes it's a good clause". That's the real test.

— *QUESTION:*

Mr. Cameron, in dealing with interpretation disputes, you stated that the minority report was a vicious thing; later on, you made the comment that a minority report should be abolished. I wonder if you would give us your reasons for making such a comment.

— *MR. J. C. CAMERON:*

Let's be specific. Are you talking about arbitration?

— *QUESTION:*

Arbitration, yes.

— *MR. J. C. CAMERON:*

In arbitration, you see, you have a decision which is final and binding. Where you allow a minority report, someone agrees with the Chairman, — he underwrites the Chairman's report. The Chairman and, perhaps, the union member make a certain award. Then the person who writes the minority report for the company roundly condemns the award. And the company feels that there was something unfair about the decision. That's undesirable, I think. I think it would be far more desirable to have a single report and then, it seems to me, you are underlining the fact that the award is binding on both parties. The parties have to live with it, unless there is a fraud or so on, — the three cases that I gave you. Why disturb the whole situation by having someone suggest that the other two fellows were crazy, that they were unfair and so on? I don't think it is helpful. I'd rather omit the minority report, because it's not helpful at all, in my view.

— *QUESTION:*

Do you feel the same way about minority reports in the case of a conciliation board?

— *MR. J. C. CAMERON:*

Yes. I'm very clear on that. I would suggest that a conciliation board should be a real conciliation board by attempting to bring about a settlement. And if it fails to bring about a settlement, just report that and nothing more. The fact that it fails to bring a settlement and makes a

recommendation brings strong public pressure on one party or both parties to accept the board's recommendation. I don't think that's what it is intended to do. My view flows out of what I said originally: the board is trying to work out something that is mutually acceptable. When it does not accomplish that but makes a strong recommendation, it's saying something like this: "We were unable to work out a mutually acceptable arrangement but we recommend . . ." It's something more than a recommendation; it exerts public pressure on the parties to accept it. Am I making myself clear?

— *QUESTION:*

You have covered the point of the board's report, but not the minority report.

— *MR. J. C. CAMERON:*

In that case, there would be no minority report in conciliation.

— *QUESTION:*

I understand that. You object to any report.

— *MR. J. C. CAMERON:*

I object to any report when there is no settlement, because of the public pressure upon the parties. You see, what I am trying to say is this, gentlemen: in contract-negotiation disputes, you are throwing it into the laps of the parties and giving them assistance. If that is your objective, then you must not bring any formal or informal pressure on them.

— *QUESTION:*

Well, then, the three-man board has merely repeated the work of the conciliation officer.

— *MR. J. C. CAMERON:*

That's right.

— *QUESTION:*

First, with respect to collective agreement being well written, it has been my experience — and if there are any lawyers in this audience, will you please excuse me — that many of the agreements which are written by lawyers are not the best agreements or those that labour organizations — for one, anyway — like. They are cumbersome, full of legal terminology and many clauses do not express what the people — that is, the union — originally meant. I have

encountered considerable difficulties in the interpretation of contracts which have been written by lawyers. What we had finally agreed on in negotiations with the company was one thing; but when it came to an arbitration board on the interpretation of the contract, I felt that I was taken for a ride. I think that if contracts were left entirely to management and labour you would have better contracts.

The second point is this question of minority reports. I want to disagree very strongly with you on that, Professor Cameron. Perhaps my illustration is going to be an exception to the rule; however, if it is, you tell me so. I had the opportunity, some two months ago, of sitting on an arbitration board representing the union in a manufacturing plant. The question of wages was discussed. The Chairman, the company's representative and I agreed that the wages in the lower brackets were low. We then agreed as to how much they should be increased — and for argument's sake, let's say 10 cents an hour. When it came to the higher brackets, the Chairman and the company's representative argued that if these higher brackets were increased 10 cents an hour, they would be excessive. It should be remembered that this particular plant had a job evaluation plan. The relationship between one job and another was definitely established by industrial engineers. The relationship between one job and another was not before the board. Both the union and the company agreed it was a fair and reasonable relationship. But the Chairman and the company representative ruled that there should be — I use arbitrary figures — ten cents an hour increase for the lower brackets and 5 cents an hour increase for the higher brackets. I argued the contrary. I argued that would indirectly disturb the job evaluation plan in the plant. My position was that the company had spent much money on establishing the relationship between one job and another. And if it is fair to give 10 cents an hour increase to the lower brackets, in order to keep the job evaluation the board must, out of necessity, give 10 cents an hour increase all the way up the line. Well, I was unable to convince the board. The decision came out and I wrote my minority report. And what do you think happened? The company accepted my report. By accepting the majority report, the company would have got in a great deal of trouble. They would have had to disturb their whole job evaluation plan. Now, this may be an exception to the rule, Professor Cameron, but I say it does not do any harm to have minority reports.

— *MR. J. C. CAMERON:*

Notice what I said. It was really conciliation, wasn't it?

— *QUESTION:*

That's right.

— *MR. J. C. CAMERON:*

All right, then. If you followed my speech closely, you noticed that in circumstances like that there would have been no report at all, since the board had failed to reach agreement. There would have been no majority report to deal with.

— *QUESTION:*

Then, if there is no report, what is the solution?

— *MR. J. C. CAMERON:*

The solution is still left to the parties themselves — a strike or a lockout may take place. I am objecting to the informal pressure that's exerted by the majority or the minority report. And you support my view I think.

— *QUESTION:*

I wonder if you have any knowledge of the number of unanimous reports that come out of a conciliation board, and what percentage of unanimous reports are accepted by the parties that go to conciliation?

— *MR. J. C. CAMERON:*

The professional could tell you. — I'll just answer the last part of the question and say that in my opinion 90% or more of unanimous reports are accepted by the parties.

— *QUESTION:*

I should like to come back to this matter of minority reports. It seems to me that during the conciliation stage, about the only useful reports in the form of a recommendation is one which is unanimous. But if you come to arbitration, I cannot see why there is not some considerable value in a minority decision. In the courts — some courts, at any rate — minority decisions are permissible and I think we would be much poorer if we had never had the benefits of — say — the minority decisions of Mr. Justice Cardoso or Mr. Justice Holmes of the United States Supreme Court. Their views — as minority spokesmen at the time — became quite frequently the decision of the

court in later cases, or, at least, they influenced the court. And I think you have the same tendency in arbitration matters. There can be such a thing as a bad decision by a board of arbitration. I don't use the word "bad" in a sense of being disappointing to the parties at the time, because all decisions are disappointing to the losing party. Several months afterward, they may look it over and decide that it wasn't so bad, after all. But if it is a "bad" decision in the sense that the more you look at it and the longer you study it, the more you realize it shouldn't have been made — and sometimes the party who made it come to that; if it is a "bad" decision in this sense, there is some value, I think, in having on the record the minority view which may have been the right view, because all arbitration of collective agreement disputes is intended not only to settle an immediate grievance, but to be a guide to the parties in the negotiation of the next contract. If you are really bargaining collectively and you have a dispute over the contract which you have today and, in good faith, you go to arbitration and if the arbitrators, in good faith, tell you what they think the contract means, even if they disagree, then, when you come to re-negotiate that contract and try to correct it and make it a more workable instrument, you can sometimes get a great deal of help out of the minority decision of that board of arbitration. Now, I would say this, however; that type of minority decision which we see so frequently, which consists merely of stating the other point of view, without any reasoning, is of no value. Nor is there any value in that type of minority decision in which they merely take advantage of the forum to abuse the two parties who reach the majority. There is no value in that sort of thing. But if, as a minority member of a board, you have something constructive to offer, even if it's only putting down the alternative interpretation which you think should have been adopted, you have thereby built up a record which will help the parties in further negotiations, and I think it's of great value. I think the experience Mr. . . . had — even though it was not a board of arbitration — is likely to be repeated many times. Sometimes, you know, the arbitration decision, although it is final and binding by contract, is a little difficult to get into actual operation. In one case I know, I don't think it ever will get into actual operation because the decision was so misconceived, so badly done, it's almost an impossibility to put it in effect. Now these parties probably will settle that dispute

sometimes by re-writing the contract in the light of the minority decision.

— *MR. J. C. CAMERON:*

I agree with you absolutely, Mr.... A minority report can be constructive and can be a very useful instrument. My objection, however, is to the majority of minority reports which merely, as you say, abuse the other parties who give the majority report. At this stage, I am not convinced that the majority of minority reports are doing anything constructive. Now, I will make an exception — the case in which you represented one party and gave something constructive.

— *QUESTION:*

Professor Cameron, I believe that Mr....'s first question was left unanswered: the question of keeping lawyers out of the writing of agreements or contracts. I may be very naive, but my short experience has shown me that any agreement clause proposed by the union, at any time, was pondered quite heavily and lenghtly by more than one lawyer. I repeat that I may be very naive, but I have the feeling that any clause that we have proposed to the union has probably also been weighed very carefully and lenghtly by counsel. I think the only solution as far as keeping lawyers out of writing contract — which is their main function in collective bargaining — would be to exterminate and cremate them all.

— *QUESTION:*

You mentioned in your speech very interesting statistics: that 80% of the contract negotiation disputes in Ontario were settled by conciliation. Do you mean conciliation before arbitration?

— *MR. J. C. CAMERON:*

No, conciliation by a single conciliator.

— *QUESTION:*

There was no farther reference to arbitration?

— *MR. J. C. CAMERON:*

No farther reference to a formal board.

— *QUESTION:*

I was wondering then if the conciliation officers from the province of Quebec who are present could give us a picture

of how far contract negotiation disputes are settled in this province at conciliation without further reference to arbitration.

— *MR. ERIC G. TAYLOR:*

Before that question is answered, may I, for the benefit of you outlanders who don't enjoy the privilege of living in the Province of Quebec, just make this observation. We have a procedure which is common in both provinces: when the parties are unable to agree, the services of the conciliation branch of the department of Labour — in both provinces — is solicited, usually, I think by the union. If that officer fails to win agreement, he recommends the appointment, in Ontario, of a Conciliation Board, which is a three-man board with a representative from the industry, a representative from the union and a Chairman. If the industry and union representatives fail to agree on a Chairman within prescribed time, the Minister of Labour appoints a Chairman and a Board of Conciliation is established. That board makes a report to the Minister as it sees fit. Now, in Quebec, we have practically the same procedure, but we suffer a little bit by translation. After reference to the conciliation officer who, if he fails to win agreement, makes a recommendation that a board be appointed, we have a Council of Arbitration appointed. Possibly the day will come soon when we will call that a "Council of Conciliation or Arbitration" or call it a "Council of Conciliation and Arbitration" to wash out some of the confusion which does exist in the minds of employers and unions who operate in both provinces. But the procedure which follows the services of a Conciliation Officer is the same in each instance. In the Province of Quebec, the parties may agree at the outset to be bound by the decision of this Council of Arbitration and it becomes an arbitration board arbitrating a contract-negotiation dispute, in the same way that an arbitration board in Ontario would arbitrate a contract-observance dispute. Does that help to clarify some of this? In Ontario it is also possible for the parties to agree in advance to be bound by the Board of Conciliation's recommendations. If you happen to have, Mr. . . . , any figures on the number of cases or the ratio of cases which get settled at the Conciliation Officer stage in Quebec, we should like to have them.

— *QUESTION:*

I am very sorry that the figures I could give are not exact. We are doing now something which should have

been done years ago; we are compiling statistics, but we are only starting. The only thing I can say is that there were approximately 1,200 collective agreements deposited with the Labour Relations Board last year and there were almost 400 cases which went to conciliation. Of these, approximately 100 cases went from the Conciliation Officer to the Board of Conciliation. Possibly in a year or two, we will be glad to answer this question.

— MR. J. C. CAMERON:

May I, if it's proper, Mr. Chairman, dispel the idea that I am trying to side-step and avoid questions about the help of lawyers. I still hold my statement that most agreements are badly worded in part. I have no objection to employing a lawyer — from the point of view of the company or the point of view of the union — where a lawyer can be helpful. And I think in a great many cases, if the lawyer has the situation properly explained to him, he can help the parties clarify some of the clauses and avoid some difficulties in the future. But will the lawyer always write a clause which is not subject to disagreement in interpretation? The answer is "no!". The lawyer is human — at least most lawyers I know are.

— QUESTION:

Mr. Chairman, I should like to ask Professor Cameron's opinion on a subject that is quite alive with our labour organizations and which would affect the arbitration-conciliation procedure in this province. For about 15 or 20 years the Catholic Syndicates and the A.F. of L. have been pressing the provincial government for the institution of labour tribunals. Three or four years ago, the provincial government began to indicate that it was interested. And for some reason — probably because we are contrary-minded — we began to take a long look at it ourselves due to the fact that the government seemed to be anxious to put it into effect. We found that labour tribunals were not as good as we thought. As a matter of fact, they would probably put a noose around our necks and would certainly kill free collective bargaining. We really began to look at what we had asked for; and what we had in mind had two-fold function. We had asked for courts of law which would specialize in dealing with cases arising out of our labour legislation; and we had been asking for labour tribunals based on the "Conseil de Prud'hommes" in France which would adjudicate on cases arising out of collective bargain-

ing or questions that couldn't be settled through collective bargaining. But, as I say, looking it over, we began to think that perhaps on the economic side we should not have the tribunals. What we are presently studying and thinking about is this: would it be practical to have labour tribunals which would adjudicate on questions of law arising out of collective bargaining or on the interpretation of clauses in a collective agreement, the tribunal's decision being final? You see what is happening now is that you have a multitude of arbitration boards — what we call "arbitration" and which you consider as conciliation boards — which render decisions on questions of law. There is no possibility of establishing jurisprudence on questions of law arising out of collective bargaining as we stand today. Do you believe that it would be practical to have such a court which would adjudicate on questions of law, in cases arising out of collective bargaining or out of the interpretation of clauses in a collective agreement?

— *MR. J. C. CAMERON:*

At the present stage of collective bargaining, no. You are not ready for it and the very fact that you have started to backwater suggests that it should not be imposed. We often fly to the legislators with the hope that they will be able to write some words in an Act which will take care of all our troubles. Is it not true that the more legislation we get on the statute books, the more troubles we have? Isn't it true, very often, that we are expecting legislators will be little gods who can solve all these things which we ourselves fail to settle? And isn't it true that there is a certain percentage of people who help make the laws who have much less knowledge of what we want, what we need and what is good for us than we have ourselves?

— *QUESTION:*

Professor Cameron, I think you have said that, in your opinion, a Board of Conciliation has one function to perform; that is, to endeavour to bring out agreement between the parties and if, failing to do so, it should not report. In the Province of Ontario this might mean that a strike or a lock-out would take place automatically within a period of seven days. I wonder if you, perhaps, were thinking of what Professor Taylor said yesterday: in his opinion, if both parties felt that was the last resort available to them, they would endeavour to bring about agreement between themselves with the help of the Board of Conciliation. Is

it your thought that if a Board was unable to bring about agreement and made no report, it would perhaps tend to make the parties reach agreement before that Board? I just want to get your thinking on that.

—*MR. J. C. CAMERON:*

I think probably it would. Here is a case before a Board and the parties are waiting for a report. They are waiting to see what the Board's decision is and they say in advance: "If it is a good decision, that is, if it's favourable to us, we will accept it. If it's a bad decision, we reserve the right to reject it". But what I object to more, is this informal public pressure to accept the suggestions or recommendations of a Board which has no generally accepted principles on which to base its recommendations. If we had reached the stage where collective bargaining had developed generally-accepted rules, then Boards might be able to adopt some generally-accepted principles. But at this stage we haven't.

—*QUESTION:*

I see the point. It has been my experience, in the Province of Ontario, that Boards' report, whether majority, minority or otherwise, unaccepted by both of the parties, at least gave us a guide in further conciliation. The Conciliation Service does not stop with the reference to a Board of Conciliation. It continues after a Board's report and in many instances, reports not acceptable by both parties have helped Conciliation Officers to bring about agreement between parties.

—*MR. J. C. CAMERON:*

I am very much disturbed about the effects of majority reports and minority reports. If there is a unanimous report, perhaps it is well to have the Board make its recommendations public. The real trouble comes when you have a majority report and a minority report. It's terribly disturbing. I think I am enclined to modify my views and accept what I think has been suggested. The Board's report would be very useful and I have no objection of using a little bit of public pressure when you get a unanimous report and the other fellow roundly condemning it and leaving the situation up in the air.

—*QUESTION:*

Mr. Chairman, I find it rather difficult to accept what was said earlier in the discussion. It was stated that it is

rather difficult to have a set of principles laid down before you render any recommendation on a Board. It seems to me that there is a danger here which was quite evident in the discussion we had yesterday of the Steel Fact-Finding Board. It was stated then that, in spite of their reluctance as economists, the Board recommended this company-financed pension fund. It was convinced that there was a better way to provide pensions; but it rendered that decision to solve one particular problem. I think that the danger here is that in solving one problem you might create a thousand and one others. I should like to have Mr. Cameron's opinion.

—*MR. J. C. CAMERON:*

I can only throw the problem back to you and ask you this: will each one of you try to sit down and write the principles that you would like Boards of Conciliation to be guided by in writing their reports. All you would get is this: the Board ought to try to decide what are fair wages, what are fair hours, and what is a fair grievance procedure, fair arbitration procedure, and so on. In other words, you would merely be stating the problem, a problem which society has decided to allow the parties themselves to work out. If principles were generally accepted, we could write them into the law. But they are not. What is a fair settlement on union security? I don't know. I don't know what principle you are going to give to a Board.

—*QUESTION:*

Mr. Chairman, d'd like to go along with Professor Cameron's statement that it is practically impossible to lay down principles that would guide a Board of Conciliation. However, I do think that some thought should be given by the Ministeries of Labour to giving at least some instructions to Boards of Conciliation. The reason I raise that is there have been instances where the Chairman of the Board implies that it is not the function of the Board to conciliate. The procedure is this: "Let's hear your representations, gentlemen. Thank you very much. Good bye". Now, that can be prevented if there is a better understanding of the conciliation process.

I should also like to see it pointed out to the Board that its proper function is not to write the agrement, but merely to make its recommendations. No Board of Conciliation can write an agreement that is acceptable to both parties. Very often the parties might have to refuse to ac-

cept the recommendation although they approve it, because of the wording of the clause as drafted by the Board.

— QUESTION:

Professor Cameron said that where Boards of Conciliation were unable to conciliate, they should make no report beyond the report of failure. He also said that society has decided that these matters must be left to the parties. With the latter statement, I agree; but with the former, I do not. Society has also decided one other thing, and I think we are enclined to overlook this: the public has an interest in labour disputes. Those of us who are engaged in the process of collective bargaining are, from time to time, apt to overlook that. I think that when you say that a Board of Conciliation should make no report if it fails to get agreement, you are overlooking the interest of the public in these proceedings.

— MR. J. C. CAMERON:

If the Boards included representatives of consumers and other groups in the community, then I would go along with what you have said.

— QUESTION:

Mr. Chairman, my question concerns contract negotiations. Professor Cameron spoke about the danger to true collective bargaining due to having conciliation and arbitration available. He also pointed out that the number of arbitration boards is increasing. It seems to me that one of the reasons why we are getting more and more arbitration boards is because awards are sometimes made retroactive to the termination of the agreement. There is no incentive for the parties to come to agreement at negotiations, because there is always the chance they can get a little more by going to conciliation and arbitration. Is there any reason why awards by arbitration boards should not be made effective at the time of the award?

— MR. J. C. CAMERON:

In general, I'm opposed to retroactive awards; but I think it would be awfully dangerous to write it into the law. To be reasonable about it, you must remember, gentlemen, that sometimes it's the employer who hangs off. It's not always the union which fights for delay. Do you really want that sort of thing? The unions would probably oppose it and the employers would probably gain less than they think they would gain.

— *QUESTION:*

Mr. Chairman, I don't think we should let Professor Cameron escape from us today before talking about Mr. George Taylor's statement, yesterday, in which he expressed considerable confidence and hope in the use of voluntary arbitration for the settlement of contract-negotiation disputes. Have you any comments to make Mr. Cameron?

— *MR. J. C. CAMERON:*

Oh! I have a great deal of hope in that. I have much more hope in that than in anything imposed by the government. You may — both sides may — by asking the government to do these things, get into a position where voluntary collective bargaining completely disappears. Don't run to the legislators. If you can work out a system of voluntary arbitration, it will probably be far better than anything that's written in the statutes. But, remember this: if you are unable to do it and you are unwilling even to try, then the people who make the laws may be compelled to force something on both of you which is quite unacceptable. So that's why I'm so anxious that you endeavour to make these voluntary systems work. I am right behind Mr. Taylor and support any system of voluntary arbitration.

— *QUESTION:*

When we fail to negotiate a collective agreement, we have to appear before a conciliation board. During the life of an agreement, we have generally to appear before an arbitration board to settle our differences. When, however, we fail to negotiate a collective agreement, generally we have not only the collective agreement itself to discuss, but also grievances — grievances, let us say, alleging dismissal on account of union activities. It seems to me that these grievances should be submitted to a proper tribunal and this should be the Labour Relations Board. I have not in mind any regular court to discuss such grievances, but I think that a conciliation board or an arbitration board is not the proper board to discuss dismissals, for instance. If we are to get good jurisprudence, it seems to me that one tribunal, the Labour Relations Board of the Province, should settle such grievances by acting as an arbitration board. By this I mean that the decision of the tribunal — the Labour Relations Board — should be bind-

ing on the parties. You may have in your agreement the proper procedure to settle your differences during the life of the agreement. That's O.K. But if there is no proper procedure, and there may be some good reasons why you have not the proper procedure in your agreement, then I feel that a tribunal should settle the differences. I give an example: assuming that I don't like at all the Government of the Province of Quebec — assuming that — then fear that if I have a three-man arbitration board in my agreement, the government will some day appoint as the Chairman its own man, who may, at the same time, be the man that the company would have chosen. Under these circumstances I may have good reasons for not getting into the agreement a proper procedure. So I feel that you should have a proper tribunal — not a regular court, but the Labour Relations Board or a new board — which will deal with differences concerning the interpretation or alleged violation of an agreement. Therefore besides the conciliation process or arbitration process you would have such boards. I should like to have your reaction to that.

— MR. J. C. CAMERON:

I have no objection to voluntary arbitration in such cases, but I hate to hear you suggesting that the Labour Relations Board might settle these questions. It has more than it can do now. And besides, I doubt that the Labour Relations Board is properly constituted to deal with unsettled grievances. In any case, whether it's competent or not, I would rather you choose other than governmental machinery if you can possibly agree on it. You see, collective bargaining — free collective bargaining without too much state regulation — is the ideal thing. That being so, then keep away from government boards. I'm not suggesting that they are incompetent. There may be times when you have to use them. But if we want to hang on to certain rights that we regard as important in a free society, you can't throw aside your responsibility to work out your own problems. To the extent that you do that, free collective bargaining will disappear.

PART IV

Some Essentials of Management Policy in Industrial Relations

by

DR. BRYCE M. STEWART

14th March 1950

1. INTRODUCTION

1. Definition of Terms

IN ORDER TO establish base points for this discussion we begin with definitions of terms. What do we mean by industrial relations, by policy? Industrial relations may be defined as:

> ... that complex of law and employer and union principles, policies, plans, procedures and attitudes arising out of the relationships of managements and employees which largely determines whether or not their enterprises will have the advantage of spontaneous co-operative effort from all who serve them and whether each will have a sense of accomplishment and satisfaction on his job.

This definition indicates that government, management and labour share in shaping the concept of industrial relations and translating it into action. The roles of the participants are constantly changing and each must make the necessary adaptations.

Policy is one link in a chain of ideas to which we must give attention although the effort smacks of an exercise in semantics. First we must be concerned with *principle* which is a philosophy, doctrine or ideal based on notions of what should be done because it is right. For example, a management might accept as a *principle* that employees shall not be summarily dismissed when they become too old to do a satisfactory day's work. Next it has to be decided what should be done to implement the principle. The management may then adopt a carefully considered and settled course of *general* conduct. This is *policy* which in this case may be a pension *policy*, express-

ing intent that reasonable financial provision shall be made for employee retirement.

The next logical step is to develop a *plan*. This is a statement in detail of a course of conduct in a particular area in furtherance of the *policy* of general conduct. Accordingly a pension *plan* is adopted which among other provisions may state that all employees shall be pensioned at age sixty-five. However the plan may not be consistently followed. Some employees may be retained on attaining age sixty-five. This is *practice* — the actual conduct as against the prescribed conduct of the plan. But how is the plan to be administered? This calls for *procedure*, a prescribed series of steps to carry out the provisions of the *plan*. *Procedure* is synonymous with standard practice instructions. It might be *procedure* that on the first of every month the personnel manager notifies each supervisor those of his employees who have become eligible to participate in the plan and sends him copies of the "Application to Participate" to be returned within ten days. Perhaps we should add *Rule* which is a prescribed course of specific conduct or a prescribed condition, usually an order to subordinates. It might be a rule that an employee could participate in the pension plan only after attaining age thirty. To summarize, *principle* is a guide to conduct; *policy* is a determined course of general conduct; *plan* is a determined and detailed course of action in a particular area; *practice* is what is actually done; *procedure* is the steps by which the plan is carried out; and *rule* is a prescribed course of specific conduct or a prescribed condition.

2. *Principle, the Basis of Policy*

Following this attempt to clarify our terminology some consideration of principle is necessary before we can discuss policy because policy is based on principle. Principle, the long-run guide to management conduct, is the antithesis of expediency which connotes hasty action thought to be convenient or profitable in the immediate circumstances. In determining its principles a management should make sure that the whole range of functions is envisioned so as to avoid inconsistency of policy and action. A mill owner of a half century or more ago would probably observe the principle — "Six days shalt thou labour and do all thy work," but during the work week he might, from the

standpoint of expediency or profit, dismiss with no consideration a long-service employee whose output was declining. He might have no regard for another scriptural principle — "If thy brother . . . serve thee six years then in the seventh year thou shalt let him go free from thee and . . . thou shalt not let him go empty." (Deut. 15: 12-13) There will be a great difference between the policies of two concerns in one of which the executives start from the premise that they are in the business for what they can get out of it and the other group that believes the conduct of the enterprise must commend itself to shareholders, customers, employees and the community. In the one company we may expect to find policies perhaps not written but well understood in the management circle that in so far as law and the financial fortunes of the business permit, members of the higher echelons will have generous bonuses, pension and stock acquisition privileges. In the second any program will be adopted with eye to the proper balancing of all interests and will be applied uniformly to all employees.

Principle is in one sense a confession of faith; in another it is enlightened self-interest. In a democracy the voters largely determine what is right for a considerable range of human conduct and a management may decide that in the long-term interests of the enterprise it will be guided by principles that accord with the social climate. It may not send aged, long-service employees away empty for such good business reasons as reducing labor turnover and training costs, and the promotion of employee and community good will. The management may be aware that the old doctrine of laissez-faire is steadily giving way to a belief that in the direction and administration of a business economics must be seasoned with humaneness. The executives may deliberately adopt a principle because they feel that favorable employee and community attitudes will not be inculcated if management defers action on these lines until it is forced upon them by public opinion, law or union pressure. In short a principle may be accepted because it pays.

We turn now to three lines of management policy making — in co-operation with nonmanagement groups, with other managements and policy making for the individual enterprise.

II. MANAGEMENT CO-OPERATION WITH OTHER GROUPS IN POLICY MAKING

Management cannot live unto itself alone. All elements of the population are affected in greater or lesser degree by its decisions. Since sooner or later its policies must conform to public opinion business executives should be in constant touch with all informed elements in their communities that influence public thinking and attitudes. They should recognize that they do not have complete answers to all problems of industrial relations. For example, think of the implications and involvements of a matter so apparently simple as the conduct of a Red Cross drive for funds in a plant, in all work places of the community and country. Think of the impact upon the community and sometimes the nation and even other peoples of failure of the parties to settle peaceably the terms of a contract. Management, therefore, should reach out to churches, welfare agencies, universities, the press, unions and governmental agencies and seek agreement on broad lines of policy for the field as a whole and particular sectors of it. Such sharing of knowledge and viewpoints promotes understanding and trust, accord on the nature of the problem and on general courses of action.

Government at times has sought to promote co-operation of employers, employees and other groups in formulating industrial relations principles and policy, as evidenced by the National Industrial Conference of 1919 sponsored by the Government of Canada. Participating in this conference were representatives of the Dominion and provincial governments, of municipalities, the federal civil service, employers, employees, banking, agriculture and veterans. The National Industrial Conference of 1919 and the Labor-Management Conference of 1945 in the United States were convened by the federal administration for the same ends. It is noteworthy that failure to reach agreement on such occasions may lead to legal compulsion. At the conference of 1919 in Washington employers declined to accept as a policy that employees should have the right to be represented in collective bargaining by representatives of their own choosing. In 1926 the Railway Labor Act established that policy for railway employees and in 1935 the Wagner Act brought it into force for employees in interstate commerce at large. At the Labor-Management Conference of 1945 management accepted collective bar-

gaining in principle without hesitation but the labor representatives refused to consider any provision designed to assure the observance of agreements by both parties or to prohibit unfair union practices unless the principle of union security was first accepted. This time nemesis came quickly in the Taft-Hartley Act of 1947. Those responsible for shaping management policy, who believe that the best government is one that governs least, will do well to co-operate with other elements in the community in planning their general direction in industrial relations if they wish to retain that function. Management and other unions should ponder a statement of the International Brotherhood of Paper Makers:

> Unless labor graciously assumes the full burden of the responsibility that accompanies power, society may decide there is no place in its make-up for labor organizations. Ours and other unions may be superseded by administrative agencies of government. (International Brotherhood of Paper Makers, Labor Unrest and Dissatisfaction, Albany, N.Y., 1944, P.16)

Fortunately there is increasing evidence of management co-operation with other groups in reaching agreement on principles and policy. An example as between industry and labor is the labor-management charter announced in 1945 by the presidents of the United States Chamber of Commerce, the American Federation of Labor and the Congress of Industrial Organizations. It reads in part:

> We in management and labor firmly believe that the end of this war will bring the unfolding of a new era based upon a vastly expanding economy and unlimited opportunities for every American.
>
> This peacetime goal can only be attained through the united effort of all our people. Today we are united in national defence. Tomorrow we must be united equally in the national interest.
>
> Management-labor unity, so effective in lifting war production to unprecedented heights, must be continued in the post-war period. To this end, we dedicate our joint efforts for a practical partnership within the framework of this code of principles:
>
> 1. Increased prosperity for all involves the highest degree of production and employment at wages assuring a steadily advancing standard of living. Improved productive efficiency and technological advancement must, therefore, be constantly encouraged.
>
> 2. The rights of private property and free choice of action, under a system of private competitive capitalism,

must continue to be the foundation of our nation's peaceful and prosperous expanding economy. Free competition and free men are the strength of our free society.

3. The inherent right and responsibility of management to direct the operations of an enterprise shall be recognized and preserved. So that enterprise may develop and expand and earn a reasonable profit, management must be free as well from unnecessary governmental interference or burdensome restrictions.

4. The fundamental rights of labor to organize and to engage in collective bargaining with management shall be recognized and preserved, free from legislative enactments which would interfere with or discourage these objectives. Through the acceptance of collective bargaining agreements, differences between management and labor can be disposed of between the parties through peaceful means, thereby discouraging avoidable strife through strikes and lockouts.

5. The independence and dignity of the individual and the enjoyment of his democratic rights are inherent in our free American society. Our purpose is to co-operate in building an economic system for the nation which will protect the individual against the hazards of unemployment, old age and physical impairments beyond his control.

6. An expanding economy at home will be stimulated by a vastly increased foreign trade. Arrangements must therefore be perfected to afford the devastated or undeveloped nations reasonable assistance to encourage the rebuilding and development of sound economic systems. International trade cannot expand through subsidised competition among the nations or diminishing markets, but can be achieved only through expanding world markets and the elimination of any arbitrary and unreasonable practices.

7. An enduring peace must be secured. This calls for the establishment of an international security organization, with full participation by all the United Nations, capable of preventing aggression and assuring lasting peace.

A recent example is a statement of principles and a broad outline of a program entitled "Human Relations in Modern Business," by Robert Wood Johnson, chairman of the board of Johnson and Johnson (Harvard Business Review, September, 1949, p. 521). This remarkable document derives from the work of a committee of business leaders, industrial relations executives, labor officials, educators and clergymen of all faiths. It merits wide reading.

III. MULTI-MANAGEMENT POLICY MAKING

Management as a whole, the total management of the country, should seek to contribute to the formulation of a body of national management policy, to the building of common understanding among all managements and the shaping of governmental policy affecting the employer-employee relationship. Working to this end are manufacturers' associations, chambers of commerce and trade associations. To the fore in the United States are the American Management Association, the Society for Advancement of Management and the Committee on Economic Development. Outstanding in Great Britain is the Institute of Management. These organizations are giving increasing attention to industrial relations. They seek to promote accord on policy for the guidance of individual managements and in varying degree to influence governmental thinking and legislation. As regards the industrial relations function of management, in particular Great Britain has the Institute of Personal Management which has no counterpart in Canada or the United States.

Management has the right and the duty to promote understanding and agreement in its own ranks and to influence government policy by concerted action but here as a rule it has been singularly inept. Too often it has looked back to the days when business was a law unto itself and despite long hours, low wages, child labor, industrial accidents and diseases, unemployment and dependent old age argued that unbridled capitalism unaccountable to government or religion was the best possible system. It resisted every effort to soften the asperities of capitalism. Marxism held the mirror to its harshness and exploitations but employers would not accept the reflection as true in any way. Now that owner-operators have been well nigh displaced by professional managers, many of them, as well as legislatures and unions, have shown that the system can be made more humane and still prosper. Management is just beginning to find constructive answers instead of always saying "no".

One instance of the consequences of failure of managements to agree upon policy among themselves will illustrate the point. When industrial pension plans began to be established in the United States before the turn of the century employee contributions were seldom required since many employers wanted to be able to deprive employees

of pension rights as a deterrent to strikes. In the first thirty years of the 1900's as the high cost of pensions made managements apprehensive, employee contributions became more general and at the outbreak of the late war the great majority of plans were contributory. However, during the war years when wage controls made it difficult to attract and hold employees by increasing wage rates many employers turned to pension plans as an inducement knowing that with high profits much of the cost would be met from moneys that otherwise would be paid in taxes. In the seven years, 1940-1946, the Bureau of Internal Revenue approved ten times as many pension plans as were approved in all prior years and in the great majority the employer paid all. In this short period a long-term trend toward the contributory principle was reversed. When in the last few years unions began their pension drive and demanded that employees should not contribute, employers were shocked, although in defiance of history and in contradiction of the requirement of employee contributions under the Social Security Act they had themselves established a noncontributory pattern. In the absence of policy they resorted to expedient action and now are paying for it. Suddenly some of the companies affected have become supporters of the proposed legislation for higher Social Security pensions to be provided by equal employer and employee contributions. How much better they might have fared if a decade or more ago multi-management policy-making had led to agreement on the contributory principle and a more liberal basic governmental plan on the same principle!

Survival of the system of private, competitive capitalism largely depends on policy making of this kind. This should be fully realized by those who hold that the function of government is not to assume detailed direction but to establish the general economic climate and to restrict itself to broad planning of the future economic course in consultation with those immediately responsible in the different spheres of economic activity. There had better be some central management organization with notions of industrial relations policy to consult. Somehow management in its own and the general interest will have to overcome its political poverty and its speaking with many discordant voices and for selfish ends in this vital field of human relations in industry and make the larger contribution, of which it is capable, to the moulding of multi-management policy.

IV. POLICY MAKING IN A COMPANY

1. Historical Background

Historically, policy has developed from rules. In the days when management exercised almost unlimited authority, rules, often designed to regulate the behavior of employees not only in the shop but during their own time, were handed down. The following requirements appeared in an employee handbook issued in 1857 by what is now the department store of Carson, Pirie, Scott and Company in Chicago:

> Store must be open from 6:00 a.m. to 9:00 p.m. the year round.
>
> Store must be swept and counters, bases, shelves and show cases dusted.
>
> Lamps trimmed, bins filled and chimneys cleaned; doors and windows opened; a pail of water also a bucket of coal, brought in before breakfast (if there is time to do so) and attend to customers who call.
>
> Each employee must pay not less than $5 a year to the church and must attend Sunday School regularly.
>
> Men employees are given one evening a week for courting and two if they go to prayer meeting.
>
> After fourteen hours of work in the store, the leisure time should be spent mostly in reading.

As business units grew in size and were departmentalized and department heads issued different rules it became necessary to have a central source of rule making to avoid confusion, discrimination and dissatisfaction. The function became more important as legal requirements and agreements with unions forced frequent revision of rules. Ultimately as these pressures persisted and the industrial relations function became increasingly complex some companies tried to get ahead of the game by developing a body of principle and policy as a basis for plans, procedures and rules. They started from principle and policy rather than in the inverse order from rules as in earlier days. A number of such statements appeared in the twenties. There were few during the great depression but since the late thirties company policy-making has become much more general. The following is a statement of labor policy issued by a large United States corporation in 1921:

> The labor policy of the———Company is based upon certain well established principles which have been developed on the fundamental proposition of a "square deal"

for all concerned — the employees, the management, the stockholders and the public . . .

The outstanding features of this program as at present established are as follows:

1. No discrimination by the Company or its employees against any employee on account of membership or non-membership in any church, society, fraternity or union.

2. Collective bargaining as to all matters of mutual interest, made effective through the Industrial Representation Plan.

3. Paying at least the prevailing scale of wages for similar work in the community.

4. The eight-hour day, or its equivalent.

5. One day's rest in seven, preferably on Sunday, or the equivalent of such period.

6. Sanitary and up-to-date working conditions.

7. Just treatment assured each employee, with opportunity for submission of all grievances for adjustment through the Industrial Representation Plan.

8. Continuous effort to eliminate accidents through effective safeguards and active co-operation of employees and committees, under expert supervision.

9. Payment of disability benefits in case of accidents incurred while at work.

10. Health supervision by a competent medical staff.

11. Payment of sickness benefits after one year's service.

12. Opportunity for special training to qualify employees for better work, with standard system of keeping record of service performed.

13. Promotion according to length of service and ability demonstrated.

14. Partnership through stock ownership made easily possible for the thrifty employee after one year's service, the Company adding 50 per cent to the amount invested by the employee.

15. Assurance of a generous annuity at the age of sixty-five, guaranteed for life after twenty years of service, with special consideration for those who become disabled before that period.

16. Death benefits or insurance, providing $500 to $2,000, for dependants of employees of one year or more of service.

Most of the features of this program are also in effect throughout other parts of the organization, with some slight modifications that have been agreed upon to adapt this program to the special conditions in each field.

Such, in briefest possible form, is the well established policy of this Company in the all-important matter of industrial relations.

It is *not* paternalistic, but mutual.
It is *not* temporary, but permanent.
It is *not* welfare, but good business.

Policy making of this kind has continued and spread. Today it will be found that as a rule in any group of representatives of companies of large or middle size not less than 75 per cent of them have written industrial relations policy.

2. *The Purposes of policy*

Every employer has some kind of policy even if it be only that we shall cross the bridges when we come to them. In that case short run policies are adopted as the problems arise. They develop haphazardly as unrelated and uncoordinated spot decisions are made from time to time. But if they were brought together they would prove so inconsistent as to provide no guide posts for a course of general conduct. Confusion and conflict prevail among executives and supervisors and each time a decision of any import has to be made there is hesitation, deferment and wondering as to what the boss wants done. If the boss is accessible he will be plagued by a procession of persons seeking direction. If he is not readily available a snap decision is made. Some executives like to be kept thus busy. They think that is management.

Some years ago E. S. Cowdrick, the well-known industrial relations consultant in New York, stated the purposes of policy as follows: first, to clarify the thinking of management; second, to secure uniform personnel practice and to avoid capricious or conflicting decisions; third, to instruct supervisors regarding the labor policies adopted by the management; fourth, to inform employees of their privileges and of the company's purposes in dealing with them; fifth, to promote the handling of industrial relations by methods that will bring favorable rather than unfavorable publicity.

The Associated Industries of Massachusetts has also issued an interesting statement on the reasons for management policy in industrial relations:

> A company policy should be determined in contrast with the fairly common experience of different executives and supervisors in the same concern, each practicing different and often conflicting policies. Managements change within the same concern, the new differing in attitude from the old; different executives having different attitudes rise to dominance in the same concern in different situations. Individual executives change their attitude under the impact of particular cases and supervisors sometimes lack faith that the management's expressed attitude can be depended upon

in action and, therefore do not demonstrate it to the workers. Sometimes supervisors are not sure it is their responsibility to interpret management's attitude.

These reasons could be summed up by saying that, without a body of predetermined policy, the responsibility for administering employer-employee relations in a company cannot be delegated along organizational lines to the maximum degree and the function drifts into wide disparity of practice, with resultant ineffectiveness at all levels, employee discontent and protest.

3. *Neglect and Abandonment of Policy*

Managements neglect the policy-making function for various reasons. Often the reason is sheer inertia, unwillingness to face up the task of carrying through the long discussions. They don't like to accept unpleasant facts and to strive to reconcile conflicting opinions. They fear the project may not be thoroughly done and that they may commit themselves to courses of action they had not intended which will cause embarrassment before supervisors, employees and the public. They will be led into disclosures of facts of the business that will be useful to competitors and union organizers and rise up to plague them in union negotiations. But such managements are likely to find that agencies of government are requiring and shareholders are demanding more information and that unions have become adept in securing and publicizing the facts of the business without management assistance.

Some executives have little regard for policy because the encroachment of government and unions on management's functions in industrial relations as formerly conceived has resulted in an attitude of acquiescence or defeatism on their part. A half century ago industrial relations was almost entirely a management function. Employers hired, fired, set wage rates and hours of work, decided to provide or not to provide employee benefits, bargained or refused to bargain with unions as they pleased. Today a body of labor and social insurance law in large measure determines their action in these and other areas. Unions have attained much greater political and economic strength which they have used not only to influence the legal determinants of the course employers shall follow but also to mark that course more precisely through negotiated agreements. In short in many sectors of industrial relations in which management formerly made unilateral decisions it must now operate within a prescribed framework of controls.

Under the changed conditions and in so far as the business can assume the costs involved without seriously impairing its prospects some managements merely conform or offer token resistance on the grounds that what remains for their own initiative is inconsequential and not worth the effort. This is a mistaken position for three main reasons. First, it is a deliberate shirking of responsibility, a decision that probably would not be taken in relation to any other major management function. The captain of a ship may be forced off his course by adverse winds and tides and troubles with the crew may distract him but he still has the responsibility of bringing the vessel into port as nearly on schedule as possible. Management in all its phases has to reckon with regulations and the wishes, whims and frailties of humans. Second, such a defeatist attitude assumes that all phases of industrial relations are the subject of law or union contracts. In so far as they are management may want to take action beyond the legal or contract limits. It is also assumed that law makers and union leaders never change their minds. To the contrary, in 1935 the administration at Washington declined to require employees to make unemployment insurance contributions but in less than ten years began to advocate an overall social security program on a contributory basis. Policy by its very nature should apply to all employees, not solely to those in specific bargaining units. Collective bargaining should not be allowed to determine company policy. On the contrary policy should establish the frame of reference within which contracts are drawn. A management may not be able to adhere to its policy at all times and in all respects. Legislation and union action may force departures. In such situations management, while meeting the new requirements, should reconsider its policy and if convinced it is right should have faith that experience will so prove. Legislation has often been revised at the dictate of public opinion and unions have been known to retrace their steps. Third, this acquiescence of management implies that industrial relations is static. In fact it is constantly broadening in scope. Not much more than a decade ago collective bargaining was thought to apply only to wages, hours and conditions of employment but it covers many other matters today. Management will do well to seize and retain the initiative in shaping the further expansion of the concept of industrial relations and the first step in that direction is that each individual enterprise should chart its course.

4. The Policy Making Process

The process of making policy will differ as between companies, small and large, single unit and multi-unit. The task is especially difficult for the large multi-unit organization that operates within a framework of the varying legislation of several political subdivisions of the country or perhaps several countries. It may also have to deal with a hundred or more bargaining units and have corresponding difficulty in making practice conform with policy.

Determination of policy is essentially a function of line management. It should be assigned to a committee of top executives composed of representatives of all major departments. Since the committee's recommendations are submitted to the president he should as a rule not accept membership on the committee so that he may evaluate the report with complete objectivity. The committee should be assisted by the industrial relations staff and the head of industrial relations should serve as secretary. All members of the management group should have a voice in formulating the original statement of policy and in revising it from time to time since they must live with the policy and resolve any problems that arise in its application. Each management should develop its own policy, not copy it from the statements of other companies since the major objective is to reach common understanding on a course of general conduct for the particular firm.

The undertaking might be started by a letter from the president to each department head and in the case of multi-unit organizations to executives in the field. The letter might define the problem, suggest subjects for consideration and invite suggestions. It might be prepared for the president by the head of industrial relations. With the replies as a basis the committee should prepare a timetable for the development of the several parts of the policy. With the sequence established the industrial relations staff should be assigned the task of analyzing and evaluating present practices, considering the problems encountered with them, checking practices of other companies and presenting to the committees tentative statements of policy. These statements as revised by the committee should be considered by all segments and levels of the management through a series of supervisory conferences. On the basis of the suggestions received the industrial relations staff should submit a redraft of the tentative statement which should be reviewed at subse-

quent management conferences. The ideas rejected should be discussed and the reasons for their rejection explained. When substantial agreement has been reached on any item the policy committee should prepare its final recommendation and submit it to the president. When approved the president should sign the statement and issue it to all management representatives. It should also be circulated for the information of employees and should be the basis for policy information appearing in supervisory manuals and employee handbooks. Once policy is determined and distributed the entire management group should stand squarely behind it and insure that it is made effective in practice.

New policies must be developed and old ones amended as experience dictates. The need for change should be promptly recognized and the statements adjusted without delay so that practice will not tend to diverge from written policy. It should be a function of the industrial relations staff to bring the need for adjustments to the attention of the policy committee for recommendation to the president and the issuance of new or revised statements.

But statements of policy necessarily in general terms to permit the requisite flexibility for practical administration merely commit the management to broad courses of action in the employer-employee relationship. Plans must be developed to assure uniform application of policy throughout the organization in so far as possible. If a management has an equitable wage and salary structure as a policy it will follow through with a plan of job analysis and evaluation as providing a systematic and objective basis for establishing realistic relationships between the rates for different jobs. The industrial relations staff will be assigned the task of making wage and salary surveys, consolidating the reports, analyzing and maintaining overall comparative wage and salary information and pointing out significant changes and trends requiring management's consideration. The staff will assist supervisors in developing analyses and descriptions of the jobs of their subordinates and in keeping the descriptions abreast of job changes. When the plan is completed there may be a decision to test it in a limited area on a pilot installation basis and after making the revisions dictated by that experience the staff will aid the line organization in extending the plan to all departments and locations.

The next step will be the development of a procedure manual for the use of supervisors in applying the plan.

The industrial relations staff should work closely with the line executives of each department or location in preparing the manual. They should enlist the help of supervisors to secure their suggestions as to necessary variations to fit local situations and to promote their understanding and cooperation. The draft manual should be approved by the head of industrial relations to prevent precedents with company-wide implications being established by departmental action. On his approval the procedure should be issued over the signature of the appropriate line executive. As this course is followed on each phase of policy there will emanate a series of procedures that can be combined in one, overall industrial relations manual for the guidance of all supervisors in the discharge of their total employer-employee relations function.

Copies of completed written policy should be distributed to all employees, union officials with whom the management has dealings and interested persons in the community.

5. *Examples of Recent Policies*

Company policies usually cover such matters as employment, promotion, transfers, collective bargaining, nondiscrimination, terminations, absences, grievance adjustment, discipline, wages and salaries, hours, vacations, working conditions, training, performance evaluation, workmen's compensation, accident prevention, employee services, employee benefits and work standards.

Policy, as we have said, stems from principle. Procter and Gamble has recently announced under the title, "We Believe," eight principles indicating, in the words of the announcement, "What the company stands for and what things it believes are right for its people." They are:

1. A fair day's wage for a fair day's pay,
2. Extra pay for extra production,
3. Steady work,
4. Clean, safe and healthful working conditions,
5. Adequate protection in time of real need,
6. Opportunity for thrift and economic security,
7. Opportunity to advance on merit,
8. The right to be heard and the right to express wants and desires.

Each of these articles of belief is followed by a statement of policy in terms of what is already being done. The poli-

cy statement on the first principle — a fair day's wage for a fair day's work — reads:

> The Company pays wages which match the wages paid by leading companies in the community for similar types of work. The Company expects from each employee an hour of work for an hour of pay.

The Company recognizes that to formulate and announce principle and policy is not enough. It goes on to devise plans and procedures and to explain them to employees through the employee magazine, booklets, films, and other mediums.

A more elaborate policy statement which is not accompanied by any announcement of principles and recently adopted by a large corporation in the United States is inserted here for purposes of illustration. The introductory paragraphs express the spirit and purpose of the undertaking:

> Over the years the management and employees of this company have worked consistently toward strengthening the mutual confidence and understanding upon which employee satisfaction and the company's progress depend. In this process, the company has arrived at a set of basic principles of policy and action which express the organization's philosophy of employee relations.
>
> These policies are herein stated for the information and guidance of all concerned. It is the sincere intent of the company to abide by these fundamental policies. The company will work toward effective application of these fundamental policies and avoid practices that are in conflict with them. It is recognized that the procedures through which these policies are effectuated may vary among departments but the basic policies are governing.
>
> Although the policies are subject to amendments as necessary in order to reflect realistically further experience and changed conditions, it is expected that such necessity will arise most infrequently. Amendments will be made only after careful management consideration of the long-term effects upon employees and upon the company.

The statement of policy which follows deals with fifteen phases of industrial relations:

> 1. *Employment*: It is the policy of the company to select new employees solely on the basis of their apparent qualifications for the immediate job to be filled and for progress in the company. In determining qualifications such factors as ability, skill, experience, education, training, character and physical fitness will be considered.
>
> 2. *Promotion and Transfer*: It is the policy of the company to fill higher level jobs by promotion from within the organization, in so far as posible. Selection by the management for promotion is made on the basis of the quali-

fications and proved performance of employees, involving appraisal of skill and experience, education, training, ability to get along with other employees, physical qualifications, capacity for further progress, and length of service.

3. *Safety and Health*: It is the policy of the company to provide safe and healthful working conditions, to insist on safe work practices, and to co-operate in the maintenance and improvement of the health of its employees.

4. *Training*: It is the policy of the company to foster improvement in job performance by providing appropriate types of training, and to encourage and assist employees in self-preparation for promotion.

5. *Compensation*: It is the policy of the company to maintain wage and salary pay levels that are at least equal to those which prevail in the local area for similar work under comparable conditions. Every effort is to be made to establish rates for individual jobs which reflect the relative worth of the different jobs within the company.

6. *Continuity of Employment*: Although the volume of work opportunity available in the company may be affected by economic conditions beyond the control of the management, the company will strive constantly to maintain its record of continuity of employment with the resultant stability of earnings.

7. *Vacations*: It is the policy of the company to grant annual vacations with pay to all eligible employees — the amount of vacation time to be related to the employee's length of service.

8. *Employee security*: It is the policy of the company to maintain a program of benefit plans under which eligible employees are assisted and encouraged in their efforts to provide protection for themselves and their families through benefits payable in the case of disability, hospitalization, retirement and death.

9. *Employee Conduct*: It is the policy of the company to establish reasonable standards of performance and conduct, to administer such standards fairly and impartially, and, in instances of violation of rules and regulations, to give due regard to the circumstances surrounding each case.

10. *Work Schedules*: It is the policy of the company to establish, in so far as operating requirements permit, regular work schedules and to minimize excessive work beyond normal hours.

11. *Equitable Treatment*: It is the policy of the company to accord equitable treatment to all employees without discrimination because of such factors as personal friendships or membership or nonmembership in any church, society, fraternity or other similar lawful organizations.

12. *Adjustment of Employee Problems*: It is the policy of the company to encourage employees to present to their supervisors, without fear of reprisal, any problems or complaints araising out of their work relationships, and to pro-

vide means for appeal of such questions to higher levels of management where desired by the employee.

13. *Collective Bargaining*: The company recognizes the right of employees to form, join, or assist labor organizations, to bargain collectively, through representatives of their own choosing, or to refrain from any and all of such activities. The company will strive to deal co-operatively with the recognized representatives of employees.

14. *Interchange of Information*: It is the policy of the company to encourage a free exchange of ideas and information among the various levels of management and employees.

15. *Management Status of Supervisors*: It is the policy of the company to recognize each supervisor as a part of management, to consult with supervisors in the formulation of industrial relations policies, and to delegate to supervisors responsibility and authority for applying the procedures established to effectuate such policies.

V. PRINCIPLES FOR FUTURE POLICY MAKING

Management policy making in industrial relations in co-operation with nonmanagement groups or with other managements necessarily is concerned with agreement on basic principles. Many individual managements, however, attempt to determine policy for their organizations without much thought of principles. In these changing times with the social responsibilities of industry broadening and challenged as it is by the doctrine of Communism seeking to possess the wealth of the world and the souls of all mankind there is need for a new creed of capitalism.

There is much soul searching in employer circles in this matter in view of the cold war, the expanding rolls of government and unions and management's apparent inability to speak for itself effectively and to inspire confidence. The pessimists have little hope that management can do much to shape the future course of industrial relations. As they see it the people are relying more and more on government, self-reliance and thrift are being undermined and the burdens on industry are becoming unbearable. They say there is no fun in business any more. Others to whom these problems are a challenge are reconsidering past mistakes and lost opportunities. They realize that in many instances they have not co-operated with government as they should have done, that they have opposed collective bargaining and social security legislation and sulked in their tents when it was passed and that the mass of the people no longer expect any constructive contribution from them.

They are beginning to realize that they have been too self-interested. In conversation with an executive in Texas a few weeks ago he expressed criticism of his company's employment policy. He did not think it right that in recruiting employees they should ignore the public employment service but when they dismissed workers expect the service to place them elsewhere. With the proportion of the population in the higher age brackets increasing, with longevity increasing and apparently also the longer retention of ability to work and, at the other end of the scale, the span of education of youth being lengthened, is it right for management to retire all workers at a specified age as if biological and chronological age always coincide? Such social problems management must help to solve.

The more alert employers also see that they must speak out in meetings. They know best the rising costs of legislated and negotiated pension and other benefit plans: that negotiated pensions are pensions for the powerful which unless man-hour output is proportionately increased, will be paid in higher prices by millions of consumers who cannot afford such security for themselves. The timid fear that if they point to the danger they will be ridiculed as diehards and economic royalists. They will be called by much worse names if they drift with the tide, the pensions promised in present dollars are paid in deflated dollars and the employer-employee relationship further embittered.

In defending itself management points to our standard of living, the highest in the world built on know-how and plowing back of profits into extension and improvement of plant and equipment to increase productivity. But that is taken for granted. The English economist Henry Clay said in a speech in Philadelphia two years ago that the major problem of capitalism is its success. So many wants of the people have been met in such large measure that they expect more as a matter of course with less effort on their part. Industry is not being challenged on its technical ability but on its skill in the area of human relations, on its record of putting product before people. Management is now paying a penalty for not taking its employees into confidence. They have not been given the facts about their jobs and job prospects. An iron curtain has kept them from an understanding of management's problems. Management has just begun to talk to its employees and in many instances also to lower levels of supervision. How can union members influence in the direction of realism the representa-

tions of their leaders to management or those of their political representatives in our legislatures if they themselves are uninformed? As General Eisenhower has said "Teamplay, the boundless force that makes man master of the universe, does not develop in a conspiracy of silence."

Somehow management has got to do a better job of getting along with people in and out of the plant. While we tax ourselves for the economic and social re-establishment of former enemy countries and seek their co-operation for a better world order we should also strive for a more co-operative and constructive employer-employee relationship among ourselves. There are no easy answers to these problems but surely it is clear that our approach to them must be based on a broader, more positive social philosophy, that we must seize and retain the initiative in this area of human relations in plant and office and recapture a greater measure of the work companionship that prevailed when industry was young.

Out of such considerations we have ventured to suggest a few principles as a basis for policy making by management in future:

1. Capitalism can be so improved as to greatly increase the material and spiritual satisfactions of the people.

2. The management of a business administers a segment of the national wealth and in so doing must serve community and national needs and objectives.

3. Management should seek to give leadership in political and social life.

4. The human resources of a business are its greatest asset.

5. Employers and employees can work together in partnership, establish a good society in the work place and so contribute to social unity and a stronger democracy.

6. Management and employees have an equal interest in promoting higher productivity.

From such a body of principle there should spring industrial relations policies that we have scarcely begun to think about. Among them would be policies for executive development, the better training of executives and supervisors for their social and industrial relations responsibilities, decentralization of authority and resort to smaller work units,

two-way flow of communication on the facts of the business, broadening of opportunity for promotion from the ranks and by transfer to other enterprises, the better planning and integration of governmental and industrial security plans and many others.

I think we can have faith that management will make progress under such a body of principle. Dean Donald K. David of the Harvard Business School said in a recent article:

> There is a growing idealism on the part of businessmen. Business in this country typically want to do "the right thing..." The morals of the business community today are, I am convinced, better than they have ever been — perhaps also better than those of many other sections of the community and they should be.

I close with the conclusion from the article "Human Relations in Modern Business" by Robert Wood Johnson, already mentioned, which is a statement of principle in industrial relations that seems appropriate to our time.

> The world today is divided by antagonistic philosophies. In great areas the state is supreme and absolute, imposing its rule upon its subjects without their consent. We believe that free men can achieve more than slaves can. But, to implement this ideal, we must accept the responsibilities which go with freedom. We must work together as a team to meet common problems. Co-operation, not antagonism, is the key to achievement. The world is looking to us for an example of what free men can achieve. We cannot fail. The destiny of generations to come is in our hands. We are making history. This is our challenge and our opportunity.

— *QUESTION:*

There is a point on which I would like you to elaborate a little, Mr. Stewart. You were talking about the policy of a company and it seems — if I understood you well — that labour unions have nothing to do with the policy of a company. I don't know exactly what the scope of the "policy of a company" is as this expression was used in your paper. It seems to me that if management and labour unions have to work in partnership, there are certainly some matters connected with the policy of the company on which they have to work also in partnership. Could you give us a picture of what you consider the exclusive rights of management?

—MR. BRYCE M. STEWART:

The exclusive rights of management may seem to be approaching the vanishing point as the number of issues brought within the scope of collective bargaining steadily increases. Unions have certain rights now generally recognized by management, some of which are guaranteed by law. For example, they may organize, be represented in bargaining by persons of their own choice, conduct their organizations, choose their leaders, determine their duties, and salaries and promote, demote and dismiss them without interference from management. Unions maintain that their rights cannot be bargained or arbitrated away. Surely an employer responsible for the management of a business must have sole discretion in such matters as the work to be done, plant organization, layout and equipment, materials and processes to be used, control of plant property, size of the work force, scheduling and assignment of work and methods to promote and maintain large volume and high quality production. Each has rights and responsibilities which should be respected by the other. Each must have its own policies and plan its course but since their interests are largely mutual there should be free exchange of information between them. There is a growing number of employers who tell their policy to employees, organized or nonorganized.

—QUESTION:

Tell them or negotiate with them?

—MR. BRYCE M. STEWART:

A union should have any information sought unless its dissemination might do harm to the business and the employees in competition. In industry as well as government some facts can be made known with safety only to a few. If a union should ask about profits or the salaries of executives, in my view, they should be given the facts. They can get them anyway. On the other hand if a union should seek to bargain about the pay, selection or dismissal of supervisors it should be denied just as any attempt of management to intervene in the selection of union officials should be denied. However, in a good relationship the parties should feel free to talk together about an official on either side who, in their view, is doing harm to one or the other or both.

As regards the not clearly defined and changing area between the rights of management and those of employees, I think frank discussion will usually satisfy a mature union. On the other hand management has been slow to recognize that in the changing social climate policies that were formerly determined solely by the employer are now properly the subject of bargaining. When one thinks about it, bargaining on pensions and benefit plans makes sense in principle although in some respects difficult in practice. But most employers in the United States would not bargain on these matters until required to do so by law. I would be inclined to welcome bargaining on questions in this area if the union stands ready to accept its share of responsibility for the decisions reached. I notice that young unions in particular are eager for rights but become less assertive as they discover the responsibility involved. They seek to bargain on a job analysis program but when it is done they don't want to deal with John Doe whose rate is not as high as he expected. They demand a pension plan to cover several employers but change their minds when it appears that the costs may put some marginal firms out of business and leave members unemployed. My guess is that this matter of responsibility will restrain encroachment by unions on management's proper functions and that they will come to see the wisdom of leaving much policy making to management as being more expert and directly responsible for the results.

—*QUESTION:*

Dr. Stewart, in the course of your remarks you mentioned the necessity of having principles from which policies can flow. As you know, there is bound to be conflict of principles. For example, a company might have the idea that they should get most work for the least money. Then, on the other hand, unions may want to get the most money for the least work. Right away you have a conflict of principles. I think that's the difficulty. How do you resolve these conflicts, except by compromise. Are there any touchstones which will test rightness or wrongness of conflicting principles? To elaborate on that just a moment, I think the difficulty is that it's very hard to get to an agreement on principles. The poor old manager is being asked to be an economist, a sociologist, a psychologist and an expert in some other areas which his normal business training does not fit him for. I really think that management, by and large, with all the demands of today, is doing a splendid job. I feel that what they do is remarkable, bearing in mind these various points of view.

—*MR. BRYCE M. STEWART:*

A principle in a democracy is what the majority determines to be right. But what seems right today may prove wrong in the long run. Years ago it was an established principle that any effort at organization of employees was a criminal conspiracy but now the majority accepts the principle of freedom of organization and has established it in law. Having to compromise on a principle should prompt us to reconsider and change our position if we feel we have erred. One union has said "We have always sought power without assuming responsibility. Now that we have power we must assume the responsibility of underwriting that power — guaranteeing to the public that this power shall be used wisely, and that we as an organization will be an asset, not a liability to society." Here is a change in principle that time and experience have brought about. If we retain faith in our principle we must live under the compromise until our view prevails. As regards the conflict between most work for the least money and most money for the least work it appears that at present unions are becoming increasingly aware of the principle that a higher standard of living depends upon increased productivity and that greater co-operation with management in recognition of that principle is in the making. Of course, it is difficult to reach agreement on principles at a given moment but right principles stand the test of time. They become accepted and perhaps enforced by the majority. I agree that by and large management is steadily performing better on its increasingly complex job and I believe that is largely due to greater adherence to principle and less reliance on expediency.

— *QUESTION:*

I have a criticism of top management for its disregard of the personnel department in a great many instances. I have seen too often a personnel manager of a plant who was nothing else but a glorified messenger boy. When it comes down to this important problem of company policy, ever so often I have heard this remark to the union; "This is a matter of company policy, and I am sorry I cannot say anything about that." I believe this reduces the importance of a personnel department and personnel management. I would like to have your opinion on that.

—MR. BRYCE M. STEWART:

I fear the number of managements that realize the personnel function is the most important of all is not very great. An employer may have the best machinery and plant in the country but if the people who make the product are not co-operating it doesn't mean much. However, the influence of personnel managers seems to be steadily increasing. More of them are becoming vice presidents and presidents and I am confident that the best top executives in the future will be well grounded in industrial realtions. On a recent visit to a number of companies I was amazed at the detailed knowledge of job analysis, training, agreement terms, benefit plans and other such matters displayed by higher executives. They impressed me as being aware that their main job was to get along with people, recognize their resources and to help them as far as possible to fulfil their aspirations within the area of the business.

A primary duty of the personnel manager is to assist the line organization in the development and administration of industrial relations policy. It seems to me that if he speaks to the union in the manner indicated either he or the management or both have a wrong concept of the personnel function. No one should be better qualified to explain company policy in his area of activity than the personnel manager. If the union makes a request that conflicts with company policy he should state the policy and the thinking underlying it which preclude acceptance of the request. The kind of personnel manager referred to is really not a personnel manager but a doer of odds and ends. The policy about which he felt he could not speak probably did not exist. He and his company had not gotten to first base in industrial relations.

—QUESTION:

I am wondering if you could make any comment about your own philosophy, particularly about the last points which you made in your address. My question could perhaps be put in one word: why? What I am actually searching around for is what, in your opinion, are the kind of compulsions that make these points good sense, at this time. In other words, what is your answer to the cynics and the critics who say: "What you are referring to is pie in the sky. We did'nt get where we are in our business with that kind of thinking". I think you didn't reach your conclusion by acident; I think you reached it by careful thinking

and analysis and in weighing what was involved, what was going on in society.

—*MR. BRYCE M. STEWART:*

The main reason is that in the long run management must conform to the thinking of the times. As principles become established management, unions or other groups have to accept them voluntarily or under compulsion. Moreover it pays. Having been brought up as a Scotch Presbyterian I think doing the right thing usually pays. The people who say "we didn't get where we are with that kind of thinking" delude themselves. They have changed their thinking many times about other aspects of the business. They are the kind of people who used to say "the public be damned" and now say "the customer is always right". They opposed workmen's compensation and now have forgotten that there ever was a different policy. They insist that social security undermines initiative but believe in pensions for executives. It depends on who gets the pie in the sky. They have not learned the lesson of history that the rights of the few today are the rights of the many tomorroy.

These matters are not pie in the sky. Companies that did not accept our pension recommendations ten or more years ago are saying they wish they had. They realize today when they must act that if they had adopted a plan a decade ago the liability for past service, double now what it was then, would have been written off largely out of moneys paid in taxes. They would also be far in advance of the requirements of pension legislation.

Another example. In one region of the United States where we have done much work, a certain company president whom we counseled took his industrial relations responsibility very seriously, developed a progressive policy and applied it. Other company executives in the community said: "Let Jim go ahead. One of these days he will confess his mistake and the profit statement will prove it anyway." That was several years ago and Jim has been making better profits than ever. He has demonstrated that a code of decent employer behaviour brings a response from employees in higher production and that is the basic need in our world today. If we are to have a better standard of living, if the hope of peace rests on our economic strength, if we are to survive as a nation, as employers or unions, production is our central problem. Good industrial relations is an important means to that end, not mere sentimentality. At the

basis of such management policies is character-resolution and understanding of what management should strive to do for its people and the community and integrity in the pursuit of these objectives. They will pay off in productivity. I hope I have made myself clear.

—FATHER EMILE BOUVIER:

If I understand the question proposed by the delegate, I think he is referring to a recent article of Johnson, in the Harvard Business Review saying that leaders in industry and leaders of labour should observe not only loyalty to the company and the union but loyalty to God and Christ. I think that is the final answer to the whole question. We have to get together and the only way by which we can get some understanding is not trying to put a wedge to destroy the unions nor management. The best way is by the acceptance of God in business. The right answer is that business men and particularly managers of industry should not forget that, above profits, they have to look after God and the best way is to use industry as a means towards God. Thus they will not overlook the spiritual value of men. The first boss in our modern plants is Christ. Such thinking might not be academic, but it is essential and necessary. All academic and economic discussion that would overlook that fact is bound to be non sense.

—MR. BRYCE M. STEWART:

Well, that's just putting what I was trying to say in a much better way.