LABOR LAW JOURNAL

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In This Issue . . .

We are happy to present to our readers the Proceedings of the 1963 Spring Meeting of the Industrial Relations Research Association. These papers were presented at the meeting in Montreal, May 6-7.

This meeting was held with the Canadian counterpart of the Association. It provided for an examination and the valuation of identical problems and their attempted solutions under the respective national economies. These experts were much concerned with the manpower implications of technical change and collective bargaining as it affected the public interest. All in all this is a valuable collection of studies of modern-day problems.

The Association is indebted to Professor H. D. Woods and Mrs. Frances Bairstow of McGill University, Industrial Relations Centre, for local arrangements.

Gerald G. Somers of the University of Wisconsin is editor of the Proceedings, and we are grateful to him for his special cooperation in providing us with the manuscripts.

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the Economy

CORPORATE PROFITS—UP. Corporate profits before taxes reached $48.3 billion in the first quarter of 1963 (seasonally adjusted annual rate). Business activity continued to advance and this expansion has been reflected in the Gross National Product (GNP), which is up $7 billion at an annual rate from the $572 billion attained in the first quarter. At a recent meeting in Colorado, Walter W. Heller, chairman of the President's Council of Economic Advisors, predicted that this year's GNP would be set at $578 billion. Corporate profits after taxes are about the same as they were in the fourth quarter of 1962, which was $25.5 billion.

INDUSTRIAL PRODUCTION—UP. Industrial production rose 1 point further in June to 125 per cent of the 1957-59 average. Output of final products—both consumer goods and business equipment—increased and was 2½ per cent higher than during the second half of 1962. Although steel ingot production turned down early in June in anticipation of the new labor contract that was signed late in the month, over-all output of materials was unchanged.

Production of consumer goods increased in June reflecting mainly a rise of a tenth in autos from an already advanced level. Schedules for July indicate that auto assemblies will return to about the level in most earlier months of the 1963 model-year. Output of business equipment, which turned up in May after several months of little change, rose further in June and was slightly above the previous high reached last October.

Iron and steel production was down 5 per cent in June, and the decline is continuing in the current month. Also, in June, production was curtailed in the lumber industry because of strikes. Meanwhile output of parts for business equipment and for consumer durable goods increased, and production of nondurable materials changed little.

CONSTRUCTION—UP. New construction activity rose 2 per cent further in June to about the advanced rate reached last October. Residential activity, already at a record rate in May, continued to increase while most other types of private activity changed little. Public construction advanced moderately further but remained appreciably below earlier highs.

EMPLOYMENT—UP. Nonfarm employment increased to a record high of 56.8 million, one million higher than a year ago. While the number of workers on nonfarm payrolls increased by 600,000, unemployment increased by 800,000 because of the influx of teenagers into the labor force. Total unemployment equals 4.8 million people. Total employment passed the 70 million mark for the first time reaching 70.3 million people.

Labor Relations

Decisions of Courts and Administrative Agencies

Strike Without Notice to Mediators Forfeits Strikers' Job Status

A union's failure to notify the federal mediation and conciliation service that it was disputing with an employer over contract modification proved costly to employees who struck to support the union. A divided NLRB ruled that the union's neglect to comply fully with the NLRA's "cooling-off" provisions made the strike unlawful. This meant that the strikers forfeited their status as employees under the Act, and that the company had a right to discharge them.

Section 8(d) of the NLRA does not show up often before the NLRB or in the courts. When it does, differences of opinion regarding its meaning generally arise. This is because, as a federal appellate court said in *Retail Clerks, Local 219 v. NLRB,* 36 LC ¶ 65,286, Section 8(d) contains no "plain words." It provides that either party to a collective bargaining contract must give the other party sixty days' notice of intent to modify or terminate. Then, within thirty days after this notice is given, the mediation service must be notified that a dispute exists. Finally, if employees strike within the sixty day period "specified in this section," they lose their status as employees under the Act.

In this case, a majority of the NLRB held that the ban on strikes is not limited to the original sixty-day period after notice of contract modification or termination is given. The ban, they said, also covers a sixty-day interval after the mediation service is notified. Congress must have had a purpose, the NLRB majority explained, in making notice to the mediation service mandatory (*Fort Smith Chair Co.,* 63-2 CCH NLRB ¶ 12,475).

Federal Law Determines Who May Sue in State Court on Contract

In state court suits for breach of collective bargaining contracts, federal law governs procedural as well as substantive matters, a California trial court decided.

There was doubt that California law permitted a union secretary, on behalf of his union, to sue an employer for breach of hiring hall and union security provisions of a collective contract. But since the suit was one which could have been brought under Section 301 of the Taft-Hartley Act, the question was one to be solved under federal law, the court said, even though a state court could take the case under the theory of concurrent jurisdiction.

Section 301 says that a labor organization shall be bound by the acts of its agents. It is clear, the court said, that this gives a union officer the right to bring a breach of contract action on behalf of the organization in federal courts. And since the U. S. Supreme Court has stressed that the administration of collective bargaining contracts calls for uniform law, the state court ruled that it was bound to follow federal procedure (*Benner v. Westman,* 47 LC ¶ 18,364).

Two Courts Refuse to Enjoin Picketing in Public Area of Shopping Centers

The owner of a shopping center cannot bar a union from picketing or distributing literature on a sidewalk in the center in an attempt to influence customers or employees of a tenant, according to decisions by the Michigan Supreme Court and a California trial court. Both rejected a contention that the union was guilty of unlawfully trespassing upon private property.

In the Michigan case, union agents stationed on a sidewalk adjacent to a store in a privately owned shopping center distributed handbills informing customers that goods sold by the store were made by non-union labor and asking them to refrain from buying.

Sustaining a trial court decision which denied the owner's request for an injunction, the equally divided court said that the sidewalk had been dedicated to use by the general public and could be used by the union for legitimate purposes (*Clothing Workers v. Wonderland Shopping Center, Inc.*, 47 LC ¶ 50,874).

Similar reasons were given by the California trial court in refusing a shopping center owner's application for an injunction; however, in this case the tenant was subject to the jurisdiction of NLRB. The jurisdiction of the state court was not preempted, the court pointed out, since there was no labor dispute between the owner of the center and the union (*Smith v. Retail Clerks, Local 870*, 47 LC ¶ 50,875).

Federal and State Claims Joined in Secondary Boycott Damage Suit

Under Section 303 of the Taft-Hartley Act, any person injured by illegal secondary boycott activity may recover actual damages in a federal court suit. It lies within the discretion of the federal judge also to award punitive damages under state law, according to the U. S. Court of Appeals in Cincinnati.

Because he thought his jurisdiction preempted by the NLRB's exclusive authority over unfair labor practices, a state judge dismissed an employer's damage suit based on state common law. This was probably an erroneous application of the preemption doctrine, the Court said, but in any event the state judge's decision was no bar to the employer's right to bring suit in federal court under Section 303 and to add his claims under state law to those remedies provided by the federal statute.

Explaining, the Court said that Section 303 did not cancel existing state laws relating to the recovery of damages for illegal secondary boycotts, and further pointed out that Section 303 suits are independent of any NLRB proceedings (*Morton Trucking Co. v. Teamsters, Local 20*, 47 LC ¶ 18,380).

Employees' Challenge to Form of Mediation Board Ballot Upheld

A challenge by employees who wished to vote for no union representation to the form of ballot prescribed by the National Mediation Board for elections under the Railway Labor Act has been upheld by the federal district court in Washington, D. C.

Ordering that the temporary injunction previously granted (47 LC ¶ 18,245) be made permanent, the court said that the Board had failed to present any arguments sufficient to overcome the court's earlier conclusion that the Railway Labor Act's provisions for majority determination of representation disputes require a ballot on which a voter can express a preference for no union (*Association for Benefit of Non-Contract Employees v. NMB*, DC, D. of C., 47 LC ¶ 18,360).

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Industrial Relations Research Association

Spring Meeting

May 6 and 7, 1963 Montreal, Canada

PREFACE

to the

Industrial Relations Research Association Spring Meeting Proceedings

The Association's first meeting held in Canada was concerned primarily with comparative analyses of industrial relations problems and approaches in Canada and the United States.

Officials of labor departments in the two countries discussed their research activities in the area of technological change and its implications for manpower problems and policies. Experts on labor relations on the railroads in Canada and the United States presented papers stemming from recent studies and commission reports; and Canadian and United States scholars discussed comparative studies of concepts and experiences in the settlement of public interest disputes.

The meeting also included a discussion of labor relations policy in the building trades in Canada and a timely address by Mr. Roger Chartier on collective bargaining and the public interest.

The Association is indebted to Professor H. D. Woods and Mrs. Frances Bairstow of McGill University's Industrial Relations Centre for their excellent local arrangements. The program was also arranged with their assistance, in cooperation with Mr. W. R. Dymond of the Department of Labour, Ottawa, and Mr. Charles Myers, IRRA's president in 1962.

We are grateful to the participants in the meeting for their prompt submission of the manuscripts included in these *Proceedings*; and, as in previous years, we owe a special debt of thanks to the Commerce Clearing House, Inc. for providing the Association with these reprinted *Proceedings* for distribution to our membership.

Gerald G. Somers, Editor

SESSION I

Manpower Implications of Technological Change

Research Findings of the United States Department of Labor

By SEYMOUR BRANDWEIN
Director, Office of Manpower, Automation and Training, United States Department of Labor

RATHER THAN PRESENT a formal survey of research activities or a report on specific research projects, this paper is intended as a brief smorgasbord-type roundup of research directions being taken in the United States on the manpower implications of technological change.

First, the paper will focus on the new legislation providing a mandate and support for expanded manpower research, particularly on the effects and needs generated by automation and other new technology. Then the paper reviews several of the principal manpower trends being shaped by new technology. And finally, it notes major new research programs and plans of the Department of Labor in this field.

Statutory Support for Expansion of Research

Rapid technological changes and the gradual growth and persistence of high unemployment, combined with shortages of qualified workers in some occupations, led the United States Congress to adopt the Manpower Development and Training Act of 1962. The act establishes a governmental program for retraining unemployed workers—and also calls for sizeable expansion of research by the Department of Labor on manpower and the effects of technological change.

The directive on research is broad. The purpose of the act is "to require the Federal Government to appraise the manpower requirements and resources of the Nation, and to develop and apply the information and methods needed to deal with the problems of unemployment resulting from automation and technological changes and other types of persistent unemployment." More specifically, the act's Section 102 declares that:

"To assist the Nation in accomplishing the objectives of technological progress while avoiding or minimizing individual hardship and widespread unemployment, the Secretary of Labor shall—

"(1) evaluate the impact of, and benefits and problems created by automation, technological progress, and other changes in the structure of production and demand on the use of the Nation's human resources; establish techniques and methods for detecting in advance the potential impact of such developments; develop solutions to these problems, and publish findings pertaining thereto;

"(2) establish a program of factual studies of practices of employers and unions which tend to impede the mobility of workers or which facilitate mobility . . .

"(3) appraise the adequacy of the Nation's manpower development efforts to meet foreseeable manpower needs and recommend needed adjustments . . .

"(4) promote, encourage, or directly engage in programs of information and communication concerning manpower requirements, development, and utilization. . . ."

Beyond this, a final subsection makes clear that identification of these broad areas is not a limitation, for it further directs the Secretary to arrange also for "the conduct of such research and investigations as give promise of furthering the objectives of this Act."

The United States Labor Department for some time has engaged in a wide range of manpower research programs, particularly the gathering of basic statistical data on employment and unemployment, occupational trends and productivity, but the act enlarges its responsibility in several respects which this research association may find of special interest:

(1) The funds appropriated by Congress for additional research envision the enlisting of research resources outside the government, particularly those of the academic community. A leaf is being taken from the physical science fields in which contractual research by universities and other private experts has proven so fruitful. The Department hopes that a cooperative broadened linking of government and nongovernment research interests and resources will aid in enlarging the nation's knowledge and capacity for dealing with manpower problems, much as government financial support for research in the physical sciences has accelerated scientific and technological advance.

(2) Most of the research we hope to stimulate under the Act's auspices will be geared to problem areas, to program needs, in light of the Act's emphasis on developing of "solutions" to basic problems.

(3) The expanded research program is to be coupled with an increased information and communication program. The intent is to develop widened attention and understanding, not only of research-oriented groups, but of employers, community leaders, and the public generally. Also, the department will undertake more intensively to gather information on private and state and local government manpower research—and help disseminate more widely the useful information it provides. This will aid also in gaining improved coordination of research activities in this subject field.

(4) Finally, and significant as a measure of the importance attached to the new manpower program, the act calls, not only for the Secretary of Labor to report annually to the Congress on research initiated under the act and to provide an over-all manpower assessment to the President, but also for the President to present to the Congress and the nation each year a report on manpower, a requirement broadly akin to the President's annual economic report.

The first such Secretary's report to Congress on activities under the

act has recently been presented,[1] as has the first annual Manpower Report of the President.[2]

The first Presidential report compiles the major available data on statistics on manpower in the United States, traces major trends in the postwar period, appraises the current manpower picture, and offers several projections for the future. The Labor Department's Office of Manpower, Automation and Training will be pleased to send a copy of this Manpower Report to those who are interested.

Manpower Implications of Technological Change

The statistical programs of the Department of Labor reflect notable manpower developments in the ecomony which, while perhaps no longer strikingly new or dramatic for informed members of this association, are not yet adequately comprehended by the general public. The broad technical setting is that investment in scientific research and development in the United States in the last decade has tripled, from $5 billion in 1953-54 to $15 to $16 billion annually today, reflecting a substantial upsweep in emphasis on scientific and technological advance in recent years.

One major manpower effect of the resulting stream of advance in technology and methods is that occupational requirements are being reshaped. Consider several brief examples.

In agriculture, a veritable revolution in methods has drastically reduced manpower required for farm occupations. In the last two years alone, farm employment in the United States has declined by half a million workers—while farm output and farm income have increased. Only one of each ten youngsters now living in farm areas can look forward to full-time employment in agriculture—and even that job will require distinctive skills in farm management unlike the typical farm jobs of earlier years.

In industry generally, advances in automation and other technology, perhaps most apparent in material-handling and processing equipment, have been reducing the rate of demand for unskilled workers and for semi-skilled assembly-line manpower. This is reflected in a decline for production or blue-collar workers at the same time that nonproduction or white-collar employment has been increasing. Thus, in manufacturing, in the half dozen years from 1956 to 1962, the number of production workers declined by about a million (nearly 8 per cent)—while output was being raised by some 20 per cent. At the same time, manufacturing nonproduction employment—in technical, managerial, sales, and clerical occupations—increased by half a million (14 per cent).

The increasing role of new technology (and of new appliances in the home) is requiring more scientific, engineering and technical skills for development, maintenance and repair. The professional, technical and skilled craftsmen occupations are the most rapidly expanding.

The over-all picture is that educational and skill requirements are gradually rising. The expanding occupations generally require more education and formal training, while the unskilled or semiskilled occupations requiring only limited preparation are shrinking or barely holding their own. This

[1] "Report of the Secretary of Labor on Research and Training Activities under the Manpower Development and Training Act," transmitted to the Congress February 1963.

[2] "Manpower Report of the President and a Report on Manpower Requirements, Resources, Utilization, and Training by the United States Department of Labor," transmitted to the Congress March 1963.

does not mean all new jobs require extensive education. There will be expansion in some personal-service functions which require some orientation and training but not necessarily comprehensive education. More than ever before, however, the types of occupations in which major expansion is occurring require more extensive educational preparation.

This change in occupational structure has already helped shape a large concentration of unemployment among semiskilled and unskilled workers. It also explains the increased emphasis being put on retraining of unemployed workers to bridge the gap between them and potential jobs requiring skills they lack. Beyond this, it has educational implications which Secretary of Labor W. Willard Wirtz summed up recently, before the Education Subcommittee of the Senate Committee on Labor and Public Welfare, as follows:

"The reason for the increasing concentration of unemployment among unskilled workers is that machines are taking over the unskilled jobs. These are the jobs which have, up to this time, absorbed the casualties of the educational system: those who for one reason or another have left school without having added, to the strength which is in their arms and backs, the skill it takes to do something more than 'common labor.' This wasn't too bad when there were enough common labor jobs around. Now there aren't.

"Today, unskilled workers make up 5 percent of the work force. But almost 15 percent of all the unemployed are in this group. . . . What this means in terms of educational needs is obvious. We simply cannot any longer afford to let boys and girls leave the educational system unprepared to use their minds as well as their muscles. We must, in one way or another, see to it that they have what today's—and tomorrow's—labor market requires. The margin for educational error or failure, which is what the unskilled jobs in the old work force constituted, has been taken up by machine."

The shrinkage in unskilled jobs has been curtailing the availability of entry jobs in which many youngsters ordinarily accumulated their initial work experience. This is occurring at the same time that the flow of youngsters into the American labor force is expanding sharply. In the 1950's the inflow of youngsters was relatively small, because they were the product of the lower birth rates of the depressed 1930's and the first years of World War II. The net growth of workers under age 24 during the 1950's was only 400,000.

But in the 1960's, the youngsters reaching working age are those born in the baby-boom postwar years. Between 1960 and 1970, some 26 million young workers will enter the labor market, with the net growth in workers under age 24 expected to be over 6 million, or fully 15 times as large as the net growth in the preceding decade.

Along with the shifts in skill requirements, technological change has been creating or intensifying geographic shifts in employment opportunities. In coal mining, for example, advances in technology have meant that the amount of coal dug by 100 miners in 1947 is now provided by 46 miners. In combination with shifts to other sources of energy, this has severely curtailed employment in mining regions.

Other advances in technology—particularly in transportation, in new materials, and in concepts of plant layout which encourage construction of new plants rather than modernization

of old ones—have also increasingly loosened the geographic ties of many industries to regions with national advantages, so that the geography of job opportunities has been changing notably in many industries. Shifts in major defense work because of changes in weapons technology from aircraft, tanks and other hard goods to missiles, electronic equipment and research and development activity, are a major current example. While geographic shifts are hardly a new phenomenon, they are posing more insistently questions of inter-area exchange of information on manpower needs and opportunities, of job creation in localities with substantial unemployment, and of means of aiding geographic mobility of labor.

Thus far, I have commented on some effects of technology, but it must be emphasized that if we are dedicated to technological advance, as we are in the United States, we must look also to the adequacy of our manpower resources for developing and applying new technology. Shortages of qualified manpower in critical technical areas can severely limit the rate and nature of technical innovation—and may retard some of the growth in new products and industries which new technology is supposed to stimulate.

Moreover, requirements for professional and technical skills for defense and space exploration programs may not be met—or may be met at the expense of potential advance in civilian sectors—if the supply of needed skills is not expanded. The hobbling effects on the economy of skill shortages point to the needs for expansion of appropriate higher education opportunities, for enlargement and improvement of apprenticeship and other skill preparation programs, for improvement in occupational forecasting techniques, and for realistic and more reliable occupational guidance and counseling programs.

As far as total employment is concerned, the implications of technological change vary considerably by industry. Some specific sketching of the types of other forces joining with technology to determine employment levels are provided by Labor Department studies of particular plants and industries. I commend to you the recent one by the Department's Bureau of Labor Statistics on the pulp and paper industry.[3]

More broadly, the influence of advances in technology is evident from data on output in the private economy, which is weighted heavily by goods-producing industries in which new technology has had its greatest impact thus far, as distinguished from the essentially-service government sector. Total private output in 1962 was running about 67 per cent more than in 1947. Over four-fifths of this increase has been accomplished through increased productivity, which of course is rooted largely in new or improved technology, while less than one-fifth has come from employment of additional workers. During this period, aggregate manhours of work used to attain this 67 per cent rise in output have been increased by less than 5 per cent.

While employment has risen gradually over these years, the rate of growth has been smaller than the increase in the labor force. As a result, there has been a rise in unemployment and a persistence of unemployment rates in excess of 5½ per cent in each of the last five years. The nature and implications of this serious under-utilization of manpower

[3] "Impact of Technological Change and Automation in the Pulp and Paper Industry," United States Department of Labor, *Bulletin No. 1347*, October 1962.

resources are dealt with in detail in the President's Manpower Report.[4]

One special note is warranted here, however. Although precise attribution to new technology is not feasible, it is vital to note that manpower requirements have been reduced where technological advances have been greatest—basically, the production sectors—while employment growth has not been retarded as greatly in the service sectors, particularly government services such as education, in which technical advances have been more limited. This has significant implications for efforts to relate employment growth to rates of national economic growth. It is apparent that total national employment will be affected considerably, not alone by the rate of economic growth but by the composition of that growth. Growth in output in the sectors with the greatest technical advances can be accomplished with relatively smaller increase in employment opportunities than corresponding growth in many of the service sectors would yield.

Just to state this so starkly calls attention to the research implications and needs in this field. The Labor Department is undertaking to develop projections which hopefully will provide useful guidance on the manpower requirements generated by growth—by the expansion of aggregate demand—in different sectors of the economy.

Research Programs and Plans

The Secretary of Labor's report to Congress on initial research activities under the Manpower Act sketches the early thinking on directions of expanded research programs. I will outline here just several of the major types of research being undertaken on the manpower impact of new technology.

One major program is focusing on the extent, character and impact of automation and other technological changes on employment and unemployment. Several studies have concentrated, for example, on electronic computers. One has looked to their use by the federal government in its role as an employer.[5]

Outside the federal government, the Labor Department contracted with a private organization, Diebold Group, for an examination of computer installations by industry and by size of computer. Early estimates are that, from fewer than 1,000 installations in 1956, the number expanded to 11,000 in late 1962, with estimates of some 20,000 projected for 1970. This preliminary work is part of an effort to determine how and to what extent it may be feasible to measure the rates, types and places of use of selected major technical innovations.

Studies made by the Department several years ago, on the employment effects of installation of electronic data processing equipment in 20 offices,[6] found little elimination of workers already on the payroll of the installing firms, but declines in employment as new and replacement hiring was curtailed. In some of the offices, employment rose as new functions were made possible by the new equipment. In the 20 offices combined, employment rose 7 per cent over a four-year study period as compared to a 15 per cent growth in

[4] Also, data on rates of employment growth by industry are presented in "Industry Employment Growth Since World War II," *Manpower Report No. 5,* Office of Manpower, Automation and Training, United States Department of Labor.

[5] "Automatic Data Processing in the Federal Government—Its Manpower Requirements," United States Department of Labor, Office of Manpower, Automation and Training, *Manpower Report No. 6,* May 1963.

[6] "Adjustments to the Introduction of Office Automation," United States Department of Labor, Bureau of Labor Statistics, *Bulletin 1276,* 1960.

clerical employment in the nation as a whole in the same period, suggesting that the new equipment retarded growth in office employment.

Another type of exploratory study is attempting to determine the likely impact of impending major new technological innovations. The Department has thus just completed an examination of new developments in optical character recognition equipment—machines which can read printed copy and handwritten numbers. Another study now in the final stages is on numerically controlled machine tools.

Studies are also being carried forward on measures which ease and smooth worker adjustments required by new technology. Closely allied are studies of the functioning of the labor market and the obstacles in the way of effective adjustment by workers, management, labor organizations and the community to problems of changing manpower requirements. Special emphasis is being put on studies to develop better understanding of the factors which impede or facilitate occupational, industrial and geographic mobility.

Also, the Office of Manpower, Automation and Training is coordinating expanded programs to appraise future manpower needs and resources, and to make such information available for better informed action by those engaged in educational, training, counseling and guidance, and placement programs.

Finally, to conclude this very brief outline of some of the Department of Labor's expanded research efforts, we regard the new retraining program itself as a major new research tool. We will be evaluating it to help learn the extent and ways in which retraining of adults in new occupational skills can aid in making the labor force adaptable and responsive to changed requirements being wrought by new technology and other factors.

[The End]

Manpower Implications of Technological Change in Canada

By JOHN P. FRANCIS

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TECHNICAL CHANGE, in its obvious forms of growing mechanization and increasingly efficient methods of organizing work, has been a feature of the more industrialized nations of the Western Hemisphere ever since the Industrial Revolution. Strangely enough, however, only in recent decades have economists generally begun to view it as a significant factor in economic development. After a lengthy period in which the masters of economic thought and their followers in fact considered technical change as exogenous phenomena, we are now bringing such change right into the framework of economic analysis and even giving it a high place among the factors determining economic growth.

Importance of Technical Change

Following the line of thought developed by Robert Solow,[1] B. Massel

[1] R. Solow, "Technical Change and the Aggregate Production Function," *The Review of Economics and Statistics,* August 1957, pp. 312-320.

stated recently "that technical change is of over-riding importance in bringing about increased labour productivity over time and that there is a need for economists to shift the emphasis from the theory of capital to the theory of technical progress, as an explanation of the growth in aggregate output."[2]

The discovery and adoption of technical changes as an important factor in economic progress found expression first through a concern with its impact on employment. Originally, this concern focused on the employment-reducing effects of mechanization in specific industries, and either explicitly or implicitly equated such reductions with increases in technological unemployment. The numerous studies of this kind which were carried out in the 1930's also seemed to equate productivity and technological change despite the fact that growth in productivity is a result of many factors of which technological change is only one.

After World War II, discussions of technical changes by economists broadened to include their employment-increasing as well as decreasing effects. They also began to pay more and more attention to shifts in the quality or type of labour input required by an economy undergoing such change, and to the functional role of technical change in economic growth itself.

Empirical Studies

It was against this background of evolving economic discussion that the Canadian Department of Labour in 1956 began its empirical studies of the effects of technical change on the manpower needs of the Canadian economy. The rest of this paper will be based on these studies, indicating the concepts and methodology followed and reviewing the major findings and their manpower implications for Canada.

Initially, these empirical studies of the manpower effects of technical change encountered problems. In the first place, it was very difficult to find a situation where a significant innovation of a clear-cut kind was being introduced while other factors affecting the production process remained more or less unchanged. Such obvious innovations were almost always part of a spectrum of many other changes involving scale of operations, the extent to which productive capacity was being utilized, alterations in the nature and quality of the product, rearrangements in the organization of production both within the plant and in relation to other plants, changes in utilization of specialized services and many other factors. In reality, there were and are a myriad of such innovations taking place almost continuously, most of which are anything but dramatic or even capable of clear description, and each of which is usually part of a package of changes being made to increase efficiency and/or to make products more marketable. An added problem was that the objective data on changing labour input and output for the specific part of the production process which was primarily concerned were usually not in existence or not accessible.

Results of Studies

Confronted by these findings in early exploratory studies, it was concluded that technical change for purposes of empirical studies of its manpower implications must be broadly defined to include, as Simon Kuznets has stated, all "alterations in the methods of pro-

[2] B. Massel, "Capital Formation and Technological Change in United States Manufacturing," *The Review of Economics and Statistics*, May 1960, pp. 182-188.

ducing economic goods arising out of the application of new knowledge."[3] More specifically, the definition adopted included the use of new materials, the substitution of capital goods for labour, the use of new production and distribution techniques, new methods of organization and the development of more marketable products. Behind all of these changes, of course, was the intention of reducing the costs of the factors of production in relation to unit output.

It was also concluded that to understand the full scope and character of technical change taking place, to appreciate the changing needs for manpower which such changes were generating and to gain some insights into the complex labour market adjustments consequently required, no single approach was sufficient. Accordingly, empirical studies of three general types have been developed: broad macro-studies of the changing occupational structure of employment in the economy in which the contribution of over-all labour force growth, of changing industrial structure, and of evolving occupational composition within industry, are being measured; specific industry studies in which the major changes in occupational structure are identified and then probing enquiries made of company officials and records to determine the major reasons for such changes and longitudinal studies of one of the major new technologies, electronic data processing, on a case study basis to lay out the whole process of employment adjustment, adaptation and displacement as it takes place.

I do not propose to describe in detail the findings of these studies. Their results have been published in both detailed and consolidated form.[4] Summarized very briefly, they show that considerable changes in both the quantity and the type of manpower required per unit of output have occurred in Canadian industry and that very extensive shifts in manpower between occupations, industries and areas have been necessary as a result. I do propose, however, to comment on the implications of these changes for education and training, for the functioning of the labour market and for collective bargaining.

Education and Training

What do the effects of these technical changes in manpower requirements mean for education and training? This question can be approached from a number of directions. One fruitful approach, I suggest, is to consider over a broad span of time the major purposes for which manpower has been used or, in other words, the main ingredients of labour input. To generalize, labour was originally used primarily as a source of energy or power to carry, pull, push or lift objects in one way or another. The Industrial Revolution shifted the emphasis from labour as a source of power to labour as a means of applying mechanically produced power

[3] Simon Kuznets, "Social, Economic and Technological Change," *International Social Science Council*, 1958.

[4] "Technological Changes and Skilled Manpower: Electrical and Electronics Industry and Heavy Machinery Industry," 1957; "Technological Changes and Skilled Manpower: The Household Appliance Industry," 1958; "Technological Changes and Skilled Manpower: The Automobile and Parts Manufacturing Industries," 1960; "Technological Changes and Skilled Manpower: The Current Status of Electronic Data Processing in Canada," 1960; Technological Changes and Skilled Manpower: Electronic Data Processing Occupations in a Large Insurance Company," 1961; "Technological Changes and Their Impact on Employment and Occupations," a report prepared for the Special Committee of the Senate of Canada on Manpower and Employment, 1961; all published by the Canadian Department of Labour.

with dexterity to a wide range of tasks. Now, the modern technical revolution is again shifting the main ingredient of labour input from manipulative skill to an understanding of an organized body of knowledge. To an increasing extent today, employers when they hire workers are attempting to buy organized knowledge and the ability to apply it to a range of specific production, marketing, financial, organizational, staff and other problems.

These, of course, are broad generalizations to which there are many exceptions, but they are generalizations which have important implications. Labour which is being used mainly as a source of power or energy is relatively inexpensive to provide. The costs of its production are no more than the costs of reproducing the human race which were borne primarily by the individual and the family. The situation starts to change when labour is required for its manipulative skill. Such skills must be acquired through a kind of conditioning process in which the ability to perform specific tasks or to make elementary judgements quickly and consistently are acquired over a period of time. Thus, apprenticeship forms of training in which the key element historically is "learning by doing" were particularly appropriate. The costs of producing this kind of a worker were not borne completely by the individual; they were shared by the worker and the employer.

The situation again changes when organized knowledge and the ability to apply it become the main ingredient. A labour supply in which these kinds of abilities are widely required not only takes time to produce, but also requires the allocation of considerable resources for such purposes alone. The costs of developing this kind of a labour supply are usually far beyond those which can be borne by the individual worker and employer. These costs must be distributed generally throughout the whole economy if they are going to be met at all.

It was a recognition of this basic fact about the way manpower requirements were changing as a result of technical developments that led to the federal government's proposal in 1960 for a substantial expansion of training facilities in Canada.

Technical and Vocational Training Assistance Act

In December 1960, the Canadian Parliament passed a new Technical and Vocational Training Assistance Act. In cooperation with provincial and municipal governments, this act provided for the payment by the federal government of 75 per cent of the cost of all technical schools, trade schools and institutes of technology built or enlarged before March 31, 1963. In addition, the legislation provided for a federal contribution towards the operational cost of technical and vocational training programs varying in amounts up to 75 per cent.

During this approximately 2½-year period, a total of over one half billion dollars has been spent on new vocational and technical training facilities and almost 500 new schools or additions to schools have been constructed. The student capacity of these kinds of schools has been doubled in the country as a whole.

This legislation did not only provide for the expansion of training facilities for young people in the secondary and post-secondary levels of the school system. It also contained provisions whereby the federal government could share with the provinces in the cost of training and retraining for adults already in the labour force whether they were employed or un-

employed. Such training can take a great variety of forms. One of the most significant, which is being provided for unemployed workers as well as for employed persons whose jobs are threatened by technological change, is a program of basic training for skill development. These programs provide adult instruction in basic subjects such as mathematics, science and language to upgrade the general educational level of the worker to a stage where specific occupational training can then effectively take place.

Another important aspect of the change which is taking place in the character of labour input is the growing heterogeneity of labour supply as the boundaries of applied knowledge expand and diversify. A division of labour existed even when labour was being used mainly as a source of power—the strong would get allocated to the jobs where the greatest strength was required. With the Industrial Revolution, however, this principle became of basic importance and modern technology has required its extension still further and in new ways. In this kind of situation, and particularly in the highly dynamic economies of the world today, the potentialities for imperfections in the labour market are considerable and such imperfections can contribute significantly to economic inefficiency and to the development of a high cost economy.

The Short-Run Problem

So far, I have been commenting in effect on the implications of technical change for the development of human resources in the long run. I would now like to turn to the relatively short-run manpower adjustment problem which is created by rapidly changing technology. How effectively has the labour market allocated and reallocated manpower in the face of the extensive changes in requirements generated by technical change?

The reports of the studies conducted by the Canadian Department of Labour, referred to earlier, show that very considerable shifts in employment have actually taken place. Is the labour market, therefore, performing its reallocation function despite the usual imperfections which may exist to a considerable degree? This is an important question because the answer to it has a direct bearing upon the labour market and wages policies which should be followed in the Canadian economy.

There is, unfortunately, no single answer to this question. Because of the basically heterogeneous nature of manpower requirements and supplies, there are in fact many labour markets. In some of these, wages and salaries seem to be playing a relatively effective allocation role while in others they obviously are not. The former seems to be the case particularly for many of the emerging scientific and technical occupations, while the latter is perhaps generally true for most blue collar occupations. In the former case, there seems to be a national, and even international, labour market in which workers are relatively mobile and knowledge of job opportunities widespread. In the latter case, labour markets seem to be much more local in character. Mobility exists to some degree within these markets but not between them, and ties of various kinds to the community seem greater.

I should emphasize that the preceding comments are relatively hasty judgments on my part. But certainly pockets of unemployment and underemployment among blue-collar and primary-industry workers, and virtually no unemployment among scientific and technical personnel even when demand slackens as it did for engineers in Canada in 1958 and 1959,

would seem to support this view. Evidently, some of these technical personnel have a high degree of substitutability—a characteristic which has been noted in respect to engineers in this country on frequent occasions.

Labour Supply Elasticity

There is another factor which may inhibit the market through its price mechanism in the performance of its allocation function—elasticity of the labour supply. This has been an important factor in the Canadian situation as the following example shows. In recent years, the service industries have been one of the main growth sectors of the Canadian economy while goods-producing employment has been relatively stable, and it would appear that a considerable shift of manpower to the service sector has taken place. Yet wages and salaries in most service occupations have remained well below those in the goods-producing industries. The explanation, of course, is that the labour supplies available to the service occupations have been enlarged substantially by the increased participation of women in the labour force and to a much lesser extent by an immigration policy which encouraged the migration to Canada of workers for these kinds of jobs. In fact, there has been very little shift of manpower from the goods-producing to the service industries.

The maintenance of a relatively elastic labour supply through immigration has been a major Canadian manpower policy throughout most of the period since World War II. The resulting immigration minimized the importance of developing wages and other manpower policies to facilitate the labour market adjustments which an increasingly dynamic technology was requiring. With an immigration policy of this kind no longer possible to anything like the same degree, and with a wave of new labour supplies coming forward as a result of native population growth, different and even novel labour market policies and programs are now required.

An inefficiently functioning labour market, then, leads to unemployment, underemployment and high labour costs. Technical changes whose impact on manpower requirements make reallocations of labour increasingly necessary and social developments which often tend to tie workers to current jobs are contradictory developments from this point of view which underline the importance for the future of facilitating the operation of the labour market as much as possible. Wages cannot be relied on as the only mechanism or even as the significant one in some cases. To do so may in effect mean that to generate mobility in the face of the rigidities present would require wage differentials of such a magnitude as to significantly raise costs and reduce competitive ability, particularly in an open economy. A range of other programs are required to encourage the needed movement of workers including an efficient employment service, retraining assistance, transportation grants, resettlement allowances, manpower change assessment incentives and probably other special purpose facilitating mechanisms.

Manpower Consultative Service

A relatively novel mechanism to facilitate the manpower adjustments which technical change makes necessary was suggested at the last session of the Canadian Parliament. Late in 1962, the federal government proposed the establishment of a Manpower Consultative Service which would assist unions and employers jointly in assessing the manpower consequences of a technical or other in-

dustrial change in advance of its occurrence and help in working out a plan of action to facilitate the necessary employment adjustments so as to minimize unemployment and maximize efficiency. To achieve these ends, it was proposed that this Consultative Service would encourage the coordinated use of every existing government service which might be helpful, would share with the union and the company through an assessment incentive the costs of research in advance on the specific employment effects of an impending technical or other industrial change and would provide financial assistance for the movement of workers to new employment. The provisions of the earlier mentioned training legislation would be used to assist in any necessary training to allow employees to upgrade their basic qualifications or more specific skills or for retraining purposes. Unfortunately, Parliament ended before discussion of this proposal was completed.

Implications for Collective Bargaining

Finally, I would like to comment on some of the implications of technical change for collective bargaining. Historically, labour organizations were first mainly concerned with union recognition and security.[5] Later, although of course it was present from the beginning, the emphasis in collective bargaining changed to wages and closely related matters. Over the past ten to fifteen years, in the face of the real or apparent threat of automation, attention in bargaining has turned more and more to arrangements which protect the workers' job security. A considerable range of mechanisms, some old and some new, have been developed so that at present in Canada there exists in effect a large number of private social security systems covering both organized and unorganized workers and consisting of many elaborate arrangements which in effect build up an increasing degree of job attachment.

To the extent that these kinds of arrangements inhibit worker adaptation and mobility, there can be a conflict between public and private manpower policy. In the face of this conflict, it is not enough to say that certain collective agreement provisions should be dropped or drastically changed. Many of them, although tending to limit mobility, were designed to provide needed employment security for workers as well as equity of treatment by employers. The problem basically is one of modifying these arrangements where possible to facilitate mobility and adaptation without shifting the costs of adjustment onto the worker or exposing him to other kinds of inequitable treatment. In other words, some reconciliation of social and economic objectives is necessary.[6]

In Canada, there is some evidence that workers and employers are turning their attention in collective bargaining to this problem and seeking to resolve it. An important example of a recent collective bargaining settlement which incorporated provisions recognizing joint responsibility for adjusting work forces to technological change in a way that takes account of the position of

[5] This is principally true of industrial unions.

[6] An excellent analysis of this problem in the United States, prepared by W. R. Dymond of the Canadian Department of Labour, is contained in a background report prepared for the Manpower and Social Affairs Committee of the Organization for Economic Co-operation and Development as a basis for its examination of manpower policies and programs in the United States of America. My remarks are based in part on this analysis, which is as yet unpublished.

workers, employers and the public, took place in the Canadian railway industry. An agreement was reached in 1962 between the major railway companies and the unions representing their nonoperating employees to provide for the establishment of a job security fund. This fund, to which employers agreed to contribute 1 cent per employee per hour worked, will be used to help mitigate in a variety of ways the hardships faced by long service employees whose jobs are eliminated by technological change. It may, for example, be used to provide training allowances, to meet transportation and resettlement costs or to provide a variety of other kinds of support as agreed upon.

Security and Mobility

Private pension plans, whether established through collective bargaining or otherwise, are another important instance where employment and income security can come into conflict with the need for adaptation and mobility. A great increase has taken place in Canada over the last decade or so in the development of industrial pension plans. In 1960, about 50 per cent of the nonagricultural labour force was employed by employers who had a pension plan or plans in effect. These plans covered about 34 per cent of this labour force. Unfortunately, no comparable data are available for earlier years, but the evidence on hand makes it clear that the coverage of these plans has expanded very rapidly.

Even more important from the mobility point of view is the fact that the equity of the workers covered by existing plans is increasing each year. Thus, depending on the nature of any vesting provisions which may exist, the potential loss of equity involved in movement to another employer is also becoming greater each year.

In a number of provinces, steps are now being taken to provide portability of pension rights in a way which will not only facilitate mobility but make it easier for income security on retirement to be built up.

A pioneering collective bargaining step has also been taken recently in this direction. In the Montreal construction industry, a new program was introduced early in 1963 providing for portable pensions and group life insurance in this highly seasonal industry with its mobile labour force. The plan, which was originally part of a negotiated collective agreement between some 500 employers and the Montréal construction unions, was expanded by provincial decree to cover the entire industry within a radius of 15 miles of the Island of Montreal. The coverage now includes some 7,000 employers and 44,000 construction workers. This is an extremely significant development because not only does it provide for mobility within the area concerned without loss of pension or insurance rights, but it also improves considerably the pension and insurance benefits which can be built up and obtained.

The seniority provisions of collective agreements are another example of the basic conflict between security and mobility. Here, too, modifications of established seniority arrangements are starting to be made in a way which to some extent resolves the conflict. To date, these have principally taken the form of specific transfer arrangements in relation to plant reallocations or the opening of new plants by particular companies, or the consolidation of seniority districts so as to make movement without loss of seniority rights possible over a wider area of company operations.

Another significant collective bargaining development, of which there

are only very few examples as yet in Canada, is the provision of upgrading and retraining programs for workers who are or likely will be displaced by technical change. In Quebec, an agreement has recently been negotiated which provides that the company will retrain some employees whose jobs are disappearing so as to fit them for employment at a new plant being opened in another community.

Summary

In summary, there is some evidence then that one of the most institutionalized features of labour market activity, collective bargaining, is responding to the problems of manpower reallocation which are being generated by the impact of technical change on the demand for labour. Not enough, however, is systematically known about these kinds of developments. There is considerable room for more research on the process of collective bargaining to determine how it is being reshaped or otherwise responding to the pressures and problems created by technical change.

To conclude, technical changes in Canada along with shifts in product demand have resulted in significant alterations in manpower requirements as between both industries and occupations. These manpower changes have made it necessary that a growing proportion of the resources of the Canadian economy be devoted to education and training, that in the development of the educational and training system more attention be paid to the basic manpower needs of the economy, that new and more efficient mechanisms be developed to permit wages to perform their allocation function more fully and to facilitate the operation of the market in other ways and that collective bargaining respond to emerging labour market pressures in a way which will contribute to manpower adaptability and mobility without leaving the worker exposed to insecurity and possible hardship. Both private and public policy will need to respond to these challenges. The effectiveness with which they do so will depend in no small degree on an understanding of how the labour market functions in the context, on the one hand, of a dynamic technology which is generating rapid changes in the character of manpower requirements while, on the other hand, a growing number of social welfare and security programs are developing which tend to stand in the way of needed mobility and adaptability. **[The End]**

Research on the Manpower Implications of Technological Change

A Discussion

By GERALD G. SOMERS

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ALL OF US who have engaged in labor market research must be impressed with the imagination, industry and leadership provided by the Economics and Research Branch of the Department of Labour in Ottawa, and by Bureau of Labor Statistics and the Office of Manpower,

Automation and Training of the United States Department of Labor. Increasingly, we have turned to these governmental units not only for the basic data which constitutes the raw material of our own manpower analyses, but also for guidance and successful demonstration of worthwhile labor market studies. Both Mr. Francis and Mr. Brandwein are to be congratulated on the research activities of the agencies they represent and on the very able description of these research activities presented here today.

It is very difficult to criticize the research efforts of the two units. If one can find serious omissions in their accomplishments to date—and with the monumental research tasks still ahead of us, it would be surprising if there were not omissions—their reports on future plans are so all-inclusive that there remain few areas which are not to be covered under the projected research programs. This is especially true of the recently issued Manpower Report of the President and the report on the Manpower Development and Training Act of the Office of Automation Manpower and Training, United States Department of Labor.

EVALUATION OF THE RESEARCH

Nevertheless, there are two or three important areas of research or research methods which appear to have been slighted in the past and projected research programs on automation of the Departments in Canada and the United States.

The Need For Longitudinal Studies

A major deficiency in much of the labor-market research, conducted by both government and university analysts, is the excessive concentration on cross-sectional or "one-shot" studies. The need for continuing or longitudinal studies of manpower is especially apparent in the efforts to appraise the impact of technological change. Mr. Francis has indicated the studies of occupational shifts in Canada over a period of several decades, and this type of analysis certainly provides long-run perspective. The United States Department of Labor is similarly concerned with an analysis of long-run shifts in occupations in the economy as a whole. Such longitudinal studies are seldom conducted, however, in the analysis of the effects of technological change in particular establishments or industries. The closest we appear to come to a continuing survey of the impact of technology in a microeconomic sense is in the study of data processing being carried out in both Departments.

Since the essence of the structural impact of technological change will be found in a differential experience in particular establishments and industries, a long-run survey of national trends is no adequate substitute for a long-run survey of the manpower implications of technology in particular economic units. What is needed here is a continuing series of interviews, over a period of at least several years, with workers who have been displaced by technological change and with management officials in establishments where there has been a significant introduction of technological improvement. It is only in this way that we can be fully aware of the labor-market fate of the technologically unemployed and thereby arrive at a complete appraisal of the employment effects of technological change. It is now almost axiomatic to note that a technological innovation in a particular establishment may result in no immediate displacement of labor but may result, nevertheless, in a serious reduction of employment opportunities by reducing the rate of

new hires. And yet, this latter effect —the true impact of technology on employment—can be ascertained only through a continuing series of spot checks at various stages of the business cycle and in varying periods of market demand for the particular product.

The need for a continuing series of interviews with a permanent panel of workers and managerial personnel arises not only in the research on automation but in every aspect of labor-market analysis. Too many of our studies on geographic mobility, for example, have been cross-sectional in nature. Such studies, circumscribed by a brief period of investigation, may very well lead to incorrect conclusions about the career-mobility patterns of workers and their employment fate following technological displacement.

Although most labor-market surveys, including those concerned with workers displaced by technological change, have attempted to ascertain the respondents' work history, validation studies indicate that memories are faulty and that only limited reliance can be placed on the workers' reconstruction of past periods of employment and unemployment. A continuous series of interviews in which the worker is questioned about his work situation at the time of each interview is the only fully reliable procedure for tracing the worker's employment and unemployment history over a long period of time.

The necessity of long-range research projects in assessing the impact of technology can be appreciated if we turn our attention to some of the traditional hypotheses about technological unemployment. All of us are familiar with the argument that there is no problem of technological unemployment, because, even though workers may be temporarily displaced, the great reduction in cost resulting from technological advance will open up a mass market for the product affected and thereby result in long-run reabsorption of the unemployed. Indeed, as in the case of automobiles, a considerable increase of employment over initial levels may occur. We have had few studies, inside or outside of governmental units, which have been sufficiently long-run in their perspective to reach a significant evaluation of this hypothesis.

Similarly, we have the traditional argument that there is no such thing as general technological unemployment because the machines which displace labor in one industry or establishment must be produced by labor in some other industry or establishment; therefore, total employment has not been reduced by the introduction of mechanization. This hypothesis, too, can be tested only by research of a greater geographic and temporal scope than has been customary in the labor market field.

Finally, we have the common proposition that the employment implications of technology will be contingent upon the stage of the business cycle and the rate of economic growth at the time of the introduction of the technological advance. This very important question, which is merely one aspect of the broader series of questions relating structural change to over-all levels of economic activity, can only be approached through a research survey which is sufficiently long-run to cover the various phases of the business cycle.

Thus, I would urge the Departments of Labor, in the United States and Canada, to resist the pressures of politics and the newspaper headlines that force them toward a complete research concentration on the immediate and the ephemeral. If we

are to make a significant contribution to knowledge on the manpower implications of technological change, it will be necessary to avoid these short-run pressures in favor of continuing long-run surveys on both the micro and macro-economic levels. The universities, it should be noted, are by no means exempt from such pressures toward concentration on short-run research objectives; and the foundations have sometimes been as eager as legislators to find quick answers to current problems. And yet, the knowledge required for intelligent policies to meet immediate problems can often be forthcoming only as a result of long and continuous basic research. This lesson which can be learned from the physical sciences is only beginning to influence labor market research.

Research on the Significance of Structural Unemployment

The Departments of Labor have also been somewhat deficient in the effort to evaluate current arguments about the causes of recent unemployment. We are all familiar with the basic framework of this controversy and its implications for public policy. Even though there appears to be some approach at a compromise on this issue in the last several months, a difference in emphasis is still quite noticeable. Many general university economists in both countries and the Council of Economic Advisers in the United States have been prone to play down the importance of structural change as an explanation of increases in unemployment since 1957. The economists with the Department of Labor, and to some extent the Federal Reserve System, on the other hand, have given much more emphasis to structural causes and, therefore, to labor market policies designed to combat structural deficiencies. It is significant that neither Mr. Francis nor Mr. Brandwein, in appraising the impact of technological change, have given much consideration to the effects of inadequacies in aggregate demand. If we are to come up with answers in this controversy, it will be necessary for us to know the answers to some of the following key questions:

(a) Is the rate of technological advance and productivity increasing in particular establishments and industries? Mr. Francis talks about the "technological revolution" which has occurred in the last ten or twenty years and finds a demonstration of its impact in occupational shifts during this period. But the Council of Economic Advisors in the United States has stressed the fact that national productivity is not higher now than it has traditionally been in this country. And, therefore, the Council concludes that technological change should not be considered a major cause of the increased rates of unemployment since 1957. The obvious need here is for more detailed studies of technology and productivity advance in particular establishments and industries in order to determine whether it is the *varying rates* of productivity increase—which may be cancelled out in national totals—which is contributing to accelerated structural change and increasing unemployment.

(b) Is the technological change of recent years more or less labor-saving than it has been in the past? This, too, is a crucial question in the appraisal of the current causes of increased unemployment, and calls for more detailed research in particular plants and industries before any definitive answers can be given.

(c) Is labor mobility decreasing? Many persons who stress the importance of recent structural change have

noted the declining long-run rates of labor turnover in American industry and have pointed to such factors as private pension plans, seniority provisions and increased home ownership as inhibitors of labor mobility. At the same time, the Council of Economic Advisors, on the basis of census data, has concluded that geographic mobility, at least, has not declined in recent years. This is an important area of inquiry since changes in mobility propensities, both before and after technological displacement, will have significant implications for the long-run impact of technology on employment. Mr. Francis appears to be convinced that private pension plans and home ownership are important in reducing labor mobility. Other studies of the relationship of these factors to mobility have not borne out this conclusion, however. The forces inhibiting labor mobility are so varied and so powerful that pensions and home ownership may be of minor significance.

(d) Is unemployment more or less concentrated geographically, industrially, and occupationally than in previous years? Those who stress the significance of structural factors tend to give great emphasis to depressed areas and other pockets of unemployment. But a recent study by the Council of Economic Advisors shows that the national dispersion of unemployment geographically is greater now than it was ten years ago. Here, too, much more research is needed on the basis of more reliable data than has been available in the past.

(e) Are job vacancies increasing along with unemployment? Both Mr. Francis and Mr. Brandwein appear to imply that this is the case in the emphasis they give to the shifting skill needs and occupational change under the impact of technology. And yet the Council of Economic Advisors has concluded—on the basis of rather scanty data—that job vacancies are not increasing. Although Mr. Francis' material seems to support the notion of shifting skill needs, we cannot be certain that workers have actually shifted from one occupation to another. The changing occupational totals may be explained by retirement and death on the one hand and by the occupational choice of new entrants to the labor market on the other. We must also note the contrary findings of Professor Bright in any evaluation of the assumption that automation inevitably results in higher skill needs.

It is notable that most of the research in the effort to find answers to these questions has been conducted not by the Department of Labor but by the Council of Economic Advisors. Some serious doubts have been raised concerning the adequacy of the data and research techniques employed in this research. Certainly it is anomalous that the Departments of Labor, which have been traditionally concerned with structural analyses of the labor market, should trail behind other governmental agencies in the research required for an evaluation of the "structural versus aggregate demand" controversy.

RESEARCH ON THE POLICY RESULTS

Policy Implications of Labor Market Research

Mr. Francis and Mr. Brandwein have both pointed to policies which stem from our current research on the effects of technological change. These policies are now fairly widely accepted by students of the labor market. They focus on the needs for re-education of those in the lower-skill strata of the labor force and for improvements in retraining programs

for unemployed workers and those vulnerable to technological displacement. Stress is also given to the need for relocation of unemployed workers from depressed areas and for an enhanced role to be played by the Employment Services in matching labor supply and demand.

Policies of this type have been urged in hearings before Congressional committees, in academic publications and in reports by government agencies for the last several years. It is encouraging to note that these recommendations have finally begun to bear fruit in retraining legislation in Canada and in the Area Redevelopment Act, Manpower Development and Training Act and the Trade Expansion Act in the United States. Although we still find it politically "dangerous" to talk about relocation allowances, a hopeful sign is found in the inclusion of a provision for relocation allowances in the Trade Expansion Act. It is significant, however, that these allowances have not yet been implemented.

Research on the Evaluation of Labor Market Policies

Since these labor market policies have just been initiated, and are still under attack in some quarters, it is vitally important that research be conducted to evaluate their effectiveness. Neither of the Departments of Labor appears to be doing enough along this line.

The experience with government-subsidized retraining for unemployed workers in Canada, and under the Area Redevelopment Act and Manpower Development and Training Act in the United States, must be evaluated from the standpoints of their employment effects and contribution to long-run economic growth. Although the agencies given the responsibility for these programs are attempting to maintain some continuing check on their effectiveness, little attention appears to be given or planned concerning such key questions as the following:

(a) What is the relationship of retraining to the relocation of workers? Are retrained unemployed workers in depressed areas more prone than nontrainees to move to areas with a better balance in the labor market, and if so, are they more likely to find employment than nonmobile workers?

(b) What changes are required in the occupational content of retraining programs at various levels of national unemployment and stages of economic growth? It is not likely that the types of courses which are found to be suitable in the present state of the economy will still be suitable as we approach full employment.

(c) What is the relationship of the on-the-job training provisions of the Manpower Development and Training Act to the more traditional institutional training in vocational schools. Under what circumstances can on-the-job training be made more effective in creating jobs for unemployed workers?

If we are to institute an intelligent policy of relocation allowances for unemployed workers, we must know much more about the employment experience of unemployed migrants. Where do they move, how do they move, why do they move, what are the gains and costs of their movements? How would a government subsidy in this field affect the geographic allocation of labor resources?

With regard to the role of the Employment Service, as an important labor market intermediary in the aftermath of technological change, we must add more research on the effectiveness of present procedures. How

can we obtain greater employer use of the Employment Service facilities? How can we bring about improvements in the geographic clearance procedures? How can we obtain, and utilize effectively, more data on job vacancies through the Employment Service?

Mr. Francis has stressed the need for research on the effects of such private programs as supplemental unemployment benefits, severance pay, pensions and seniority on labor adjustments following technological displacement. I can heartily concur in the need for more intensive research along these lines. Even some of the commonly held views on the relationship of these programs to labor mobility are open to question. As we have previously noted, there is little established proof of the proposition that private pension plans constitute a serious impediment to mobility. Mr. Francis speculates that SUB and severance pay may encourage mobility by permitting the worker to investigate labor market opportunities without a sense of desperation. Our own analyses indicate that these private payments may very well discourage a worker in his search for employment, especially in other geographic areas, until the private benefits have been exhausted. Unemployment compensation and extended benefits may play the same inhibiting role.

Along this line, much more work must be done in evaluation of the so-called "automation funds" which appear to be emerging in larger number from the negotiations of union and management. Thomas Kennedy's recent work on the subject suggests that these funds have given rise to unduly optimistic expectations. There is little proof, to date, that they have greatly aided the unemployed.

Basically required in our research on the labor market aspects of technological change is an appraisal of the extent to which government subsidies such as retraining allowances and relocation allowances, may counteract such "disincentives" in the search for employment as those embodied in unemployment compensation, SUB, severance pay and other payments designed to relieve the worker of an immediate search for employment. As Mr. Francis has noted, the complex of government disincentives and subsidies which now have been built in to the labor market threatens to reduce the role of wages to a minor position in allocating labor. The significance of wages in relationship to these other variables should be analyzed in great detail as part of our total appraisal of the functioning of the labor market.

Research on Policy Implementation

Another area of research which might very well prove to be the most worthwhile of all is an investigation of methods to bring about the implementation of policies stemming from research findings in the labor market. We may raise the question, what difference would an expanded program of research make in the practical initiation of policy measures? It should be noted that Canada and the United States collect more data and conduct more research on manpower and labor market problems than other industrialized countries, and yet they also continue to have the higher rates of unemployment. Even on the basis of the present research findings, we can form a well-defined judgment concerning policy needs. A general consensus could readily be reached among labor market analysts on what should be done to improve the functioning of the labor market and assuage the impact of

technological change. A study of the complicated relationship between economic needs and political processes might help to bring some of our recommendations to a fruitful policy conclusion.

In conclusion, it seems appropriate to raise the question of research personnel. Mr. Francis and Mr. Brandwein have outlined a highly ambitious expansion of research on automation and other labor market problems. Who is to carry out this research? We know that the government agencies are faced with increasingly serious shortages of professional research personnel. In the universities, too, other types of economic research compete with labor market analysis and currently engage the interest of the economics profession. As Mr. Brandwein notes, the Office of Automation, Manpower and Training hopes to expand its research program through an extensive series of university contracts. But there is a limited number of persons who are both interested and qualified to make meaningful research progress under such contracts.

This leads to a recommendation which is especially appropriate at a meeting of the Industrial Relations Research Association with its tripartite membership drawn from union, management and the public. If the required research program is to be carried out, much of it will have to be done by management and unions in their own jurisdiction. Management, especially, should be encouraged to put the same effort into research on their manpower problems as they now expend on product, market and scientific research. For them, the data are close at hand, and the problems of confidentiality of information which plague outside research investigators could be bypassed.

Having congratulated the speakers on the volume of research already conducted by their agencies and on the expansion of their research which they envisage, having urged them to carry out even more research along certain lines and having raised the question of how we are to find the personnel to conduct all of this research, I feel that I have now sufficiently beset them with contradictions to permit me to rest my case.

[The End]

ARRANGEMENTS FOR IRRA SPRING MEETING

The program for the Conference was arranged by H. D. Woods and Frances Bairstow of McGill's Industrial Relations Centre, and W. R. Dymond of the Department of Labour of Ottawa. They worked in cooperation with Charles Myers and the IRRA Executive Board. Professor Woods, Mrs. Bairstow and members of the newly formed Montreal IRRA Chapter handled the local arrangements.

SESSION II

Labor on United States and Canadian Railroads

Findings of the Presidential Railroad Commission

By PHILIP ARNOW

Associate Commissioner, Bureau of Labor Statistics, United States Department of Labor and former Executive Director, Presidential Railroad Commission

THE STUDY made by the Presidential Railroad Commission is the most extensive exploration ever made of the elaborate system of rules, practices and decisions that governs the manning of American railroads and the assignments and pay of the men who operate the nation's trains and engines. It is the first major review since the period of national control of the American railroads during and immediately after World War I.

The commission, a 15-member tripartite body, developed its findings, which were transmitted to the President in February 1962, through extensive public hearings, studies by staff and outside experts, observation trips and private consultations among the three groups of commission members. The issues before the commission resulted from a series of conflicting demands set forth in "notices" filed in 1959 and 1960 by the carriers and the unions under Section 6 of the Railway Labor Act. The 195 railroad companies before the commission operate 92 per cent of the rail mileage of the country and employ 94 per cent of the industry's employees. The unions were the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors and Brakemen, the Brotherhood of Railroad Trainmen and the Switchmen's Union of North America. Together, these organizations made up what are known as the operating unions.

Before describing the commission's findings on the substance of the issues before it, I should like briefly to mention the scope of the fact-finding process, particularly the studies which were carried on under the direction of the executive director and staff.

The commission's hearings, which took 96 days in all, produced a record of over 15,000 pages of transcript and over 20,000 pages of exhibits. In addition, there were photographs, slides, motion pictures and other documents, charts, visual presentations and models. This

record has not been printed; a summary index-digest to the record of the hearings, boiled down to 135 printed pages, comprises Appendix Volume I to the Report of the Commission.

The observation trips were made by the public members on the basis of itineraries developed by the labor and industry members. They covered several parts of the country and a great variety of operating conditions. They enabled the public members to see, at first hand, the operations involved in the dispute.

The commission's studies program was carried on concurrently with the conduct of hearings. It was developed in detail by a tripartite technical subcommittee established by the commission, whose members operated in consultative capacity to the executive director. With the cooperation of several agencies of the government, notably the Bureau of Labor Statistics, the Railroad Retirement Board and the Interstate Commerce Commission, and with the help of a number of outside experts, a total of 22 separate studies was made, all of which are included in Appendix Volumes II, III, and IV to the commission's report. The studies do not constitute findings of the commission, but are the work and findings of staff and independent experts.

The most ambitious of the studies was the series of intricate tabulations dealing with the pay structure of railroad operating employees. Because of the many elements that make up the pay of an operating employee, the summary averages of earnings reported monthly by the Interstate Commerce Commission were unsuitable for a comprehensive review of the wage structure. Pay distributions, as well as data which would give a full understanding of the way in which each element of pay contributed to final earnings, proved to be important. In addition to information on all elements of pay for three railroads, a special and somewhat unique sample was selected to throw light upon railroad operating employees' pay throughout the industry. In total, the sample consisted of about one and one-half per cent of the employees in the occupations and classes of services under study, with varying sample proportions for different occupations and classes of service. The sample, drawn from universe data in Railroad Retirement Board records, was distributed on a random basis over the last 26 weeks of 1960 with information being obtained for each employee for only one week. The results, when combined, gave a picture of railroad pay structure during the entire last half of 1960. Although it was a voluntary survey, the commission received 100 per cent cooperation from the carriers involved. Because of the complex inter-relationship among the different elements which comprised the rate structure, the technical features of the hundreds of desired computations and combinations of data proved so complicated that several machine-processing organizations, consulted about the study initially, threw up their hands at the possibility of undertaking the required work. The final tabulations, reproduced in Appendix Volume II to the commission's report, provide a wealth of detailed insight into the railroad wage structure never before available.

The commission's manpower study represented the first comprehensive review of employment trends and of the manpower characteristics of railroad operating employees. Detailed information on railroad employment trends, on age distribution and length of service, on rates of retirement, death and withdrawal and on unemployment and sickness benefits were

compiled by the Bureau of Labor Statistics, largely upon the basis of an extensive series of tabulations made to the commission's specifications by the Railroad Retirement Board.

Three studies were made of practices affecting operating employees in the industry. First, the operation of the Washington Job Protection Agreement and of other security arrangements affecting railroad employees subject to displacement as a result of mergers (which constitute some of the most extensive job security arrangements in the nation) were studied in detail by a member of the commission's staff with the cooperation of the Bureau of Labor Statistics. Plan provisions, actual experience and problems which emerged in administration were examined for the first time through studies of documents and field explorations. Second, seniority practices in the industry, as well as methods of combining seniority units in American industry generally and the legal aspects of seniority, were reviewed in a study jointly made by three members of the commission's staff. Third, a special analysis was made of the functioning of the National Railroad Adjustment Board, an integral last stage of the grievance machinery of the industry. These three studies, together with the manpower study, are contained in Appendix Volume III to the report.

Because the entire pay structure and a number of fringe benefits were in dispute, the commission authorized a review of pay and benefit practices in other industries—"outside industries" in railroad parlance. This series of reports, prepared by independent experts for the commission, includes new studies of the pay structures of the other transportation industries — airlines, trucking, intercity bus, urban transit and water transportation; an analysis of practices in the economy generally with respect to the handling of employee-displacement problems by collective bargaining; a summary of wage-incentive practices in American industry based on a review of the literature in the field; and a history and broad review of basic work hours and related benefit payments in the United States. A series of agreement-provision summaries relating to guarantees, severance pay, protection of employees in technological displacement, shift differentials, paid holidays, premium pay for overtime, hours of work and pay and special allowances for time away from home was prepared by the Bureau of Labor Statistics. All of these studies are included in Appendix Volume IV.

The commission's conclusions are set forth in its report, which is essentially the report of the five public members, Simon H. Rifkind, Chairman, John T. Dunlop, Charles A. Myers, Francis J. Robertson and Russell A. Smith. Separate views were set forth by the labor and management members. Labor was represented by James W. Fallon, S. W. Holliday, S. C. Phillips, H. F. Sites and A. F. Zimmerman. Management was represented by B. B. Bryant, T. A. Jerrow, Guy W. Knight, Daniel P. Loomis and J. E. Wolfe.

The Commission's Basic Approaches

The broad conclusions of the report were several: that a gap had developed between technology in the industry and work and compensation rules, and that this gap had not been closed by bargaining as hitherto practiced; that the rules governing the manning of engines and trains and the assignment of employees should be revised to permit the elimination of unnecessary jobs and, at the same time, to safeguard the interests of the individual employees adversely affected; that the entire complex and intricate system

of compensation should be overhauled; and that procedures for the administration of rules and the disposition of grievances should be revised.

The commission strongly urged that solutions to the issues be found within the framework of collective bargaining. It refused to recommend removal of the questions in dispute from the scope of collective bargaining and stated its belief that procedures for handling them within the collective bargaining process could be achieved. To do so, it was stated, involved a redefinition of the responsibilities of labor and management in this process, as well as new procedures. This approach was carried forward in the commission's specific recommendations for the disposition of disputes which might arise under a number of its substantive proposals, such as that concerning the consist of train crews, future technological change and the handling of inter-divisional runs. In each of these cases the commission recommended that the parties negotiate procedures under which disputes could be resolved expeditiously; its recommendations were based upon findings that the achievement of progress had been hampered by failure to resolve many specific problems in past bargaining discussions. The procedures suggested in these areas include agreement by the parties upon standards for the resolution of disputes and referral of residual disputes to arbitration under factual standards agreed to by the parties. To facilitate the process, the commission suggested the substance of standards to be used in these situations.

While the commission made many recommendations on the merits of specific issues, it viewed the specifics as matters that must be solved over a period of time, and set forth the view that railroad management and the operating brotherhoods should consciously plan the decade of the 1960's as a "period of transition and adaptation to the new arrangements . . . proposed." Thus, the recommendations for a comprehensive approach to the manpower problems of the industry involved a joint review of manpower matters, a gradual changing of retirement practices to include compulsory retirement, starting at age 70 and descending to age 65, the gradual achievement of changes in pay structure and proposals to solve the firemen issue and the crew consist issue over a period of years. Recognizing that there might be room for differences of judgment concerning the timing, the degree and the precise manner in which many of the adjustments should take place, the commission concentrated on the general direction of change, and strongly urged the parties themselves to set up machinery which would enable them to work out details.

The report listed four basic considerations that had governed the thinking of the public members:

(a) That the nation is entitled to a safe and efficient rail transport system;

(b) That management should be accorded reasonable opportunity to install technological improvements;

(c) That employees are entitled to work under a sound and equitable pay structure and under conditions which promote efficiency, safety and security; and

(d) That where improvements in technology leading to greater productivity adversely affect employees, adequate provision must be made for their welfare.

In commenting upon material presented to the commission concerning the industry's financial ability and its capacity to meet competition, the commission stated that its conclusions were not based on judgments concerning

ability or inability to pay. The directions to be taken in solving the problems before the commission, it said, did not depend upon an evaluation of the industry's finances. Views concerning finances might conceivably affect the pace of adjustments but not the directions which adjustments should take. The commission also stated that its recommendations would make a greater contribution toward harmonious labor relations in the industry if they were accompanied by the adoption of an integrated national transportation policy covering all forms of transport and a maximum effort by railroad management to become as efficient and imaginative as possible.

Manning Issues

In considering the manning issues before it, the commission first addressed itself to the over-all manpower situation in the industry, then to the use of firemen-helpers on diesel engines, the training of engine-service employees and the consist of train crews. It found that future prospects in the industry depended upon the ability of the railroads and their employees to give better service to the shipping and traveling public, and that more efficient manpower utilization was essential to better and more economical service. It found the employment of firemen-helpers in road freight and yard operations, except in rare cases, to be a significant source of over-manning, and found some over-manning as well in the case of train crews, principally involving road brakemen and yard helpers. It recommended a series of steps designed to achieve better manpower utilization and to take care of employees adversely affected.

In the case of the firemen-helpers, after review of evidence relating to all kinds of operations, the commission concluded that it had no basis, in terms of operating safety or efficiency, for recommending any national or local rule respecting the employment of firemen on any category of road freight or yard operations. On the contrary, it found that there was a degree of over-manning so widespread as to warrant its conclusion that the carriers not be obligated to hire new firemen to man road-freight and yard diesels and be authorized to terminate firemen with less than ten years' service In the case of the crew-consist issue, it found much less over-manning with circumstances varying widely on individual runs, and a need for review of those individual runs by carriers and organizations before specific determinations could be made. It recommended standards relating to safety and burdensomeness of workload in the making of these determinations.

Similarly, different recommendations were made with respect to firemen and with respect to the brakemen who would be affected by crew-consist changes. Each recommendation was designed to deal with the specific adjustment problems involved in the light of the specific findings of the commission on the issue. The recommendation in the case of freight and yard firemen-helpers, in view of the major adjustment and elimination of skill involved, envisaged the retention of firemen with ten years' service, all of whom were in sight of being promoted to engineer positions within a reasonable number of years. A schedule of benefits based upon the Washington Job Protection Agreement, supplemented by substantial advance notice and retraining allowances, was provided for employees with less than ten years' service. Since brakemen affected by changes that could be made in the crew-consist rules on individual operations, after the detailed review procedure set forth, would still be eligible for employment as brakemen on other operations on their own rail-

roads, the commission recommended a doubling of present unemployment compensation benefits to tide them over any unusually long periods of unemployment, with the additional benefit costs to be borne by the carriers.

Finding that there was no manpower planning or consultation in the industry, and that despite the employment declines that had taken place over the years, 8,000 to 9,000 new operating employees were being hired each year in the entering jobs of firemen and brakemen, the commission recommended a system for regular manpower consultation and the granting of prior rehiring rights throughout the railroads for any employees who might be displaced by individual carriers, including those who would be displaced by the recommendations made by the commission. Recommendations for the institution of a compulsory retirement system beginning at age 70 and descending year by year until the retirement age was 65 would open up additional employment opportunities in the younger age categories with the retirement of older engineers and conductors; 22 per cent of the engineers and 15 per cent of the conductors were 65 or over. Under the commission's recommendations with respect to firemen-helpers, the present supply of firemen should provide an adequate source of new engineers for a number of years ahead. To insure that there is an adequate training program to supply future engineers, the commission recommended that the carriers and the engine service organizations establish a joint committee to develop a training program.

Lest its recommendations respecting manning be impeded by the operation of state full-crew laws, the commission expressed the view that its recommendations should have nationwide application and that state restrictions be lifted.

Technological Change

The issue of adjustment to technological change that was before the commission dealt not only with specific matters like the firemen and crew-consist issues and the changes in compensation rules proposed to permit adjustment to newer technology, but also involved the broad question of policy with respect to technological change in the future — change that might involve forms of technology and effects upon employees not yet discernible. The commission set forth its belief in both the benefits of technological progress and the need to protect employees who might be adversely affected by new technology. "Technological advance," it said, "is a public blessing. Our task is to make sure it is not a private curse." "As in the case of mergers," it went on, "the cost of a reasonable plan for the protection of employees affected should be a charge against the savings obtainable from such improvement."

The commission found that the key area of dispute impeding the achievement of the benefits of new technology lay in the resolution of rules or agreement issues incident to technological change, such as seniority arrangements, the setting of job rates if job content were changed, the allocation of work among crafts or other working conditions. It recommended that the parties, through the process of collective bargaining, agree upon procedures, including the possibility of arbitration, to resolve disputes over such rules or agreement issues when protracted dispute might impede the introduction of technological change or the realization of its benefits. Under the recommendation, two matters would be excluded from such consideration and arbitration: the question whether technological changes were to be introduced — the commission affirmed management's right in this regard—

and the question of the protection to be afforded to displaced employees. These were regarded as matters that should be covered by agreement in advance. The form of protection was specifically recommended in the commission's report, and was substantially the same as that recommended for firemen-helpers with less than ten-years' seniority.

Compensation Issues

The range of compensation issues before the commission involved a myriad of complexities and interdependent factors never before involved in one wage structure review in a single proceeding. Some of the main elements under review were the operation of a system that had once been established to provide incentive to employees; a wide range of internal equities and inequities among crafts and among many different kinds of work under many different conditions of work; major questions of overtime compensation in a system which did not pay overtime on the basis of hours worked; a system of limitations upon earnings through the device of mileage limits as well as a system of earnings guarantees, in some cases administered on a mileage rather than an earnings basis; a complex wage-rate system involving intricate special allowances and systems of rate graduation and a system of selection of assignments by seniority. No one of these factors could be considered separately from the others because of their interdependent effects upon employee earnings. In addition to the wage compensation questions proper, there were issues of hours reduction and accompanying rate adjustment, and issues involving fringe benefits—holiday pay, night-shift differentials and payment for time away from home station—all of which were also intertwined with wage structure considerations.

Impressed with and disturbed by the unusually long hours which many railroad operating employees worked, the commission recommended that the present maximum limits on hours be shortened from 16 a day to 14, and eventually to 12, and that overtime pay be instituted for hours worked over eight where it is not now paid for such hours. A series of recommendations was made to modernize the pay structure, including: the elimination of the dual basis of pay in local freight service and the substitution of a daily rate system; a basic revision of the dual system in road-freight service so that pay would be based upon miles run plus hours worked in substitution for the present alternative method which frequently results in long hours with no overtime pay; compression of the vast differences that now exist in compensation by increases for a large proportion—as many as 75 per cent —of the employees involved; related adjustments in the systems of extra payments or "arbitraries," and in the systems of guarantees and limitations.

Since the compensation question before the commission was revision of wage structure rather than an adjustment in the general wage level, the commission held the net effect of its proposals, in terms of immediate impact on earnings, to an increase of approximately 2 per cent which it deemed to be within the usual "drift in earnings" that is involved in revisions in pay structures as distinguished from upward adjustments of the structure. The commission strongly recommended that the parties establish joint continuing machinery for continuing work on the wage structure, and suggested that they might themselves want to make more extensive wage rate and hours revisions which would involve the allocation of greater sums of money than

are usually used in structural wage readjustments.

The commission tried to find a means of applying the "red circle" principle to protect the earnings levels of employees who would be affected by cuts in rates. This group consists primarily of over-the-road freight and passenger employees in senior positions who are working relatively short hours. The commission was unable to find a suitable means of applying the "red circle" principle essentially because employees are paid for the performance of specific assignments rather than on an hourly, daily or weekly basis, and because these assignments are subject to change as a result of many circumstances, including the operation of the seniority system. It also found, however, that for a number of reasons the results in this industry would be different from those in industry generally: senior employees could use their seniority to select other runs now made more attractive by the commission's recommendations; a number of senior employees may be expected to retire, leaving opportunities for promotion to preferred runs or assignments; increased lengths of runs and new mileage or hours limitations flowing from other recommendations of the commission would permit the maintenance of weekly earnings in many cases.

The fringe benefit recommendations were made in the light of the background of each issue in the industry. Holiday pay was given to employees who are paid on a daily basis without a mileage component in their basis of pay or who would be so paid under the commission's pay recommendations. It was denied to employees who would continue to be paid on a mileage basis. Similarly, it was not recommended that a night-work differential be adopted in view of a finding that the nature of operations reflected night work in the rate structure to some degree, and in view of the complications that would result from the fact that senior employees had choice of shifts. Provision of away-from-home terminal expense was recommended, after consideration of practices in the industry and in other industries, when employees were released from duties away from their home terminals for five hours or more.

Employee Assignment Issues

The two major employee assignment issues before the commission involved the matter of interdivisional runs and the question of the dividing line between road and yard service.

With respect to interdivisional runs —such as operating runs covering more than one seniority district—as was the case with the crew-consist and technological-change issues, the commission found it necessary to establish standards and a terminal procedure in the event that negotiations did not resolve the issues. It set forth recommended standards which would govern the institution of interdivisional runs and the protection of employees who might be affected by changes in division locations. The standards that might be subject to factual determination or decision by a neutral, in the event that the parties could not agree, were burdensomeness of work, distribution of mileage among divisions affected, and a prohibition against changes requiring unduly frequent home relocation. Employee protection was granted in a manner tailored to the key hardship that might emerge—the payment of moving allowances.

The recommendations with respect to road and yard service permit some additional work to be done by road crews in situations in which it is clear that there is not sufficient work for a

yard crew, or where yard crews are not on duty. These further dividing lines are to be incorporated in a new national rule which would be subject to the usual grievance procedure.

Concluding Observations of the Commission

In its concluding observations, the commission touched upon a number of matters which had emerged during the course of its review of the many issues before it. It called for more modern and professional attention to the labor relations function within management, to mergers among the employee organizations, to a review of the operations of the National Railroad Adjustment Board and to reappraisal of the need for public financial support of neutrals used in deciding cases involving the application and administration of agreements. Above all, it repeated its emphasis upon the parties' establishing continuing joint machinery to insure that a transition to a new state of affairs in the industry proceeds smoothly and expeditiously.

[The End]

New Technologies and Changing Manpower Requirements in Canadian Railroads

By PHILLIP COHEN

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I PROPOSE to approach the subject of new technologies and changing manpower requirements on Canadian railways through the findings of a study conducted by the Department of Labour[1] in the summer of 1961 concerning the impact of technological change on manpower requirements in the Maritimes area of the Canadian National Railways. In this context, the Maritimes area consists of the three Atlantic provinces of Nova Scotia, New Brunswick, Prince Edward Island, and a small number of subdivisions in eastern Quebec.

Because the Canadian National provides most of the railway transportation services in the Maritimes area, the findings will have the advantage of being representative of that region. Another advantage of focusing on the Maritimes is that it is an area where the major technological changes have occurred earlier than in other parts of the Canadian National system and thus a clearer picture can be gained of the impact of such changes on manpower. The Maritimes experience is therefore a useful one in providing a guide to the possible impact of technological change in other regions of the Canadian National and in the railway industry generally.

The study covers the period 1948 to 1960. The year 1948 was selected because it marked the beginning of diesel-locomotive operation and, therefore, provided an excellent benchmark for comparison with 1960 when the dieselization program on the C. N. was completed.

[1] Canada, Department of Labour, Economics and Research Branch. *Technological Changes and Skilled Manpower: The Railway Industry—Maritimes Area of the Canadian National Railways,* Ottawa, 1962. To be published. This report was prepared by Mr. P. R. Schweitzer.

My analysis will be confined, wherever possible, to railroad operations proper, which include express and road transport, but exclude hotel and communications operations. It will be further confined to those technological changes that are internal to the railway industry, realizing of course, that technological changes occurring in other areas of transportation and those industries supplying the railways may also significantly affect employment in the railway industry and vice versa. For example, although intercity ton miles for all carriers increased by almost 60 per cent between 1948 and 1960, the railway's share fell from 67.5 per cent to 46.8 per cent. In contrast, road transportation increased its share from 6 per cent to 9.9 per cent and oil pipelines from 0 to 12.3 per cent.[2] Similarly, in the case of intercity passenger miles, large gains were registered by airlines and private automobiles at the expense of the railways.

I shall be concentrating in this paper on manpower changes stemming from a changing technology and shall, for the most part, be excluding from the discussion the wide range of adjustment problems that have been thrown up by technological change or the actual adjustments made by management, labour unions and workers to the new situation. I should only like to note that institutionalized arrangements between management and labour play an important role in facilitating the needed adaptation and mobility which technological change makes necessary. I have reference here to such things as transfers, seniority, jurisdictional lines, job classification, etc. Most of the existing arrangements have been developed for good and sufficient reasons, but the new problems that are emerging may require a fresh look at how these institutional factors can be improved to facilitate the effective adjustment of workers to change.

Changes in Technology

I should like to outline very briefly the notable technological changes that have taken place in the railway industry in the Maritimes so as to provide a context for the statistics I shall present later on regarding changes in productivity, employment, and occupational structure.

The **dieselization program** started on a systematic basis in the Maritimes in 1950. It attained greater momentum in other regions in 1952. By 1958, it was practically completed not only in the Maritimes but in the other regions as well. Generally speaking, diesel engines achieve higher speeds, haul heavier loads, have greater operating flexibility and require less maintenance than steam engines. The impact of dieselization on servicing and maintenance personnel has been pronounced and will be dealt with at greater length in the discussion of shop employment.

Although dieselization was by far the greatest factor in improved efficiency, centralized traffic control also contributed to the more efficient operation of trains.

Centralized traffic control is essentially a system of controlling train movements by means of signals and power-operated switches from a central location. It is usually confined to single track lines.

In the Maritimes, a relatively large proportion of the mainline track has been converted to centralized traffic control and this is to be continued in the coming years.

Some of the advantages of centralized traffic control are speedier movement through yards, reduction of tractive

[2] *Daily Bulletin,* Ottawa, Canada, Dominion Bureau of Statistics, February 4, 1963.

power requirements, reduced idle car time, elimination of stops and a reduction in the maintenance of road beds and signals.

The tremendous changes that have taken place in the **mechanization of ways and structures work** have had the greatest impact on manpower, next to dieselization.

Striking evidence of the growth of mechanization in ways and structures work is that the C. N. inventory of machines used for this purpose in the Maritimes rose from 173 units in 1950 to 643 in 1960.

The use of **new and improved materials** has also contributed significantly to changes in both the level and composition of ways and structures employment over the period 1948 to 1960. These include the use of treated ties (which have a much longer replacement cycle), heavier rail, and crushed rock ballast.

Mechanization and better quality road beds have permitted certain organizational changes in ways and structures repair and maintenance work, which have resulted in reduced labour needs. For example, large floating gangs are now used to service a region and these perform the work by moving quickly from one area to another by means of motorized transport. It is therefore possible for a given number of men to control a larger section of the track than previously.

Productivity data reflect the steady advance of technology in maintenance of ways and structures operations. In 1948 total man-hours per equated track mile[3] were 2,423 compared with 1,196 man-hours in 1960.

Electronic data processing has been another major change in the industry. In the Maritimes area, the conversion to EDP began in 1956, with the shift of payroll operations to EDP. By the end of 1960, converted operations included capital accounting, accounts payable, car tracing and car accounting, revenue accounting, labour cost distribution, and various other tasks.

Of all the technological changes that have become available to the railroads during the 1950's, one of the most far-reaching potentially, next to dieselization, is the **humpyard.** The modern humpyard is probably one of the nearest approaches to complete automation on a large scale that is used in train operations today.

During the period covered by this paper, no such yards were in operation in the C. N. system. The first one was established on an experimental basis in the Maritimes area in Moncton, N. B., late in 1960. Shortly after, a much larger and more advanced yard became operational in Montreal, and several others are now in various stages of planning or construction throughout the system.

The principle of the humpyard is a fairly simple one. When a train arrives in the receiving yard, a switching locomotive takes over and pushes a series of freight cars up a grade or "hump," where the cars are automatically uncoupled, and descending by gravity, the cars are switched into various classification tracks. The movement of the cars down the grade and into the classification tracks is controlled, both as to speed and direction, through remote control. Various advanced electronic and other controls are used in the humpyard, including television cameras, radar, radio communication and computers.

[3] A weighted average of various types of track mileage normally used to compare maintenance expenditures.

Humpyards are usually constructed to handle a considerably larger volume of traffic than the old flat yards they replace and, consequently, yard employment is affected. For example, the old flat yards in Moncton had a total capacity of about 3,450 cars. The new yard has a total capacity of about 4,300 cars, which can be expanded to 7,600. The Moncton yard is capable of reducing train make-up time by as much as 75 per cent. A considerable reduction in yard engine hours and engine crews is possible—up to 60 per cent depending on traffic conditions. Train time through the Moncton yards has been cut 60 per cent from ten hours to approximately four hours.

Since the humpyard in the Maritimes area had not become fully operational at the time of the study, it is not possible to indicate what the manpower effects of this change have been. It can be expected, however, that it will result in additional requirements for supervisory personnel and in the repair and maintenance of signal and communications equipment. Engineers, firemen, switchtenders, yard labourers, car checkers and other operating personnel are likely to be adversely affected. Although the likelihood is that humpyards will result in reduced employment, the level of employment should remain more stable than in the case of flat yards. The experience has been that manpower requirements once established can be less readily reduced for operational reasons than in the case of flat yards. Fluctuations in traffic will, therefore, have relatively little influence on employment levels in this area.

Another technological change which has only barely begun to be implemented and which should have broad manpower implications is that of **integrated merchandise services.**

Merchandise services, as a change in technology, can be characterized as an organizational change. The term denotes an integrated transportation service that makes full use of the present state of technology in the railway industry. The idea envisages a system of transportation where each medium of transport is most effectively utilized. This means that goods in car-load lots will be moved by rail over long distances to centrally located points, from which the goods will be distributed in less than car-load lots by truck within an area surrounding the central distribution point. Under this plan, passenger traffic will also tend to be concentrated in larger centres, and buses or self-propelled railway cars will convey passengers to their ultimate points of destination within the district served by the central point.

It is evident that this plan foreshadows the closing of local small stations to some extent and the abandonment of many branch lines.

Up until the time covered by this paper, integrated merchandise services had made comparatively little headway in Canada. In the Maritimes, some branch lines had been closed, some shed operations consolidated, a considerable number of local freight runs eliminated, and a couple of stations merged into a larger station. Present regulations—both federal and provincial—stand in the way of the plan in its totality. There are, however, a great number of truck runs in the Maritimes which, over the years have largely taken over the role played by the local way freight train. It is significant that the Royal Commission on Transportation viewed with favour the development of an integrated transportation system. While the full implementation of such a plan is still some way off in Canada, largely because of regulative barriers,

the trend strongly suggests that it will eventually come into existence.

An important element of integrated merchandise services is the trailer-on-flat-car method of transportation, commonly known as **piggy-back.** Piggy-back operations have increased rapidly in recent years and can be expected to expand still more, regardless of whether a truly integrated system of transportation comes into being. The tonnage carried by piggy-back in Canada in 1960 was 8.6 per cent higher than in 1959 and revenue was 23 per cent higher. In the Maritimes, the increase was even greater —piggy-back tonnage doubled between 1959 and 1960, and 1961 data show a further impressive increase.

Piggy-back exemplifies another new trend, that of **containerization,** the purpose of which is to eliminate as much handling of the goods as possible and thus to speed up their movement.

An integrated transportation system, piggy-back operations, and further advances in containers, in so far as they result in increased efficiency and lower prices, will probably favourably affect the demand for railway transportation services. Whether this increased volume will be sufficient to offset the further inroads of technological changes on employment levels is difficult to judge at this time.

Many changes have taken place in improved equipment and materials which cannot be discussed here because of limitations of time. A few examples will suffice—special-purpose cars, rail liners or "Budd" cars, larger capacity freight cars, steel wheels in place of cast iron wheels on freight cars, and steel freight cars. A major effect of these changes, so far as manpower is concerned, is a reduction in maintenance requirements.

The technological changes described are not exhaustive by any means. The large-scale changes, however, stand out as the ones that have had, or will potentially have, the most pervasive, as well as the most significant, impact on employment in the railway industry both quantitatively and qualitatively.

Because the effects of these technological changes are diffused throughout the system, it is most difficult, if not impossible, to measure the total manpower effects, both direct and indirect, that can be ascribed to each change. All that can be attempted here will be to provide at least a rough idea of how these changes have affected total labour demands and the occupational structure.

Productivity Changes

The over-all effect of technological change is most readily observed through global productivity data, since improved production technology manifests itself through changes in the productivity ratio.

In the Maritimes, car miles[4] — a physical measure of output—rose from an index of 100 in 1948 to 114 in 1960, an increase of 14 per cent. Gross ton miles[5]—another physical measure of output—were almost 20 per cent higher in 1960 than in 1948. Revenue units,[6] however, increased at a slower rate over this period—almost 7 per cent.

Labour input per car mile fell about 34 per cent, in terms of man-hours worked. The advantage of using man hours worked as a measure of labour

[4] A car mile is a unit of car equipment moved a distance of one mile.

[5] Number of tons (2,000 lbs.) moved one mile in road freight or passenger trains.

[6] A measure of revenue output consisting of revenue ton miles and revenue passenger miles in the ratio of 1:2, which approximates the relationship between the two on a revenue basis. A revenue ton mile is the movement of a ton (2,000 lbs.) of revenue freight one mile. A revenue passenger mile is the movement of one paying passenger a distance of one mile.

input is that it reflects variations in hours of work during the period under review. If the general category of workers is excluded—which is made up largely of white-collar and service workers — the decline in man-hours worked per car mile is closer to 37 per cent.

A striking feature of the productivity data is that the increase in productivity in the post-1954 period, as measured in man-hours per car mile, was much more dramatic than in the earlier period. Between 1948 and 1953, man-hours worked per car mile only fell from an index of 100 to 94, but between 1954 and 1960 it declined sharply from 93 to 66, indicating a very rapid rise in productivity. In the post-1954 period, this increase occurred in two sharp bursts—the first occuring between 1954 and 1955 and the second, which was even more pronounced, between 1958 and 1960.

Larger productivity gains have been achieved in the Maritimes region than in the C. N. system as a whole. This may be due to a number of factors, not the least important of which is the fact that changes in technology were introduced earlier and more intensively in the Maritimes.

Employment Changes

Total employment in the Maritimes region fell from an average of 16,600 in 1948 to 13,900 in 1960, that is by 16 per cent. Between 1948 and 1958, years in which physical output was approximately equal, total employment fell from an index of 100 in 1948 to 89 in 1958.

Technological change had its greatest impact on workers employed in the Equipment Division (that is, maintenance) followed by Ways and Structures and Transportation Train (running trades). Between 1948 and 1958, when physical output was approximately equal, employment had fallen to an index of 69.7 in Equipment, 75.9 in Ways and Structures, and 77.6 in Transportation Train. Further evidence of the impact of technological change on employment is that although car miles increased by 15 per cent from 1958 to 1960, employment in these three functional divisions continued to decline.

The two divisions that showed a rise in employment over the period 1948 and 1958 were the General and Transportation Non-Train divisions —9.6 per cent and 12.4 per cent respectively. The division Transportation Non-Train encompasses employees who are concerned with the operation of trains but do not serve on them.

Changes in Skill Composition

There was a significant increase in the skill level of the labour force over the period under review. Skilled workers rose from 24 per cent to 28 per cent, semiskilled from 37 to 38.5 per cent, whereas unskilled workers declined from 38.5 to 33.0 per cent of total employment. Skilled and semiskilled workers accounted for roughly two-thirds of all employees at the end of the period compared with three-fifths in 1948. Estimates of skill composition are very rough and are based on an assessment made by officials of the company of the level of skill of 79 of the 84 occupational groups making up the classification structure.

A second classification of the skill composition was developed by the Department of Labour based on an assessment of 906 individual occupations for the years 1948 and 1960, which also indicates that skilled and semiskilled workers together increased substantially (from 48 to 56 per cent) as a proportion of total employment while unskilled workers showed a pronounced decline (from 51 to 43 per cent).

Occupational Trends

Technological change has had a marked effect on occupational structure. An important generalization that can be made from the data is that the greater proportion of occupational changes in all five functional divisions tended to occur in the period 1955-1960, a period when capital investment was rising per employee. This would tend to indicate that the rate of technological change was greater in the post-1955 period than in the earlier period. This is further borne out by the fact that employment levels in an overwhelming majority of the occupational groups declined in the period 1958-1960, at the very time when output rose in the order of 15 per cent.

Because of the limitations of time, it is not possible to review here all the occupational changes that took place. I shall content myself here with focusing on some of the highlights.

Of interest is the impressive rise in the proportion of professional and semiprofessional workers. Part of this rise is due to the fact that, because of decentralization, executive and professional functions previously performed at headquarters are now being increasingly performed at the regional level. There is little doubt, however, that, despite this, employment opportunities in the professional and semiprofessional categories have been increasing at a significantly higher rate than opportunities in other categories.

Of further interest are the changes in supervisory employment and in office and non-office employment. Supervisory employees[7] as a percentage of total employment increased from 6 per cent in 1948 to 8.4 per cent in 1960. Non-office employment fell from 90 to 87 per cent, a decline of 3.6 per cent. In contrast, office employment (including executives) increased from 10 to 13 per cent, for an increase of 31 per cent, notwithstanding the introduction of integrated data processing.

The use of diesels has had its main adverse effect thus far on the level of employment in the shops, that is in maintenance and repair work. Diesels require far less servicing on the road than steam locomotives and, what is more important, require less frequent and less extensive repairs in the back shops. Moreover, replacement parts are usually bought from the outside, whereas most replacement parts for steam locomotives were manufactured in the railway shops. Thus, employment in the shops has not only been affected by the need for less work at less frequent intervals, but also by a shift in the make-or-buy policy.[8] Consequently, it is not surprising that the only trade which achieved an increase in employment in the Equipment Maintenance division is that of electrician, while all the other trades associated with the manufacture and repair of steam locomotives, such as boilermakers, blacksmiths, and machinists, experienced marked declines.

The impact of other technological changes—for example, the new equipment and materials described in the earlier part of the paper, as well as improvements in shop methods over the years—has also had an impact on shop employment and helps account for the occupational changes that occurred. In this respect, im-

[7] Typical titles that were considered as supervisory jobs were supervisor, superintendent, train master, yard master, manager, inspector and foreman.

[8] Changes in the make-or-buy policy are not, of course, confined to locomotive replacement parts, but are in evidence in other areas of work as well. Although it would be desirable to trace the net effect (positive and negative) of such a policy on employment levels in the supply industries, the problem fell outside the scope of the study.

proved shop methods are of considerable importance. In the Moncton repair shop, output (measured in work units per man-hour) increased about 60 per cent in the period 1948 to 1959.

Dieselization has had effects on other classes of employees, some favourable some adverse. The decrease in freight firemen is a direct result of dieselization, although traffic declines have also played a part. Less directly, it almost certainly provided an added impetus to the introduction of centralized traffic control on single track lines, which resulted in reduced maintenance requirements in the Ways and Structures division. Furthermore, higher speeds and greater loads necessitate a heavier type of rail and a better quality road bed, which tend to increase maintenance-of-ways work. It is probably safe to say that dieselization has been an all-pervasive technological change with a potential even more far-reaching in its effect than observed so far.

Many other occupations have declined over this period. In Ways and Structures the two hardest hit groups were extra gang labourers and sectionmen. In Transportation Non-Train, agents and caretaker agents at small stations, general and freight-shed foremen, train dispatchers, and yard masters and their assistants all were adversely affected. In the Transportation-Train division, engineers, brakemen, conductors and firemen on both freight and passenger service all show marked declines over the period.

Of interest, as well, in any study of changing manpower requirements in the context of technological change are the growth occupations and the new occupations that have come into being.

Among the occupational groups that experienced growth in the 12-year period, the greatest expansion occurred among heavy equipment operators, such as steam shovel, bulldozer and electric-crane operators. Other broad occupational groups that more than doubled their employment levels are the professional and semiprofessional occupations, various types of instructors, yard supervisory occupations and machine operators. Specific occupations that more than doubled in number include professional engineers and assistant engineers, sales representatives, efficiency inspectors, engineering and technical instructors, crew dispatchers and routing aides, communication-equipment operators, buyers, electrical workers, loading-equipment operators, signal maintainers, roadmasters, crane operators and helpers, and grinder and wheel-press operators.

Of particular interest are the new occupations that have emerged, that is, those that did not exist in the Maritimes in 1948. These include managers (staff department or division), professional occupations other than engineering, and subprofessionals—such as technical assistants, statistical technicians, training instructors, computer personnel of various kinds, motor mechanics, and helpers on road-maintenance machines.

Some Implications of Technological Change

We have come to the point now where we can stand back and make at least some assessment of the implications of the new technology on changing manpower requirements.

Technological change has had an important effect on employment and has drastically restructured the workforce. The changes that have taken place in both white and blue-collar employment have had the general effect of shifting the skill and technical knowledge requirements upwards.

On the white-collar side, EDP has had a substantial impact on the kinds of management and staff personnel that

are being called upon to cope effectively with this new and important management tool. I have reference here to the application of EDP to operations research and its ability to produce management control information hitherto impossible or too expensive to develop.

EDP has also affected the routine clerical operations normally employing considerable staff. It has, at the same time, brought into being a number of new occupations—such as programmers and computer operators—which generally require a higher level of education and technical knowledge than has been demanded of clerical workers in the past.

Similarly on the blue-collar side, one of the main effects of technological change has been to reduce the need for unskilled workers and to place greater emphasis on more highly skilled personnel. For example, the mechanization of ways and structures has resulted in a pronounced shift away from the use of unskilled workers to semiskilled machine operators and skilled maintenance workers.

The concentration of shop staffs at fewer points, as a consequence of dieselization, favours the use of improved methods and organization of work in the shops, which in turn generates changes in skill requirements, very often upward.

Similarly, the installation of automatic humpyards, involving push-button controls, automatic retarders, etc., results in a reduced requirement for yard employees but, in turn, is accompanied by the need for a higher level of skills.

The growth occupations, therefore, are those generally calling for workers with more education and/or training, and this has implications for training programs within the railway industry and in the educational system outside it. To the extent that training and retraining can assist workers adversely affected by technological change, the railway industry, with its long tradition of training, is in a more favourable position to accomplish this than many other industries that lack this tradition.

Finally, the cumulative effects of all the changes discussed has meant that large numbers of employees have been faced with a serious disruption of their pattern of work, place of employment, skill, and in many instances with a loss of employment. This has confronted management, labour organizations and the workers affected with the serious problem of adjusting effectively to the dramatic changes that have taken place. I shall end on the promising note that a significant and notable result of the recent railway agreement reached with the non-operating unions is the setting up of a job security fund to deal with these problems of adjustment, which reflects an awareness on both sides of the need to find acceptable solutions to the human consequences of technological change. **[The End]**

The increasing sophistication of the computer will antiquate experience even in the middle and upper reaches of the corporate hierarchy. Such casualties will perhaps be provided for with other jobs and assignments —make work, perhaps—but like any manual workers whom technological change has outdated they will be down graded. At such time they will have to re-read, for their own comfort, the strictures which they once read to employes under them about the long-term benefits of technological improvements.—Neil Chamberlain of Yale University.

The Diesel-Firemen Issue—A Comparison of Treatment

A Discussion

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THE CRITICAL ISSUE in the current work-rules dispute between the American railroads and the labor organizations representing the operating employees is the one involving firemen on diesels.[1] The stakes on this problem alone are high for both parties: approximately 30,000 jobs and many thousands more employees are involved, with an annual payroll of about $250 million.[2] Only after an agreement is reached on the diesel-firemen issue is it likely that the parties will sit down to negotiate seriously the remaining work-rules problems.

The National Diesel-Electric Agreement

For a number of years after the introduction of diesel engines by American railroads in the late 1920's and early 1930's, only one man, an engineer, was generally used on diesel locomotives. In 1936, however, the Brotherhood of Locomotive Firemen presented a request to the carriers that firemen, or helpers, be used on all types of power in road, yard and other classes of service. The result of the negotiations that followed was the so-called National Diesel-Electric Agreement of February 28, 1937, which for all practical purposes required the use of a fireman-helper on almost all diesel locomotives in use at that time. When that agreement was signed an industry representative estimated that the application of its provisions would increase by approximately $445,000 the annual payroll costs of the railroads.[3] The firemen, in their journal, estimated that ". . . the operation of this agreement will mean the employment of some 700 additional firemen or helpers on locomotives that are now being operated with one man."[4] From 1937 to 1962 the problem of firemen on diesels has increased many-fold, as the industry has become almost 100 per cent dieselized. Between 1937 and 1961 the number of steam locomotives declined from 43,624 to 100; in contrast, the number of diesel locomotives rose from 218 to 28,150. Whereas about 700 firemen were involved on diesels in 1937, well over 30,000 are currently employed on such locomotives.

The Canadian Situation

The use of diesel locomotives in Canada did not start as early as in the United States. Diesel engines were

[1] See, for example, interview with Charles Luna, President of Brotherhood of Railroad Trainmen, in *Railway Age*, February 4, 1963, pp. 12-13.

[2] Various estimates have been made of the number of jobs involved and of the size of the annual payroll of diesel firemen. The estimates used here are based upon calculations made by the author from the ICC statement No-M-300, "Wage Statistics of Class I Railroads in the United States."

[3] Bureau of Information of the Eastern Railways, *Railroad Wages and Labor Relations, 1900-1946*, (New York, 1947), p. 108.

[4] *Brotherhood of Locomotive Firemen and Enginemen's Magazine*, March 1937, p. 147.

first purchased by the Canadian Pacific in 1943 and were used in yard service. Shortly thereafter, as a result of discussions with the firemen and the engineers, the company began assigning firemen to yard diesels. However, it was not until December 21, 1948, that the "diesel rule" was included in the collective agreement. The rule adopted was very similar to the provisions in the United States National Diesel Agreement of 1937.

In 1954, a little more than ten years after the first diesels were purchased by the Canadian Pacific, the company gave notice to the Brotherhood of Locomotive Firemen and Enginemen that it desired to amend the diesel rule to permit the operation of diesels without firemen. This company proposal was subsequently withdrawn, but it was seriously renewed in 1956. And in the same year the United States carriers, after about 20 years of operating diesel locomotives with firemen, proposed for the first time that the National Diesel Agreement of 1937 be amended so that management would have the right to determine when and if a fireman should be used. The year 1956 appears to have been the year of decision with reference to firemen on diesels. By that year 48 per cent of the Canadian Pacific's freight, 71 per cent of its passenger and 68 per cent of its yard service had been dieselized. In the United States 88 per cent of the freight, 91 per cent of the passenger and 93 per cent of the yard service had been dieselized.

The Canadian National, however, withdrew its 1956 proposal to change the diesel rule. The carriers in the United States also withdrew their 1956 proposal, as part of the settlement for a three-year agreement, which included a moratorium on changes in working rules. However, the Canadian Pacific, perhaps foreseeing increased difficulties with this issue as more time passed, refused to withdraw its proposal to change the diesel rule.

When negotiations and the recommendations of a conciliation board failed to settle the issue between the Canadian Pacific and the Brotherhood of Locomotive Firemen, a work stoppage was called by the labor organization in January 1957. The strike ended after a brief period, when the parties agreed to the establishment of a Royal Commission to investigate and report on the matters in dispute, and to renegotiate those parts of the collective agreement in the light of the commission's advisory report. On January 17, 1957, the commission was appointed, with R. L. Kellock as chairman, and the commission has been generally referred to as the Kellock Commission. Eleven months later, on December 18, 1957, after numerous hearings and much investigation the Kellock Commission handed down its report. The report held that firemen were not required on diesel locomotives in freight and yard service of the Canadian Pacific Railways, and recommended terms and conditions of layoffs for firemen on such diesels.

Three Categories for Firemen

During the course of the hearings before the Kellock Commission, the Canadian Pacific had submitted a proposal for protecting firemen against the consequences of loss of employment and seniority. The proposal established three separate categories for the firemen then employed. The first category included all firemen with a seniority date prior to April 1, 1953, exactly three years earlier than the date the Brotherhood was notified that the carrier intended to terminate the employment of firemen on diesel locomotives in freight and

yard service. The employment rights of these firemen were not to be affected; but when such firemen quit, retired, died, or were promoted, the vacancies created were not to be filled.

The second category included firemen with a seniority date between March 31, 1953, and April 1, 1956. Firemen in this group were to be offered alternative employment as trainmen or yardmen to the extent that such work was available. If they refused such employment, they were to be deemed to have resigned from the service; also, if they failed to exercise their seniority as firemen when work was available on passenger service in their seniority district, they would forfeit those rights. Those who held themselves available for alternative employment in their seniority districts were to continue to receive yardmen's or trainmen's wages during any and all periods they would have been employed as firemen, had firemen continued to be employed on diesel locomotives.

The third category included firemen with a seniority date later than March 31, 1956. These employees would have no rights to any job with the company, but would be given preference over new applicants for employment with the Canadian Pacific Railway.

The Brotherhood of Locomotive Firemen failed to criticize this company proposal in the hearings before the Kellock Commission. The commission, upon considering the proposal, indicated that it thought the proposal a fair one from the standpoint of the firemen. The commission went on to state:

"Had it not been made we might well not have gone so far to protect firemen from the consequences of loss of employment and seniority and we are unable to find any basis for recommending more generous terms."[5]

The Kellock Commission adopted the company's proposal as its recommendation to the parties. The Brotherhood, however, refused to accept the commission's proposal, and called a strike. Failing to get the support of the other operating unions, the Brotherhood called off the strike in three days, and in May 1958 signed an agreement with the Canadian Pacific, incorporating the recommendations of the Kellock Commission. Immediately, the Canadian National Railway reopened the issue, and after long negotiations the Brotherhood of Locomotive Firemen finally accepted the principle—at least in Canada—that firemen were not needed on diesel locomotives in yard and freight service. In April 1959 an agreement following the same pattern as that of the Canadian Pacific was signed with the Canadian National.

The Presidential Railroad Commission

On November 2, 1959, the scene shifted to the United States where the United States railroads submitted to the Brotherhood of Locomotive Firemen the demand for a rule which provided that the carriers have the unrestricted right to determine when and if a fireman will be used on other than steam power in all classes of freight and yard service. After a great deal of sparring, the parties agreed, on October 17, 1960, to an extraordinary procedure to deal with the issues. On November 1, 1960, a tripartite Presidential Railroad Commission was established to investigate and to submit recommendations on this and other issues.

The magnitude of the diesel-firemen problem facing the Presidential Rail-

[5] *Report of the Royal Commission on Employment of Firemen on Diesel Locomotives*, p. 26.

road Commission was significantly greater than that on the Canadian railroads. When the issue was finally settled by agreement in Canada, there were about 2,500 fireman jobs at stake on the Canadian Pacific and about 3,500 at stake on the Canadian National. In the United States there are more than 30,000 jobs at stake, involving approximately 45,000 firemen.

As implied by testimony of both the carriers and the Brotherhood before the Presidential Railroad Commission, the Canadian solution to the diesel-firemen issue proved to be rather lenient for the employees involved. According to the carriers, the number of firemen's jobs on the Canadian Pacific dropped from 2,515 to 1,975, a decline of only 21 per cent in about three years; and on the Canadian National the drop was from 3,457 to 3,049, a decline of only 12 per cent in about two years.[6] Canadian Railway Company witnesses at the hearings before the Presidential Railroad Commission indicated that they were dissatisfied with the slowness of this rate of attrition, and had agreed to it only because it seemed the expedient way to settle the dispute.[7] Referring to recent Canadian experience of diesel locomotives without firemen, witnesses for the unions pointed out that 98.9 per cent of road freight trips and 94.2 per cent of yard tours on the Canadian Pacific were still made with firemen; and the per cent of operations without firemen on the Canadian National was even smaller.[8]

At the Kellock Commission hearings the Canadian Pacific had estimated that ten years would expire before employees who were to be protected by the company's proposed procedure would be absorbed as passenger firemen or enginemen.[9] Based upon the evidence before the Presidential Railroad Commission one may infer that the process of eliminating the fireman from diesel locomotives in freight and yard service on Canadian railroads is much slower than anticipated. It appears very likely that the Canadian procedures will not eliminate the firemen from diesels within ten years.

Commission Recommendations

In the United States case, the Presidential Railroad Commission concluded, as had the Kellock Commission, that firemen-helpers were "not so essential for the safe and efficient operation of road freight and yard diesels that there should continue to be either a national rule or local rules requiring their assignment on all such diesels."[10] However, in considering what protective provisions and manpower adjustments were appropriate for the diesel firemen, the Presidential Railroad Commission was concerned lest the procedures for eliminating the firemen from the diesel locomotives drag out the final solution. The Presidential Railroad Commission stated:

"We do not favor a full attrition plan which would assure life-time employment to all firemen, regardless of age or length of service. It would not be in the interest of those younger employees who can be trained for other occupations and who can move to other jobs, to encourage their com-

[6] Carrier Exhibit 135, pp. 1, 7, as quoted in *Report of the Presidential Railroad Commission,* Appendix Vol. I, p. 50.

[7] Transcript 65, p. 2275, as quoted in *Report of the Presidential Railroad Commission,* cited at footnote 7.

[8] Transcript 65, pp. 9864-9865, as quoted in *Report of the Presidential Railroad Commission,* cited at footnote 7.

[9] *Report of the Royal Commission on Employment of Firemen on Diesel Locomotives,* p. 25.

[10] *Report of the Presidential Railroad Commission,* Washington, D. C., February 1962, p. 45.

mitment to a lifetime of unessential work. It would not be in the interest of the carriers who have a right to anticipate a more rapid adjustment to realistic manpower requirements. Finally, it would not serve the public interest in effective utilization of manpower in the operation of the Nation's railroads."[11]

The Presidential Railroad Commission indicated that dismissal compensation (of the type provided by the terms of the Washington Agreement of 1936 which is applicable to mergers and consolidations) would not be sufficient protection for many long-service employees. The railroads, it was felt, had a different obligation to the older and longer service employees than to the younger and shorter service employees in that occupation; the former had devoted a much greater part of their lives to one occupation, were less mobile and were less likely to find alternative employment than the younger group. With these considerations, the Presidential Railroad Commission recommended that firemen-helpers with ten or more years of seniority should have the right to exercise their seniority to work their turn as firemen-helpers. All other firemen could be separated or furloughed; and based upon the last date of active service, many of these firemen would be entitled to the schedule of allowances as set forth in Section 7 (a) of the Washington Agreement of 1936, or to the lump sum separation allowances as set forth in Section 9 (a) of that Agreement.[12]

Summary

Thus, the only firemen-helpers who would retain their jobs on diesel locomotives, under the recommendations of the Presidential Railroad Commission, are those with ten or more years of seniority. One proviso added to this employment guarantee was that all firemen-helpers in this group should be required to protect vacancies, that is, to accept employment as engineers, in passenger service or on other occasional runs to which the carriers assign firemen. A second proviso was that this right to a job as fireman-helper should continue until the firemen in this group reached the specified retirement ages in the proposed national retirement rule which the Presidential Railroad Commission recommended. This recommendation provided as follows:

". . . effective July 1, 1962[13] (a) that all operating employees who are 70 years of age or over should retire, except that no employee in the em-

[11] Cited at footnote 10, at pp. 47-48.

[12] Section 7(a) provides a monthly allowance equivalent to 60 per cent of the average monthly compensation of the employee in question during the last 12 months of his employment. The allowance is determined in accordance with the following schedule:

Length of Service	*Period of Payment*
1 year and less than 2 years	6 months
2 years and less than 3 years	12 months
3 years and less than 5 years	18 months
5 years and less than 10 years	36 months

Section 9 (a) provides a separation allowance in accordance with the following schedule:

Length of Service	*Separation Allowance*
1 year and less than 2 years	3 months' pay
2 years and less than 3 years	6 months' pay
3 years and less than 5 years	9 months' pay
5 years and less than 10 years	12 months' pay

[13] In the recommendation of the Presidential Railroad Commission, this date was footnoted as follows: "This date is selected as the date by which the parties shall certainly have reached agreement, and is used in this sense throughout this report." *Re-*

ploy of the carrier shall by virtue of this new rule be required to retire sooner than July 1, 1963, and (b) that the Mandatory retirement age shall thereafter be progressively lowered until it is 65, effective July 1, 1967, in accordance with the following schedule:

July 1, 1963—69 years of age
July 1, 1964—68 years of age
July 1, 1965—67 years of age
July 1, 1966—66 years of age
July 1, 1967—65 years of age

"Furthermore, in order to encourage retirements of all employees over 65 prior to July 1, 1967, the parties should negotiate arrangements for supplementary retirement benefits for this group. The parties should also consider procedures for preretirement planning and counseling for other railroad operating employees."[14]

If the carriers and the labor organizations accept the recommendations of the Presidential Railroad Commission, the final solution to employment of firemen-helpers on diesel locomotives will be reached much more rapidly in the United States than in Canada. The basic provision of the Presidential Railroad Commission recommendation permits firemen with ten or more years of seniority to retain their jobs on diesel locomotives; the others may be separated from the payroll or furloughed. Using the 1959 statistics that were before the Presidential Railroad Commission, there were 21,000 firemen with less than ten years of service out of a total of 67,000 firemen. This means that about 32 per cent of all firemen could be laid off immediately upon the adoption of the recommendations. Taking into account the Presidential Railroad Commission's recommendations on retirement would involve further decreases in the number of firemen on the carriers' payrolls. The retirement proposal sets the obligatory retirement age for firemen and engineers at 70 and then reduces the mandatory retirement to 65 over the next five-year period. Thus, all those who are currently 60 years of age or older will be obliged to retire within five years. Under this plan about 7,000 firemen will reach retirement age within five years, and an additional 16,000 will be promoted to engineers to replace that number of engineers who will be obliged to retire. This means that within five years of the adoption of the recommendation on retirement, an additional 23,000 firemen, or 34 per cent, will be off firemen-helper jobs on diesels.

Conclusion

The recommendations of the Presidential Railroad Commission would have both an immediate and a longer-run effect upon the number of firemen-helpers employed on diesel locomotives. Within five years after adopting the recommendations, the railroads in the United States would have reduced the number of firemen-helpers by about 44,000, or 66 per cent of the total—32 per cent by immediate layoffs and 34 per cent by retirement. The Canadian plan provides a much slower process—more nearly normal attrition. While the proposal in the United States is less lenient for the firemen-helpers, it does provide job protection to the long-service employees who are less mobile and less likely to find alternative employment; and it does provide some financial benefits to many of the younger employees who can be rather easily trained for other jobs and who can readily move to other employment. **[The End]**

(*Footnote* 13 *continued.*)
port of the Presidential Railroad Commission, p. 33.

[14] *Report of Presidential Railroad Commission,* p. 33.

SESSION III

Labour Relations Policy and the Building Trades in Canada

Juridical Extension and the Building Trades in Quebec*

By GERARD HEBERT, S. J.

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THE HISTORY OF LABOUR LEGISLATION in Quebec is scanned by three important landmarks, with a space of ten years separating each one of them: 1924, 1934 and 1944. In 1944, the Quebec Labour Relations Act was adopted,[1] similar in its spirit and in most of its elements to corresponding legislation passed at about the same time by federal and by other provincial authorities. All of these labour relations acts were inspired by the United States Wagner Act.

However, the other two most important pieces of Quebec labour legislation were modeled on European rather than North American systems. The Professional Syndicates Act of 1924[2] gave labour unions the possibility of obtaining legal existence for themselves. It also granted to their collective agreements the status of legal documents including the possibility of their enforcement by the courts. The national syndicates made extensive use of this act. On the other hand, the international unions remained suspicious of it, as they are of any legal recognition; in fact, they never asked to be recognized under this act.

The Juridical Extension of Collective Agreements

In 1934, the Quebec Legislature passed the Collective Labour Agreements Extension Act.[3] It was directly inspired by existing or proposed legislation in a certain number of European countries, especially by a law of the German Weimar Republic first enacted in 1918.[4] The present Quebec Collective Agreement Act, a misnomer, is still founded on the same basic principles as those of the 1934 act.

According to it, when the contracting parties (either a local union with a single employer, or any other arrangement, including a group of employers' associations with a group of different trade

* This paper is based on a Ph.D. dissertation submitted by the author to the Faculty of Graduate Studies and Research, McGill University, Montreal, April, 1963. The dissertation is entitled "L'extension juridique des conventions collectives dans l'industrie de la construction dans la province de Quebec, 1934-1962."

[1] Statutes of Quebec, 8 Geo. VI, ch. 30.

[2] Statutes of Quebec, 14 Geo. V, ch. 112.

[3] Statutes of Quebec, 24 Geo. V, ch. 56.

[4] International Labour Office, *Legislative Series*, 1928, Germany.

unions or councils of trade unions) have signed a collective agreement, either one or both of them may petition the Minister of Labour requesting that certain clauses, foreseen and spelt out in the act, become obligatory for all employers and employees of the same industry, in a definite region. This region may be the whole province or a limited area, such as a city.

On receiving the petition the Minister of Labour publishes it in the *Quebec Official Gazette*. Following this notice during a period of at least 30 days, he receives the objections of anyone who wishes to oppose the proposed regulations. Then, if he deems that the collective agreement has acquired a "preponderant significance and importance" in regard to the establishment of working conditions in the industry, he may recommend the adoption of an order in council or decree. By this means the appropriate clauses of the agreement, with the modifications deemed expedient by the Minister, will become binding on all the employers and employees of the industry in a defined area. The provisions of the agreement that may thus receive the "juridical extension" are those concerning wages, hours of labour, apprenticeship regulations, the ratio of apprentices to journeymen in an undertaking and, by virtue of an amendment enacted last year, social security benefits.[5]

After a decree has been adopted, the contracting parties must set up a joint or parity committee to police the enforcement of the dispositions contained in the order in council. The functioning of the joint committee and the supervision of the application of the decree by the joint committee's inspectors are financed by a levy of one half of one per cent, that may be imposed both on the wages of the workers and on the payroll of the employers, subject to the approval of the Lieutenant Governor in Council.

The Construction Industry in Quebec

From the very beginning of the operation of the act, the construction industry has had recourse very extensively to the juridical extension of its collective agreements. In the first few years only the building part of the industry was covered, but soon all types of on-site construction have come under the system, although slight variations are still to be found in the industrial jurisdiction of the various general construction decrees. There are now 16 such construction decrees regarding as many different geographic areas, the whole of them covering almost the entire province.

The construction industry in Quebec has very seldom used the Labour Relations Act. Until recently it appeared that it was not the policy of the Labour Relations Board to grant certification to building trades unions, except in those trades where the employer-employee relationship was relatively stable and where a shop was involved, as in the case of the plumbers, the electricians, or the tile and terrazzo workers; and in these cases the certificate was granted to a local union on a single-employer basis.

Although there now seems to be a tendency to ask for certification more freely, the examples are still scarce; the contracting parties of the general section of the Montreal decree have even written in their 1961 agreement that they would refrain from requesting to be certified during the life of the agreement. All that is required from the unions and the management organizations that petition the Minister of Labour for the extension of their contract under the Collective Agreement Act is that they be *bona fide* organizations.

[5] Statutes of Quebec, 10-11 Eliz. II (1962) ch. 42.

The trade union movement in Quebec is split mainly into two groups. For historical reasons, the national syndicates have developed alongside the local branches of the international unions. In the construction industry the two groups claim an approximately equal membership throughout the province, the international unions having a stronger foothold in Montreal and the syndicates in the rest of the province. The structure of the international building trades unions is well-known to all. The syndicates are also organized on a trade basis in Montreal and in Quebec City, with a building trades council bargaining on behalf of most of them. In the less populated areas the syndicates have developed on an industrial basis, with all the trades belonging to one single construction syndicate. This has, of course, a direct influence on the structure of the bargaining unit.

Impact on Labour and Management Organization

The decree system has had a definite influence on both management and labour organizations, although it is difficult to assess its exact importance.

On the union side it caused an unequivocal increase in the number of building trades syndicates during its first years of application, that is roughly between 1935 and the beginning of World War II. Since World War II, the impact on unionization is much more difficult to evaluate. In the day-to-day life of the union, the existence of a decree creates the following difficulty: the workers being protected by the decree and having to pay a levy to the joint committee do not see as clearly as they otherwise would the reason for joining a union. On the other hand, the existence of a labour organization is a requisite to the existence of a decree; without a labour organization there can be no collective agreement, and hence no decree. What has been in the long run the net effect of this situation on unionization? No unequivocal answer to this question appears possible.

A tentative one could perhaps be worked out by comparing the evolution of union membership in the construction industry in the province of Quebec to that in other Canadian provinces, especially in the neighbouring province of Ontario, since no system of general regulations such as the Quebec decree system exists in any other Canadian province, at least on such a wide scale. Unfortunately, there are no published statistics on union membership by industry by provinces, and one suspects that the unpublished statistics that could be obtained for the construction industry would not extend far enough in the past to permit any final answer to the problem.

The historical series describing the number of local unions in the building trades is long enough,[6] but not easy to interpret. Nevertheless it indicates that the development of labour unions in the construction industry in Quebec has been roughly comparable to that of corresponding unions in Ontario. This would imply that, on the whole, the adverse effect of the decree system on unionization may not have been as wide as one might think, unless the average size of each local unit has changed considerably in proportional importance in the two provinces. If we move from the overall figure of the number of local unions in the building trades to consider certain unions in particular, the facts seem to suggest still more cautious-

[6] *Labour Organizations in Canada,* Canada, Department of Labour, annual report appearing since 1911.

ness. In spite of the presence of the syndicates and of the decree system in Quebec, some international unions, as far as the number of their locals is concerned, have grown in much the same way in Quebec and Ontario and even in British Columbia. For instance, this is the case with the carpenters', the electricians', the plumbers' and the plasterers' unions. On that basis, an hypothesis could be made to the effect that factors other than the decree system may have had a greater influence on the development of unions.

Concerning management organizations, the impact of the decree system is probably subject to less controversy although the general influence may have been more scattered over time. Due to the obligation of bargaining regularly in order to obtain, then to amend, a decree, employers were forced to get together and take a common position. Construction associations existed in Montreal and Quebec before the establishment of the decree system; but everywhere else they appeared in relation with this labour-management relations formula. In some areas, especially in less-populated and less economically-developed districts, the collective agreement was bargained for a while by a group of employers lacking any formal association among themselves. But at the present time the 16 decrees for the building trades are all bargained by stable management organizations. It is probable that if it had not been for the obligation of bargaining for the decree and of supervising it through their representatives in the joint committee, many of these smaller construction organizations might never have come to life.

The juridical extension of collective agreements presupposes the existence of a labour organization and, because of the structure of the construction industry, at least an incipient management organization. This in itself is a factor of cohesiveness and of a certain unity. The unifying influence may be more apparent in the less developed areas where the system has brought into existence one construction syndicate and one employers' association for all the trades. But even in the large cities, it seems a dominant factor in the vitality of the building trades councils in which the various syndicates and unions are regrouped, as will be seen in the next section of this paper. On the employers' side, it may have paved the way for the project that will be presented to the Quebec Legislature this year by the provincial federation of construction associations on the obligatory licensing of general and trade contractors, a very important step in the way of bringing order into the industry, and, without eliminating competition, of protecting the stable and responsible contractors from the so-called buccaneers of the industry.

Impact on the Bargaining Unit

The bargaining unit in the construction industry under the decree system is a multi-employer, multi-trade and geographic unit.

Multi-employer bargaining seems to have become the general rule in Quebec earlier than elsewhere. Although there were a few instances of it before 1934,[7] it was truly and completely established with the decree system. The basic idea of juridical extension renders single-employer bargaining useless except in special cases, since after having signed an agreement which has a preponderant significance and importance, the parties may ensure that everyone in the industry be obliged, through an order in council, to abide by the same working conditions as those agreed to in their contract.

[7] *The Labour Gazette,* 1920 to 1934.

Multi-trade bargaining is even now very seldom found in the building trades on the North American continent. Outside of Quebec, Canadian examples of such bargaining are limited almost strictly to a very few huge projects, such as the hydro-electric constructions of the Ontario Hydro on the Niagara and St. Lawrence Rivers, and the Peace River power project in British Columbia. In these cases, because of the stable relations existing between the employer and the employees and their organizations, the situation seems closer to that of industry in general rather than to that of construction proper. In the United States, except for the case of the Tennessee Valley Authority which is not dissimilar to the Ontario Hydro constructions, there have been few examples of multi-trade bargaining, most of which have now broken down to give place to bargaining by single trades but for larger geographic areas, such as a state. One case of multi-trade bargaining still in operation can be found in the State of Arizona between a group of employers' associations and local unions or district councils of carpenters', plasterers', teamsters' and labourers' unions.

On the other hand, multi-trade bargaining has been the common rule in Quebec since 1934.[8] At the beginning, certain trades in Quebec City and in Trois-Rivieres had their own special decree. But because of the necessity of establishing a corresponding joint committee and of financing it, it soon became evident that small groups would have to join the general decree. Thus industry-wide bargaining in each of the ten or twelve regions then governed by construction decrees became the rule without exception until the late 1940's when in the Montreal area some technical trades started to bargain separately for their own special working conditions while remaining under the same joint committee and the same decree, but with a special section for them in it. If we leave aside the case of the elevator constructors, whose representatives bargain for their wages on a national level, and that of the structural steelworkers who have a province-wide arrangement, there are now six trades which have thus a special section in the Montreal decree and do their own bargaining separately: the plumbers, the electricians, the plasterers, the tile and terrazzo workers, the asbestos workers and the refrigeration mechanics. Outside of Montreal, Quebec and Sherbrooke have a few special sections, but in most other areas the bargaining unit is still completely on an industry-wide basis, including all the building trades without exception. In this multi-trade aspect, the Quebec system comes closer to the European than to the North American situation.

Definition of the bargaining unit with reference to a geographic territory is the third major characteristic. The province of British Columbia has experienced territorial certification of construction unions for quite a number of years, and the Ontario Royal Commission on Labour Relations in the construction industry recently recommended that certification for building trades unions be made also with reference to a given territory. Under the system of juridical extension, the territorial bargaining unit becomes a necessity. The fact that the decree imposes definite working conditions on all the employers and the employees in an industry implies that the territory to which this order in council will apply must be very precisely defined. This territorial jurisdiction usually corresponds to the territory in which both management and labour organizations, party to the

[8] *Quebec Official Gazette*, 1934 to 1962.

extended agreement, recruit their members and exert their influence.

Concerning its determination, we find forces operating in opposite directions. As an area which depends upon a decree centered in another region gradually reaches a stage of greater economic development, unions and employers of the district look for a decree of their own. Of the 16 decrees now in force many of them are subdivisions of former larger territories. It must be said here that a single decree may foresee two, three, four, and even in some cases five or six zones, with different rates of wages according to the economic situation of the zones concerned. On the other hand the contracting parties of the Montreal decree, because of the increasing economic influence of the metropolis on the adjoining regions, would like to expand considerably its present territory, for the wage differential now existing between Montreal and a certain number of neighbouring decrees raises difficult problems. The situation most likely to develop in the near future appears to be one in which the neighbouring decrees will raise their wage rates progressively to the level of the Montreal rates, as did the Sorel decree in 1962.

Impact on the Level of Wages

The very nature of the decree system is to make it obligatory on everyone to follow the wage rates agreed upon by the contracting parties, if their contract has acquired the preponderant significance foreseen by the law. These rates are then minimum rates. The act explicitly permits agreements, both individual and collective, providing for more advantageous working conditions than those foreseen in the decree.

Special agreements for provisions that may not be extended juridically by decree are fairly wide-spread. But collective agreements for higher rates than decree rates are almost nonexistent in the construction industry; the only examples to be found concern special huge projects that set them aside from the general framework of the industry, such as the hydro-electric projects now in progress on the Quebec North Shore. Otherwise, the decree rates are uniform rates, except for certain trades where a manpower shortage exists, as in the case of the bricklayers for whom, without any written agreements, the employers must pay higher wages than those prescribed by the decrees in order to obtain the workers they need.

From the workers' viewpoint, perhaps the most important effect of the decree system is to have imposed a definite rate of wages for all types of on-site construction work including the nonunion sector of the industry. In the absence of such or similar regulation, it appears that in large metropolitan areas if not everywhere, a substantial differential may be found between the wage rates paid on union and nonunion projects. Thus a few years ago in Toronto, a carpenter working on industrial and commercial construction under union conditions was earning $2.90 an hour, while most of the carpenters working on nonunion residential construction were earning $2.00 an hour, and many of them $1.75 if not less. Similarly, the labourers had $2.00 on the unionized commercial and industrial construction while on the other construction projects they were earning $1.50, $1.25 and very often $1.00 an hour.[9]

It may be asked whether the uniform rate of wages for each trade under the decree system has exerted a downward pressure on the wage rates at the bargaining table, in other words,

[9] Gerard Hebert, S. J., "Rajeunissement syndical dans la construction," *Relations*, vol. XXI, n° 250 (octobre 1951) pp. 268-272.

whether unionized workers could have obtained better rates on big construction projects than they now have on all types of construction by virtue of the decree, if no such system had ever been in existence in the province. Since the construction industry in Toronto has been operating in the past without almost any regulation as to wage rates, a study of the Toronto-Montreal interregional rate differentials over time may provide a first approximating answer to the problem. This study suggests the following observations.[10]

For construction labourers the relative differential between the Toronto union rate and the Montreal decree rate has been substantially narrowed since the inception of the decree system in Quebec. This seems to imply that the labourers' rate in Montreal under the decree system is effectively a union rate, and that, under a different regime, even on big projects, these workers would have obtained no better rates than they now have; they could even have fared worse. On the other hand, for the most highly paid workers of the industry, the Toronto-Montreal relative differential has not decreased in a permanent and noticeable way, but it has not widened. A comparison of the interindustrial differential in the rate of wages for some building tradesmen in Toronto and in Montreal indicates that perhaps these highly paid workers could have obtained better rates on big union contracts under a different system.

The reason for this variation in the situation of the higher-paid and the lower-paid workers in the industry would be found not in the decree system itself but in the structure of the bargaining unit it has entailed. While in Toronto bargaining is conducted on a separate basis for each trade, it is not so in Montreal, except for a very few trades; and, by a sort of tradition stemming from the general pattern of industry-wide bargaining, even the special trades that bargain separately usually settle for the same uniform wage increase as the one granted across the board to the various categories coming under the general section of the decree. This results in bettering relatively the position of the lower-paid groups. This effect, although involving its difficulties and problems, may not have been too far away from the purpose of the founders of the act.

Impact on Industrial Conflicts

In comparison with the same industry in other Canadian provinces and in the United States, the construction industry in Quebec has been extremely peaceful, although strikes do occur once in a while for various reasons.[11] With respect to industrial peace, the influence of the decree system seems to have been very important.

By ensuring to all construction workers relatively good working conditions, the system has removed one of the main, if not, the main cause of industrial conflicts. The structure of the bargaining unit, with its multitrade composition and its industry-wide character has also had a stabilizing influence on industrial relations. While jurisdictional conflicts plague this industry elsewhere, these are almost always solved without a work stoppage in Quebec. One of the instruments for resolving these problems rests in the detailed definitions of trades which appear in all the decrees now in force in the province.

[10] *Wage Rates and Hours of Labour,* Canada, Department of Labour, annual report, since 1921.

[11] *Year Book of Labour Statistics,* International Labour Office, 1949 to 1960; *Strikes and Lockouts in Canada,* Canada, Department of Labour, an annual report published formerly in *The Labour Gazette* and separately since 1962.

A factor which may have had the deepest influence in keeping the industry peaceful appears to be the long experience of bargaining that has resulted from the decree system. To take Montreal as an example, the negotiation of every agreement supposes the following steps. Each syndicate of each trade and each different local union submit their demands to their respective building trades councils. Discussion, or bargaining in a sense, occurs at that first level in order to come to a common position on such points as the wage increase. At the second stage, bargaining takes place between the two councils to straighten out the differences that might remain between the demands of the two groups. Following this a common demand list is submitted to the employers, and from then on bargaining with them is carried out. After the agreement has been signed and the order in council passed, the parties must submit to the Minister of Labour the name of those they wish to recommend as members of the joint committee. At the joint committee, representatives of both groups of labour organizations and representatives of management will sit together every single week to discuss the problems involved in the policing the already signed agreement.

These frequent and regular contacts of the interested parties which have been going on for almost 30 years have given the persons concerned enormous experience in bargaining together and have created real friendship among them. This surely helps in solving peacefully the many problems that arise between the parties both during and after the bargaining period.

Conclusion

Thus although the joint committee has limited power and jurisdiction, it appears to have a very important influence on the whole structure of labour relations in the construction industry in Quebec. In this industry characterized by its great mobility at all levels, the joint committee offers to both employers and employees a stable relationship with an institution representing neither union nor management, but the industry as such.

A special and important application of this permanent labour-management link in the industry may be seen in the recently adopted system of portable pensions for the construction workers in the Montreal area, apparently the first example of fully portable pensions within a single industry made up of so many firms. The plan is fully administered by the joint committee which receives the assessments from all employers and employees and which will pay the benefits in due course.[12]

The whole decree system seems to be rather well suited to an industry in which competition is keen, unionization difficult and conflicting forces constantly at work between the persons and groups involved. This works in many ways. First, in opposition to antagonistic and individualistic tendencies, juridical extension presupposes the existence of proper labour and management organizations, favours them to a certain extent and calls for bargaining on a rather wide basis. Second, in view of the product and labour-market competition and its depressing effect on wages, the decree guarantees to the workers a reasonable rate of remuneration and to the employers uniform labour conditions. Third, the decree system helps to prevent and solve jurisdictional disputes between the trades by fostering industry-wide bargaining and creating an atmosphere conducive to peaceful

[12] Gerard Hebert, S. J., "Des pensions transferables pour 50,000 travailleurs," *Relations,* vol. XXIII, n° 269 (mai 1963) p. 130-133.

settlement of conflicts. For these reasons I suggest that the decree system has been an important factor favouring unity and cohesiveness. It has brought some order into an industry which seems to have a natural tendency towards confusion and sometimes chaos, as may appear in other papers to be read this morning.

The system is far from being perfect. But if the parties together with the government strive to better this institution as they have done, especially in the last two or three years, we may hope that it will continue to render good service to the industry and to all the persons actually involved in it for their living. **[The End]**

Union-Management Relations in the Construction Industry—The Outlook in Ontario

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FOLLOWING a series of turbulent disputes in the construction industry in Metropolitan Toronto during the summer of 1960 and the spring of 1961, the government of Ontario appointed the Goldenberg Commission[1] to conduct a thorough investigation of construction labour-management relations in the province. After reviewing the circumstances which led to the establishment of the commission and commenting on the government's disposition of its findings, this paper explores still further steps which may have to be taken in order to facilitate the development of more orderly labour-management relations in the industry. While the conditions which have prompted this research are somewhat peculiar to Ontario, they would not appear to be so unique as to render the conclusions which emerge inapplicable in other jurisdictions.

Thumbnail Sketch

A thumbnail sketch of those features in Ontario which are common to the "industrial relations system"[2] of the construction industry elsewhere[3] will serve as an introduction to the discussion of those characteristics which are more or less confined to the province and particularly to the metropolitan Toronto area.

[1] The commission was appointed in June of 1961 under a Provincial Order-in-Council (O. C. 2622/61, June 27, 1961) which instructed it "to inquire into and to report upon the relations between labour and management in the construction industry in Ontario, and such other matters as in the opinion of the Commissioner may pertain thereto." With the appointment of H. Carl Goldenberg, O. B. E., Q. C., as sole royal commissioner, it became known as the Goldenberg Commission. As a royal commission it enjoyed equivalent power and prestige to that of a special presidential commission in the United States. The commission's report, the *Report of the Royal Commission on Labour-Management Relations in the Construction Industry,* Parliament Buildings, Queen's Park, Toronto, Queen's Printer, 1962, pp. 79, was released in March 1962. Where referred to in this presentation it will simply be cited as, *The Goldenberg Report.*

[2] This term is borrowed from John T. Dunlop, *Industrial Relations Systems,* New York, Henry Holt and Company, 1958.

[3] See also the work cited at footnote 2, at Chapter 6, pp. 198-263 and G. W. Bertram and S. J. Maisel, *Industrial Relations in the Construction Industry—The Northern California Experience,* Berkeley, Institute of Industrial Relations, University of California, 1955.

Besides the pronounced seasonal and cyclical fluctuations which plague construction and the intense competition which is prevalent in those segments of the industry where entry costs are comparatively low, industrial relations in construction are complicated by a host of other relatively unique features. Characteristics such as trade or craft specialization, the lack of a fixed work site, the short duration of most jobs, and the constantly changing composition of the on-site work complement are most uncommon, especially in combination, in other industries.

All of these things, in turn, have contributed to the emergence of a complex web of interrelated craft unions and contractors' associations. Despite their common industrial base, bargaining between the two groups has for the most part been carried on in a trade-by-trade fashion.[4] During negotiations attention is concentrated on the interests of those immediately involved, frequently with little or no concern being paid to the effect of this segmented approach to bargaining on the industry as a whole. Industry-wide bargaining (even on a local basis) is virtually unheard of, staggered trade-by-trade tie-ups are not uncommon, and jurisdictional disputes continue to pose a serious problem. Resort to organizational walkouts and wildcat strikes is also prevalent.

Further complicating the situation in Ontario have been sharp differences in labour-management relations in two of the most readily distinguishable sectors of the industry—home-building and major commercial and industrial construction. Construction activity tends to be divided into a number of separate compartments. The nature of road-building or marine construction, for example, differs significantly from the erection of buildings. Even within the latter category, moreover, there are marked disparities. The building of homes is subject to a decidedly different set of technological and market constraints than is the construction of large commercial and industrial buildings. In the former there is more scope for mass production techniques, the market is more speculative, there is greater ease of entry into many of the trades, there is a higher turnover of firms, and competition is usually keener. These distinctions have had a profound effect upon the contrasts which have developed in labour-management relations in the two different sectors of the industry. Other factors have also been at work, however.

Since World War II there has been a large influx of immigrants, particularly of Italian origin, into the non-union residential end of the industry. Tied to construction work by language and skill barriers, limited in their ability to transfer to the organized commercial and industrial sectors of the industry by the policies of the established building trades unions,[5]

[4] Exceptions in Ontario include the pioneering efforts of the giant Hydro-Electric Power Commission of Ontario and the Allied Construction Council of the building trades with members in Hydro's employ; the multi-trade bargaining within the "general trades" (including the carpenters, the "trowel trades," the operating engineers and the labourers) which has developed in some of the major centers in the province; and the sporadic attempts at multi-trade bargaining which have occured in certain specialized ends of the industry such as road-building.

[5] During the period under review there was some slack in commercial and industrial construction as well as in residential work. Since many of their existing members were either unemployed or not fully employed, the unions in the organized commercial and industrial field had no desire to open their ranks to additional numbers.

unorganized themselves, and unprotected by any enforced minimum standards, these workers have been vulnerable to the vicissitudes of the housing market. Whenever there has been a slump in home-building, residential workers have found themselves helpless to withstand the downward competitive pressures. During such downturns a variety of illicit employment practices usually has emerged[6] as hard-pressed contractors have fought to retain a share in a diminishing market. Only where the building trades have been effectively organized—as in commercial and industrial construction in the larger centers of the province—has this possibility been largely eradicated.

By the spring of 1960 the situation in metropolitan Toronto was explosive. After a number of abortive attempts, organized labour finally appeared to gain a substantial foothold in residential construction. Five new locals were chartered for the purpose[7] and a major portion of the residential end of the industry was eventually paralysed by a wave of organizational walkouts. When the agreements which were signed by a group of hastily contrived residential contractors' associations to end these stoppages failed to stand up against the competition of the nonunion contractors who continued to thrive in the industry (perhaps largely because the unions were placing too much emphasis on organizing the employers and too little on structuring an effective union base), another series of walkouts occurred in the following spring. This time they spilled over into the well-organized sectors of the industry, with sympathy strikes breaking out on a number of major projects.

Because of the conditions which prompted all of this activity, the violence that accompanied it, and the fact that it was in open violation of the Labour Relations Act,[8] the government was eventually compelled to take command of the situation. One of the first things it did was establish the Goldenberg Commission.[9] It soon became clear that its essential task was to recommend measures designed to curb exploitation of labour in the relatively unorganized sectors of the industry while at the same time suggesting means to secure greater compliance with the law in all parts of the industry.

[6] See *The Goldenberg Report,* cited at footnote 1, at pp. 10-15, for examples of the types of abuse which occurred and for an estimate of the extent of the problem.

[7] New locals were apparently made necessary in some of the trades because of the long-standing neglect on the part of certain of the established locals in the area of the plight of the residential worker. Many of the older locals seemingly preferred to concentrate on building a wall around the organized sectors of the industry than to expend any effort on organizing the unorganized.

[8] Revised Statutes of Ontario, 1960, Chapter 202, as amended by 1961-62, Chapter 68. By prohibiting any form of strike action until a union has been certified or voluntarily recognized, and until the compulsory conciliation machinery called for under the law has been exhausted, Section 54 of the act rules out organizational work stoppages. The same section of the act also bars strike activity during the term of a collective agreement (mandatory arbitration of in-term disputes is provided as a substitute) and thus rules out sympathy strikes except where a contract has expired and the conciliation procedure has been completed. Virtually all of the strike activity referred to above ran afoul of one or other of these proscriptions.

[9] The government also agreed to establish a special ad hoc arbitration tribunal to deal with disputes arising from the agreements signed after the 1960 strike and to provide for better enforcement of the labour standards applicable to the industry. Together with the dwindling effectiveness of the 1961 tie-up, these measures eventually induced the unions to bring the strike to an unofficial end.

The Goldenberg Report and Its Aftermath

To review the findings of the Commission in any detail would take a good deal of time and would not serve a useful purpose.[10] Instead it would seem more fruitful to focus on how the government has reacted so far to its major recommendations. In doing so it must be remembered that the report is now only a little more than a year old. It thus would be premature to assume that the government has dealt with all of the commission's findings that it intends to implement.

The commission's recommendations can be broken down into two major categories: those pertaining to protective labour standards and those concerned with the Labour Relations Act. The bulk of this presentation will be devoted to the latter. First, however, a word must be said about the reaction of the government to the commission's proposals designed to curb exploitation of labour by legislating minimum employment standards. Some of the commission's relatively minor suggestions concerning such statutes as the Hours of Work and Vacations with Pay Act[11] were adopted almost immediately. More recently the government has announced its intention of enacting a general minimum-wage program in the province. Although a special (higher) rate is to be provided for construction workers, there has been no indication that the commission's suggestion of a two-level minimum wage for the industry will be adopted.[12] The commission recommended this expedient after it had dismissed the possibility of revitalizing the extension-type approach which is permitted under the Province's Industrial Standards Act,[13] at least until its applicability—both in principle and in practice—could be further studied.[14] Originally intended to be used to establish minimum standards throughout a trade or industry in a given geographic area, this act has sometimes been construed to provide for the extension of conditions of work approaching or identical to those negotiated by a representative group of organized workers and employers.[15] Whether this is an appropriate approach is highly debatable. Since a number of the difficulties which it poses were raised in Father Hebert's paper on the Quebec situation, there is no need to pursue the matter further here. Before leaving this subject, however, one point should be emphasized. As long as significant portions of the industry remain largely unorganized, and are not subject to effective industrial standards, the need will remain for some sort of a general minimum-wage program for construction workers. Otherwise, some abuse of labour in the industry is almost inevitable.

Turning to the recommendations of the commission which were directed to an improvement in the Labour Relations Act, the government's response has

[10] For a more complete analysis of the commission's report, see the detailed account of its work by the author which is to appear in a future edition of the *Canadian Journal of Economics and Political Science.*

[11] Revised Statutes of Ontario, 1960, Chapter 161.

[12] One minimum was to be applicable to common labour and the other to tradesmen. Only passing reference was made to the problem of distinguishing between the two.

[13] Revised Statutes of Ontario, 1960, Chapter 186.

[14] Such an investigation has since been commissioned by the Provincial Department of Labour.

[15] Where interpreted in the latter fashion, the Industrial Standards Act has had an effect very much akin to the widespread use of the Collective Agreements Act (Revised Statutes of Quebec, 1941, Chapter 163, as amended to 1960, Chapter 71) in the construction industry in Quebec.

been mixed. The province has accepted the commission's view that certain aspects of labour relations in the construction industry require differential legislative treatment.[16] As proposed by the commission a separate panel of the Labour Relations Board[17] has been named to deal with all construction industry cases and a separate part of the act (Sections 90 to 96 inclusive) has been designated to meet the peculiar needs of the industry.

Beyond this, however, much remains to be done. Although the act has been amended to rule out project certifications in favour of area certifications,[18] to expedite certification proceedings especially in build-up situations, to eliminate the second round of compulsory conciliation unless both parties request it, and to accomplish a number of other relatively minor changes, a number of the commission's major proposals have not yet been adopted.

Although the provincial legislature did pass a bill designed to incorporate an employer successor-rights clause into the act (the commission recommended such a clause in order to preclude employers from evading a union certification or a collective agreement by changing their corporate existence), this bill was not proclaimed after it came under heavy fire from various employer groups in the province. In its place has been substituted a compromise bill which will protect a union's certification but not an outstanding collective agreement in the event of the sale, lease, transfer or other disposal of an on-going business concern. The ultimate effects of this interesting approach will no doubt merit future investigation.

Equally vocal criticism—this time from some union as well as management spokesmen—greeted the government's introduction of a bill designed to clarify the position of the Jurisdictional Disputes Commission (the JDC). Provision for this unique public tribunal was made under an amendment to the Labour Relations Act (Sections 66 and 76) in 1960 in order to deal with jurisdictional disputes which the parties were unable to resolve peaceably themselves. Established because delays and lack of compliance had made resort to the National Joint Board for the Settlement of Jurisdictional Disputes in the United States somewhat ineffective, the JDC has had a short but instructive history.[19] It has been

[16] Indirectly, and since 1959 directly, this principle has already been acted upon at the federal level in the United States. Some of the provisions in the Taft-Hartley Act (P. L. 80-101, 80th Cong., 1st Sess., June 23, 1947), for example, such as the banning of the closed shop and the prohibition of jurisdictional disputes and certain types of secondary boycotts, were obviously framed with particular reference to the labour problems of the construction industry. More recently, under the Landrum-Griffin Act (P. L. 86-257, 86th Cong., 1st Sess., September 14, 1959), special exemptions were granted to the unions in the building trades to relieve them of some of the restrictions which apply to union-security arrangements and to the employment of secondary boycotts in industry and commerce generally.

[17] This is the tripartite tribunal which is responsible for administering the Labour Relations Act. It meets in tripartite panels of three members each to hear cases which are brought before it.

[18] In this case the change went beyond that recommended by the commission. It had suggested that the act be amended to encourage the wider adoption of area certifications (which apply to all of the affected employees of a contractor within a given area) but not so as to rule out project certifications (which apply only to the affected workers of a contractor on a given project).

[19] For an analysis of this history, see John H. G. Crispo, and H. W. Arthurs, "Jurisdictional Disputes in Canada: A Study in Frustration," in *Current Law and Social Problems,* Earl Palmer (ed.), Vol. III, London, University of Western Ontario, 1963.

handicapped, however, by a judicial interpretation[20] which bars it from assigning work to tradesmen not employed by the contractor directly involved in a dispute.[21] The government was originally prepared to accept the Goldenberg Commission's recommendation that this bar be removed, but when fear was expressed that this might set the stage for a wholesale upheaval in long established work patterns in various branches of the industry it was apparently decided to give the matter further consideration before taking any action.

Commission proposals with respect to which the government has not yet indicated what action it may be prepared to undertake include the following:

(1) A number of suggestions designed to facilitate and encourage certification on a multi-employer and/or multi-trade basis;

(2) The commission's recommendation that provision be made for interim certification on the basis of field investigations conducted by hearing officers;

(3) Proposals intended to encourage the use of private mediation and voluntary arbitration;

(4) Several suggestions designed to cut down on the delays frequently associated with the mandatory arbitration of in-term disputes in the province;[22] and

(5) The recommendation that the Labour Relations Board be empowered to adopt the American NLRB pattern of issuing cease and desist and compliance orders.

In all of these areas the government has apparently been unprepared to introduce a radical departure from past practice on its own initiative. As an alternative it decided to submit each of these issues (as well as certain others) to an informal version of the tripartite construction industry council which the Goldenberg Commission had recommended. In this way it was hoped that some sort of an "agreed-bill" could be arrived at for submission to the legislature. Unfortunately, this does not appear to have been the result. On most of the issues before them the parties seem to have done little more than agree to disagree. If this remains the case then the government is going to have to decide on its own which of the remaining recommendations of the commission warrant implementation.

Unfinished Business

Because a number of the major recommendations of the commission have yet to be acted upon it is impossible to assess the over-all impact of its proposals. It is fair to assert, however, that most of the commission's suggestions (aside from those designed to curb exploitation of labour and to reduce the incidence of illegal activity) were intended to do little more than pave the way for an improvement in labour-management relations in the industry.

Assuming this to be the general objective of the commission, it is de-

[20] Regina V. Orliffe, *Ontario Weekly Notes*, 1961, p. 223.

[21] This would mean, for example, that if a contractor was using lathers for work normally assigned to carpenters, and this lead to a jurisdictional strike, the JDC would be powerless to remedy the situation by ordering the contractor to use carpenters for the work in dispute unless the contractor already had some of the latter in his employ.

[22] Most important among these suggestions was the proposal that all collective agreements in the construction industry be required to include the name(s) of a permanent umpire or a panel of arbitrators and the recommendation that in either event the arbitrator be obliged to render a decision within five days of hearing a case.

batable whether the changes it proposed go far enough. In the remainder of this paper two further possibilities are offered for consideration. Both are predicated on the assumption that the key to a lasting improvement in labour-management relations in construction lies in a gradual centralization, both within and between the trades, of bargaining practices in the industry. Only by moving towards a modified form of industry-wide bargaining (at least within each of the major sectors of the industry on a local basis) is there much hope of reducing the difficulties raised by the existing segmented approach to collective relations in the industry. Such a movement would probably lead to a speed-up in the trend towards more standardized working conditions in the various trades, to a reduction in the incidence of staggered trade-by-trade tie-ups, to a more ready means of sorting out jurisdictional difficulties, and to a variety of other improvements. In the long run, moreover, a movement towards more centralized bargaining in the industry would no doubt contribute to a gradual consolidation among the building trades unions, one of the ultimate solutions to the industry's labour problems.

In attempting to facilitate multiple bargaining in construction, perhaps the most critical consideration is the appropriate unit for certification. Consistent with over-all government policy in the field of labour relations, the unions in the building trades have been compelled to seek certification on an individual employer basis. While this may be a perfectly sound approach in stable industrial settings, it is quite unrealistic in construction. When employment patterns are such that employees are frequently moving between and among different firms, it simply does not make sense to insist that the unions organize each of the firms on a separate basis. The appropriate unit for both certification and bargaining purposes under these conditions is the local labour market for a given type of tradesmen. While the Goldenberg Commission indicated appreciation of this point, it chose to recommend that multi-employer certification on an area basis be limited to those cases where each of the employers involved was willing to consent to it and the applicant union was able to adduce evidence of majority support among the employees in each of the firms individually. Given these limitations it should be obvious that any such concession is likely at best to be of marginal practical import.

Ultimately, the only way to make any progress in this direction will be to provide for compulsory multi-employer certification, within each trade, on an area basis. While it might be necessary to subdivide the industry for this purpose (that is, along such lines as road-building, residential construction, and commercial and industrial construction), this would still amount to a significant advance over the present arrangements. In the absence of such a change it is doubtful whether any sort of stable relationships can ever be expected to emerge in those sectors of the industry which have characteristics similar to those in the residential field. Wherever there are many firms, turnover is high and competition is intense, it will remain unduly difficult for the building trades to establish and maintain themselves in a stable position in the industry. As long as this remains the case, periodic outbreaks of violence and chaos may be unavoidable.

Another issue of fundamental importance relates to the critical role which contractors' associations play in the collective bargaining framework of the industry. Over the years these associations have been assum-

ing an increasingly significant part in bringing about more multiple negotiations in construction. While the Goldenberg Commission strongly endorsed any movement in the latter direction, it did not link its views on this subject to the position of the contractors' associations in the industry. Instead it contented itself with recommending that provision be made for a degree of multi-employer and multi-trade certification.[23] Although these measures have an obvious part to play in facilitating multiple negotiations, the following analysis would seem to suggest that more formal recognition of the role which contractors' associations play in the construction industrial relations system would be a far more effective way to bring this about.

Most of the building trades have long resisted the idea of multi-trade bargaining because of the reduction in bargaining power which they feel would result from it. More recently, in Ontario, on the other hand, they have indicated a growing interest in such a possibility, at least at the local level, as long as due and proper recognition is given to the trade-or-craft demarcation lines between the different unions. What the unions seem to have in mind when they refer to multi-trade bargaining, however, may not be as significant as it appears on the surface. Although it would be most unrealistic to anticipate anything approaching "industrial bargaining" in construction for many years to come, it would not be unrealistic to expect the individual unions in the industry to surrender some of their trade autonomy to the multi-trade bargaining committees which would have to be set up to permit any form of meaningful multiple negotiations. It is doubtful whether any of the major unions in the building trades have yet come to the point where they would be prepared to surrender sufficient autonomy to enable any real progress in this direction. They are much too aware of the advantages of the whipsaw technique—both within and between the trades—to give it up lightly.

If a gradual movement towards more multiple bargaining in construction is essential to a rationalization of labour-management relations in the industry, it must largely depend upon the contractors mustering sufficient strength to insist on it. Because of the competitive nature of the industry, however, contractors and their associations have frequently lacked enough power and cohesiveness to withstand the divide-and-conquer tactics of the unions. When an individual firm is under extreme pressure to avoid a shutdown, because it is either working against a deadline or is operating close to the margin, it is likely to break ranks and settle with the union rather than join with its fellow contractors in taking a strike. It only takes one or two of these cases to demoralize an association and undermine its bargaining position.

From the point of view of the contractors there is no ready solution to this problem. An agreement to pool losses in the event of a strike would be one possibility. Potentially more effective would be the adoption of legal or extra-legal means whereby individual contractors could be induced to transfer their bargaining rights to an appropriate association of contractors. Experience in Ontario would seem to suggest that this sort of

[23] In recommending that provision be made for joint certification by two or more unions, the Commission did not encumber the suggestion with the same set of qualifications which it attached to its proposal for multi-employer certification. The intention may have been the same, however.

approach may hold out the only hope for building up sufficient strength among the contractors' associations to enable them to insist on multiple negotiations.

If there is merit in moving in the latter direction, then the logical thing to do is to strengthen the position of the contractors' associations. One possible way in which this could be done would be to grant to these associations the right to seek the same type of exclusive bargaining rights for their members as has long been the prerogative of their counterparts, the unions.[24] While this would not of itself rule out such practices as whipsawing, it might make them more difficult to employ. Once having certified a given contractors' association, for example, it could be made an act of bad faith for a union to attempt to deal with an individual contractor on a separate basis. This would preclude a union from engaging in formal relations with a single firm, would thus make it difficult to avoid exclusive dealings with the appropriate contractors' association, and would thereby strengthen the forces which are already working towards more multiple negotiations in the industry.

A Word of Caution

In considering the pros and cons of compulsory multi-employer certification and/or certification of contractors' associations, a number of difficulties must be borne in mind. On the practical side there is the general question of administrative feasibility. With regard to multi-employer certification, for example, there would be the difficult task of determining the limits of the appropriate multi-employer unit. Equally challenging would be some of the decisions which would be required in the event that provision was made for certification of employers' associations. Perhaps more controversial than anything else would be the question of determining the respective voting power of individual contractors. Would it be best to proceed on the basis of one vote per contractor, regardless of how many of the pertinent tradesmen each normally employs, or would it be desirable to devise a weighted system of voting which would somehow relate the voting power of the individual contractor to the average number in his employ in the trade in question?

Even more basic than the administrative feasibility of these possibilities is the question of their potential effect upon the public at large. While it is obvious that the difficulties which have plagued labour-management relations in the construction industry in Ontario in recent years have been detrimental to the public interest, it is not inconceivable that the cure could be worse than the disease. Assuming that the measures discussed above would in fact contribute to the emergence of a more rational industrial relations system in construction, that by itself is not sufficient to prove their desirability. Either by themselves or in combination there is the fact that such measures would tend to facilitate whatever opportunities there may already be in the industry for union and management to engage in collusive practices in restraint of trade. This sort of risk would have to be weighed against the advantages which might be expected to accrue from the introduction of such measures before an intelligent assessment of their net effect could be made. The issue can probably best be joined by posing the question: "What price stability?" **[The End]**

[24] As a further refinement of this general approach provision might also be made for something akin to union security for such associations.

Economic Instability and Industrial Conflict—The Construction Industry in British Columbia

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SEVERAL comparative empirical surveys in recent years, on a national or international scale, have made important theoretical contributions to the analysis of collective bargaining and industrial conflict. Of special interest have been studies by Dunlop, Rees, Ross and Hartman, and Kerr and Siegel.[1]

In this paper the endeavor is to step down one level in comparative analysis, to try out some concepts on a *regional* scale. There is no intention here of emphasizing the unique or special in British Columbia's experience with labour relations in the construction industry. The purpose, or hope is, rather, to demonstrate that an analysis of regional patterns of industrial conflict, which brings out divergencies from established national or international norms, offers the possibility of augmenting existing theory and throwing new light on forces and motivations generating such conflict.

The experience of British Columbia construction, particularly in the period 1949-61, provides a ready-made testing ground for some general theories. In the beginning and end years of this period the industry experienced no strikes[2] whatever. During the decade in between, by contrast, construction experienced two distinct cycles of economic growth and industrial conflict that followed quite different patterns from those found elsewhere. The main reasons for these divergencies will be discussed later.

The Industrial Relations "System" in Construction

John Dunlop in his comparative survey of "industrial relations systems" (which John Crispo referred to in his paper) has shown that construction in most industrially developed countries is characterized by a complex system of rules and regulations governing the actions and relationships of workers and employers in the industry. These regulations often show a striking similarity in content that transcends national or regional differences in language or culture, politics, or economic structure. Such uniformities arise from two sources: (1) similarities in various types of jobs; and (2) special technical or structural characteristics common to the industry wherever it operates; the elaborate division of labour and specialized organization of workers and employers; seasonality and short duration of jobs; the high mobility required of journeymen in various trades, and so on.

One would expect to find a particularly high degree of similarity in labour-employer relationships, union personnel and behavior patterns—including conduct of, and participation in, strikes—in the construction industry throughout the United States

[1] J. Dunlop, *Industrial Relations Systems* (New York, 1959); C. Kerr and A. Siegel, "The Inter-Industry Propensity to Strike: An International Comparison," in A. Kornhauser, R. Dubin and A. M. Ross, eds., *Industrial Conflict* (New York, 1954), pp. 189-213; A. Rees, "Industrial Conflict and Business Fluctuations," *Industrial Conflict*, pp. 213-21; A. M. Ross and P. Hartman, *Changing Patterns of Industrial Conflict* (New York, 1960).

[2] The term "strike" is used here in the generic sense, to include concerted shutdowns or "lockouts" by employers.

and Canada. Outside of Quebec, virtually all building trades unions in Canada are local or district branches of so-called "international" unions. The overwhelming proportion of membership, headquarters and executive personnel are located in the United States and are oriented to American conditions and problems. Moreover, various provisions in the constitutions of building trades unions, governing such matters as representation at conventions, elections of top executives, appointments of staff, ratification of agreements, and control over strike funds and other benefits, give international executives in the United States a greater degree of authority over subsidiary bodies than is found in most unions.

Counterbalancing these pressures towards uniformity in structure, however, are a number of organizational characteristics leading to wide regional diversity in industrial relations policy among construction unions and employer groups. While the unions are highly centralized in their internal government and administration, they tend to be highly *de*centralized, on an area basis, in collective bargaining. Regional flexibility in union bargaining policy reflects the reality of organization in the industry. Most branches of construction, and the workers employed in them, are confined to local or, at most, regionwide product and labour markets. The combination of union and market forces has resulted in wide variations in wage rates, fringe benefits, work practices and construction costs from one area to another.

Again, different regions on this continent vary widely in the degree to which the construction industry contributes to their total income and employment, in the sensitivity of construction activity to changes in other sectors of their economies, and therefore in the amplitude of cycles of expansion and contraction in output and employment in the industry. Such variables, as brought out later, strongly influence patterns of conflict in construction.

The "Propensity to Strike"

Kerr and Siegel, in their analysis of the "propensity to strike" among workers in various industries, found that, in almost every one of the 11 nations they studied, construction workers ranked generally in the "medium" to "medium low" categories.[3]

In British Columbia during the 1950's, by comparison, construction workers would be classed in the "strike prone" or "high" category, in terms of *frequency,* at least. Though construction workers comprised, on the average, only 8 per cent of all union members in the province from 1949-1961, they accounted for almost *one quarter* of all strikes. This compares with approximately 18 per cent of all strikes accounted for by construction workers over the rest of Canada and the United States.[4]

[3] Kerr and Siegel, cited in footnote 1, at pp. 190, 206-216.

[4] *Annual Reports,* 1949-60, Dept. of Labour, Victoria, B. C.; "Strikes and Lockouts in Canada," *Annual Reports,* 1949-60; Dept. of Labour, Ottawa; *Statistical Abstract of the United States,* 1950-60, Washington, D. C.

The percentage of total *strike participants,* and of *total man days of employment lost* in strikes in British Columbia were only 7.2 per cent and 6.5 per cent, respectively. These latter figures, however, are biassed by the official method of tabulating strike statistics, and represent a serious underestimate of the total incidence of strikes in the construction industry. Official statistics account only for those building tradesmen *directly* involved or participating in strikes, without accounting for other construction workers *indirectly* involved (through refusing to cross picket lines, or becoming involuntarily unemployed, because of a strike by any one trade). If strike participants and man days of employment lost in construction were

Types of Strikes, and Their Duration

Among the more important findings of Ross and Hartman, in their comparative study of "changing patterns of industrial conflict," was the fact that in almost every one of the 15 nations they surveyed, the *average duration* of strikes has declined since the prewar period. One major exception in their findings was Canada, where the average duration of strikes has almost doubled in the postwar decade as compared to the decade prior to World War II, and has averaged almost one third above that of the United States since the war.[5]

The contrast becomes even more striking when extended to particular regions. The average duration of strikes generally in British Columbia during the 1950's was 25.4 days, or almost 50 per cent above the Canadian average of 18.3 days[6]. Construction followed the distinct regional pattern in this regard. The average duration of strikes in the industry during 1949-61 was roughly 23 days in British Columbia, or about 21 per cent above the 19-day average in Canada and more than 100 per cent above the 11-day average over the United States in this period.[7]

However, it is appropriate to pause at this point and discuss briefly the oft-used cliche that broad averages, over an extended period of time, tend to hide significant details. This applies particularly to such a statistic as "average duration of strikes." As Ross and Hartman put it:

". . . [I]t is misleading to use the same word for different phenomena. It stands to reason that a 'strike' of eighty days and a 'strike' of two days do not have the same causes, nor the same consequences, and cannot be explained by the same theory. To consider *all* strikes as homogeneous occurrences stands in the way of enlightenment."[8]

A broad differentiation of strikes, by cause and duration, seems called for. Conveniently, in dominion and most provincial jurisdictions, including that of British Columbia, elaborate legal procedures governing the prevention and settlement of industrial disputes favours the statistician with answers even if they confound the real objectives of the legislation with difficult hurdles. Briefly stated, strikes in Canada, and British Columbia, may be classified into two broad categories, namely: (1) legally authorized "economic" or "interest" disputes; and (2) others, in the unauthorized and illegal "protest" or "wildcat" category.[9]

(*Footnote* 4 *continued.*)
tabulated on the same basis as for most other major industries, the figures probably would have to be increased several times over. (A strike of 187 truck drivers on a construction project near Vancouver during March and April of 1958, for example, according to official estimates, rendered 3,559 other construction workers "unable to work because of the stoppage." "Summary of Industrial Disputes," *Annual Reports,* B. C. Dept. of Labour, Victoria, B. C., p. F65.)

[5] Ross and Hartman, cited in footnote 1, at pp. 26-27, 163.

[6] S. Jamieson, "Regional Factors in Industrial Conflict: The Case of British Columbia," *Canadian Journal of Economics and Political Science,* August, 1962, p. 406.

[7] *Annual Reports,* 1949-60, Dept. of Labour, Victoria, B. C.; "Strikes and Lockouts in Canada," *Annual Reports,* 1949-60; Dept. of Labour, Ottawa; *Statistical Abstract of the United States,* 1950-60, Washington, D. C.

[8] Ross and Hartman, cited at footnote 1, at p. 24.

[9] In practice, of course, as numerous observers have pointed out, many strikes, particularly in construction, cannot properly be classified in such neat categories. Frequently union officials may unofficially sanction illegal "wildcat" strikes in order to further their organizational objectives or strengthen their bargaining position in negotiating new agreements with employers.

"Interest" Disputes

Legally authorized "interest" disputes and strikes arise in the course of negotiating new or revised agreements, and in most provinces in Canada, including British Columbia, the parties involved must go through complicated conciliation procedures required by law before reaching the overt stage of a walkout or shutdown. The largest and most protracted strikes are almost invariably in this category. Economic issues—demands for wage increases or their dollar equivalent in "fringe" benefits—are at the forefront of such disputes, and there is *some* serious attempt by the parties involved to make rational calculations of potential gains and losses.

"Protest" Disputes

The other main type of strikes, those in the "protest" or "wildcat" category, are undertaken in violation of existing union agreements, without the prior authorization of union officials (ostensibly, at least) and in contravention of disputes settlement procedure required by law. An examination of those reported by the Provincial Department of Labour in British Columbia during 1949-61 indicates that few were rationally conceived or undertaken for specific economic goals. Most of them were not designed to effect contract changes. They were motivated, rather, by non-economic sentiments, values and objectives, such as: support given to other workers on strike; threats to the survival of the group (as when non-union workers, or members of a rival union, are employed on work projects under a particular union's jurisdiction); protests against dismissals, demotions or other disciplinary actions by management; complaints about the quality of food, lodging, or transportation facilities, and a multiplicity of other issues.

Most strikes in the construction industry of British Columbia during the decade of the 1950's were in the unauthorized or wildcat category—specifically 43, as compared to 34 in the "economic" or "interest" category, as may be seen in the table of statistics. Most strike participants and man days of employment lost, however, were in the minority category of "economic" strikes. Thirteen of these were of more than one month's duration during 1949-61, and seven lasted for more than two months.[10]

Measured against the broad statistical averages cited above, that may be taken as "norms" of behavior on a national or international scale, construction workers in British Columbia are thus found to have gone counter, in several respects, to general world-wide trends in the use of the strike as a weapon for collective bargaining. Official strike statistics in the province over the past decade or more indicate that they have been more tenacious in seeking changes in their agreements, and more ready to resort to protest action while their agreements were in force, than their fellow workers over the rest of the continent.

Business Fluctuations and Strikes

Albert Rees, in his study of "industrial conflict and business fluctuations," in the United States, found that strike activity, whether measured in terms of frequency, number of participants, or total man days lost, "consistently" preceded the peak in business activity. He states:

"It was possible to compare the timing of strike cycles and business cycles at six peaks and six troughs of business activity. The number of strikes generally began to *decline before* business activity did and generally

[10] *Annual Reports,* cited at footnote 4.

TABLE I.

Strikes and Lockouts in the Construction Industry of British Columbia, 1949-61*

Year	Legal "Interest"	Number of Strikes Unauthorized ("Protest")	Total	No. of Workers Directly Involved	Average Size	Man Days of Employment Lost Directly	Average Duration (Days)
1949	0	0	0	0	0	0	0
1950	3	2	5	210	105	2,664	13
1951	2	2	4	687	172	9,318	13.3
1952	8	8	16	2,668	169	80,268	30
1953	1	7	8	1,395	174	7,824	5.6
1954	2	1	3	112	34	408	3.7
1955	1	2	3	133	44	9,670	42**
1956	4	9	13	1,645	126.5	14,725	9
1957	5	4	9	1,773	177	7,877	4.5
1958	4	5	9	1,899	211	119,370	63
1959	4	3	7	273	39	5,416	20
1960	1	4	5	233	48	2,393	10.3
1961	0	0	0	0	0	0	0

* *Annual Reports*, Department of Labour, Province of British Columbia (Queen's Printer, Victoria, B. C.), 1949-61.
** The figures for average duration during 1955 were "biased" by one relatively small strike of electricians in North Vancouver that lasted almost six months.

began to *rise after* business activity did. In *no* case did strikes *lag* at the peak; they led in five cases and coincided in one. . . . The average lead at the peaks was five months; the average lag at the troughs was six months."[11]

Rees' interpretation of these findings is a familar explanation to most students of labour economics on this continent. "Typical" North American union leaders are usually pictured as "business unionists" having a "pragmatic" outlook. Their policies and tactics are dictated mainly by considerations of strategic advantage and economic gain in the short run, rather than by long-run ideological objectives. In terms of potential economic gain the most advantageous time to strike, or to threaten to do so, is when a period of expansion is well under way, when increasing demand and rising prices for products make strikes most expensive for employers, and when increasing employment makes alternative job opportunities most available to workers who might be involved in strikes. "Economic" or "interest" disputes, therefore, should logically be expected to be concentrated during the upswing of the business cycle. So likewise with "protest" or "wildcat" strikes. Union leaders, as the late Wright Mills once observed, are "managers of discontent,"[12] and as such, in the best traditions of "business unionism," they should be expected to manipulate or manage unrest and discontent so as to yield the maximum tangible rewards. On the basis of this reasoning, "protest" or "wildcat" strikes should coincide, in their frequency and timing, with the more protracted "interest" disputes. As Rees puts it:

". . . [T]he cyclical pattern of strikes resembles the pattern of production of durable, rather than of nondurable, consumer goods. This suggests that many of the grievances of industrial workers are 'durable' or at least 'semi-durable.' Grievances can be stored up for long periods. They are most likely to boil over into strikes, or be utilized by strike leaders as strike issues, when business conditions promise that strikes may be successful. The same provocation which causes a strike when employment opportunities are rising might cause only grumbling during a recession."[13]

Such motivations and reactions, one would expect, would be most imperative in governing the behavior and strategy of executives and rank-and-file members of unions in the construction industry. For labour organizations in this industry have long been upheld as the epitomes of conservative "business unionism," and the construction industry is among the most sensitive to business fluctuations.

Yet here, again, the experience in British Columbia during the 1950's diverged from the generally accepted "norm." The largest and most prolonged "economic" strikes were concentrated in years immediately *following,* rather than preceding, "boom" periods of peak business activity. As shown in the table, total man days of employment lost in the two years, 1952 (a year of "levelling off" in B. C., following the inflationary boom of 1951 generated by the outbreak of the Korean War)[14] and 1958 (nadir of the recession following the peak investment boom of 1955-57) alone accounted for more than all other 11

[11] Rees, cited at footnote 1, at p. 216.

[12] C. Wright Mills, "The Labor Leaders and the Power Elite," in Kornhauser, Dubin and Ross, eds., *Industrial Conflict* (New York, 1954).

[13] Rees, cited at footnote 1, at p. 220.

[14] While 1952 was generally a year of continued expansion over Canada and the United States as a whole, in British Columbia it could be considered a year

years together during the 1949-61 period. "Protest" or "wildcat" strikes, on the other hand, did not show any consistent relation to cycles of general business expansion or contraction. Of the two years in which the largest number occurred, 1952 was, as noted, one of slight decline after a previous peak, while 1956 was one of unprecedented expansion in construction and other business activity over the province as a whole.

To sum up the pattern portrayed above, the construction industry in British Columbia during the 1950's experienced an unusually high frequency of short "protest" or "wildcat" strikes, and a lesser frequency of "economic" or "interest" strikes that were of unusually long duration. Counter to the usual pattern, these latter were concentrated in years immediately *following,* rather than *preceding,* peak periods of business expansion.

Protest or Wildcat Strikes

A number of reasons could be offered for this failure of the construction industry of British Columbia to follow the usual "norms" of behavior. The main explanation for the prevalence of "wildcat" strikes lay in the drastic structural changes that occurred during the 1950's, which unions and employers in the industry were not equipped to meet. British Columbia, for a number of reasons, underwent an unusually rapid rate of population growth and economic expansion during most of the decade. Construction expanded far more rapidly than any other major industry in the province, and more rapidly than in the rest of Canada. To mention two rough indices: the annual value of capital investment increased by 137 per cent from 1951 through 1957 in B. C., as compared to the Canadian average of 92 per cent; and employment in the construction industry in B. C. increased by more than one half from 1949 to 1957, as compared to a little more than one third over Canada as a whole (and 20 per cent for all industries in the province). A sharp decline followed this boom. During 1958-61, the annual value of new construction contracts remained at less than one half of the 1955-56 average, while employment remained 25-30 per cent below the peak reached in 1957.

A pronounced "lumpiness" in capital investment underlay this pattern of expansion and contraction. An unusually large proportion of construction activity and employment comprised large new industrial and resource development projects in the "heavy" construction category: new dams and hydro power facilities, smelters, pulp and paper plants, oil and gas pipelines, together with new communities to service them in remote, underpopulated areas of the province. These were "one-shot injections," each of which involved hundreds of millions of dollars of new capital investment, in a region whose total population averaged less than 1½ million over the decade.

Unions, employers and the government alike attempted to cope with the structural problems which these new developments created, but their actions in many cases merely compounded the trouble. The construction industry in the province had been, for the most part, small scale and localized in its operations up to

(*Footnote* 14 *continued.*)
of mild "recession." The total dollar value of mineral, fisheries, and forestry production, of manufacturing output and of farm cash income, as well as of new construction contracts, all *declined* from their 1951 levels. *Summary of Business Activity in British Columbia* (Statistical Summary for 1950-60), Bureau of Economics and Statistics, Dept. of Industrial Development, Trade and Commerce, Victoria, B. C., 1961.

the 1950's. Many of the major new projects, however, were carried out by large specialized American concerns operating on an international scale, and by a number of large new integrated "general" construction companies, both native and foreign, that expanded their operations over the whole province. The main building trades unions underwent a similar transformation. They were helped in this connection by the Provincial Labour Department's policy of granting "area certification." Up to the 1950's the building trades had comprised a group of small, localized, nonmilitant organizations concentrated for the most part in the main metropolitan area of the Lower Mainland. They accounted altogether for only four small strikes in the generally turbulent period of inflationary expansion from 1945 to 1949. By the middle 1950's, however, they had become large and powerful organizations operating on a province-wide scale, and they seized from the International Woodworkers of America the position of main "wage leader" and "patternsetter" for organized labour in British Columbia.

These changes generated widespread maladjustment and conflict. For one thing, the rapid and unstable pattern of growth in the industry, particularly the launching of many new and unfamiliar types of construction, put severe strains on the observance and enforcement of the elaborate system of regulations governing workers and employers, as described by Dunlop and others.

Problem of "International Agreements"

A special irritant in this connection was a number of so-called "international agreements" negotiated between some large American concerns working on major projects in British Columbia and the international executives of more than a dozen construction unions. In some cases these agreements overruled the customary autonomy of Canadian subsidiaries, undermined local union standards, and generated considerable interunion conflict. Several local unions in British Columbia were put under "international trusteeship," and some attempted to break away from their parent organizations. The views expressed by one local official of the Hod Carriers and Common Laborers' Union illustrated the type of misunderstanding that often developed. Said he:

"Those guys in Washington D. C., just looked at a map and figured that we're away out in the sticks. They think it's the same sort of setup as it is down in Texas and Arkansas, where they're used to building pipelines. There when they want laborers, all they have to do is blow a whistle and the hillbillies come running."[15]

Such problems of communication were compounded by the high degree of centralization in financial and organizational control that metropolitan Vancouver exerts over the economic life of the province. The head offices of employers and unions having jurisdiction over major new construction projects remained in that city. Disputes and grievances were many, from the nature of the living and working conditions on large projects undertaken in remote, undeveloped areas of the province. Due to distance and difficulties of transportation and communication, union and management headquarters personnel were often unable to settle disputes among their subordinates quickly or effectively. It was this combination of circumstances that largely accounted for the concentration of protest or wildcat

[15] Interview.

strikes in major new developmental projects.

Interest Disputes and Strikes

The most important factor accounting for the concentration of prolonged "economic" strikes of construction workers in post-boom or recession periods, was the markedly uneven pattern of economic growth that the province experienced during most of the 1950's. Construction may tend to have a moderately low incidence of conflict where it is carried on in a relatively stable and diversified industrial setting. Certain characteristics of the industry, however, conduce to a high incidence in a specialized and unstable economic context such as that of British Columbia during the 1950's.

Expansion was, and is, the long-term trend in British Columbia. But during the 1950's such expansion followed an erratic course of sudden surges and declines, caused by a series of starts and completions of large projects, each of which was significant to total construction activity in the province. This meant that the industry and its workers were faced with severe short-term cyclical problems even though long-term prospects were favourable.

Fluctuations in construction activity, therefore, were far more extreme in British Columbia than over the nation as a whole. During *boom* periods, construction *expanded* far more rapidly in that province (for example, by more than 28 per cent, as compared to less than 11 per cent in Canada in 1955 over 1954, and by more than 45 per cent as compared to less than 25 per cent in 1956 over 1955); and during recession years it *contracted* far more severely (for example, by 14.5 per cent in British Columbia as compared to less than 6 per cent over Canada as a whole in 1953 from the 1952 level, and by more than 25 per cent as compared to only 2.3 per cent for Canada during 1958 as compared to 1957).[16] The fluctuations in annual value of new construction contracts awarded in British Columbia were even more extreme. They increased almost fivefold during 1951 over 1950, then fell to less than one half of this level during 1952-54. This was followed by a fourfold increase in 1955 over 1954, carrying through 1956, and again declining to less than one-half the peak in subsequent years.[17]

This pronounced "boom and bust cycle," coupled with the divided and intensely competitive organizational structure of the construction industry in the province, gave rise to highly erratic patterns of wage increases that provoked several long and costly strikes. H. Carl Goldenberg, in his report as a special Industrial Inquiry Commissioner investigating a series of protracted strikes and lockouts in 1958, referred to the "chaotic" system of construction industrial relations and the "leap-frog" pattern of wage increases among the various building trades.[18]

In the major metropolitan Vancouver area, the industry comprises dozens of specialized unions (a number of which have jurisdiction extending over the whole province) whose leaders compete vigorously for prestige and leadership (as measured by wage

[16] *Private and Public Investment in Canada, Regional Estimates,* Department of Trade and Commerce, Ottawa, Series, 1952 to 1958.

[17] *Private and Public Investment in Canada, Regional Estimates,* Department of Trade and Commerce, Ottawa, Series, 1952 to 1958.

[18] *The Vancouver Sun,* Vancouver, B. C., August 18, 1958.

increases or higher fringe benefits). Except on special projects, they negotiated separate agreements with large numbers of specialized employers and contractor associations competing for profitable contracts. The products of the construction industry are characterized by short-run price inelasticity of demand in most product and labour markets, coupled with extreme sensitivity to general business fluctuations. This combination of factors tended to encourage excessive upward wage pressure by unions, and excessive optimism and overly generous concessions by employers, resulting in recurrent overexpansion and conflict. A series of large wage increases during a period of expansion tended to create "built-in expectations" which carried over into periods of decline or recession, when employers were forced to resist further union demands. The wage increases and other benefits won by the various building trades unions during periods of expansion, however, varied widely, due to differences in elasticity of demand and supply in the various specialized labour and product markets within the industry, and differences in militancy and bargaining power among the various unions. Workers in the industry at the same time had, and have, a strong sense of status. This was reflected, up to the later 1940's in B. C., in a complicated but rigidly hierarchical structure of wage rates and fringe benefits based largely upon degrees of skill and training required. Unequal wage increases and other gains during periods of rapid expansion disrupted, indeed almost destroyed, this established wage structure and generated widespread dissatisfaction and conflict. Unusually large gains won by a few unions occupying strategic positions during boom periods set targets that other building trades unions were forced to seek by what A. M. Ross calls the "pressure of coercive comparison." When a time lag occurred in the exercise of the pressure, so that it met head-on with employer resistance during a downturn, long drawn-out strikes and lockouts ensued.

The "lumpy" pattern of capital investment further contributed to such conflict. Large firms handling multi-million dollar projects competed feverishly for labour in boom periods, and offered wages and fringe benefits higher than the smaller construction companies, or the general public, could afford over the long pull. In disputes with major building trades unions in the middle of major projects, the larger concerns were able and willing to make overly generous concessions in order to win "peace at any price." The main repercussions were felt after completion of a series of major projects. Once a standard had been set by a minority during the height of a boom, attempts by other unions to win comparable wage increases came up against a ceiling of stable or falling demand during subsequent periods of levelling off or decline. Thus, as noted earlier, the biggest and most prolonged "interest" disputes in the history of the construction industry in the province occurred during 1952 and again in 1958. And practically all of these, in contrast to "wildcat" strikes, were in the *building* section of the industry, and in the major metropolitan center of Vancouver, not in major engineering projects in out-of-town areas.

Conclusion

The incidence of conflict in the industry in British Columbia fell sharply after 1958, as may be seen in the table, due to the continuation of serious unemployment and a low level of construction activity. It is difficult to predict whether a new

construction boom would generate a new cycle of conflict similar to that of the 1950's. The Provincial government enacted new legislation in 1959 that puts severe new restrictions and penalties on unions engaging in "wildcat" strikes or other illegal actions. Presumably a good deal of conflict could be prevented by more efficient handling of grievances by unions and employers, and by working out a more "consolidated" system of negotiating new agreements with employers, so as to reduce or eliminate much of the intense competition that has prevailed among the main building trades hitherto. Such measures might reduce the frequency and change the timing of disputes. If the province goes through another unstable pattern of growth like that of the 1950's, however, the construction industry seems likely to experience recurrent waves of prolonged and costly shutdowns.

[The End]

Labour Relations Policy and the Building Trades in Canada

A Discussion

By PETER STEVENS

Director of Labour Relations, Canadian Construction Association.

IT IS AN HONOUR and a pleasure for me to comment on the three learned papers so ably presented. Each in its own way dealt with some key aspects of construction labour relations in Canada. Our industry is Canada's largest single one, representing a dollar volume of over $7 billion, which in 1962-63 exceeded the total federal estimates by almost $1 billion, employing, according to the Dominion Bureau of Statistics, close to 600,000 persons on-site and an even larger number off-site in the manufacture and servicing of materials and equipment. Construction then is an influential segment of our economy, serving as it does to build the greater Canada we all seek for ourselves, and more important, the generations to come.

My purpose here, I feel, is not to agree with or to contest the views of the speakers. Rather, it seems more appropriate for me to try to develop some of the constructive implications of what they have stated. I shall also attempt to be sufficiently provocative to stimulate a penetrating discussion on the most crucial aspects of labour relations in our construction industry.

Three Factors Governing Working Conditions

Circumstances governing working conditions are probably unique since they are governed by the combination of these three factors:

(1) The prevailing mobility of labour from one employer to another;

(2) The constant change of sites of employment, often miles apart; and

(3) The identification within the labour force of almost twenty separately organized crafts.

The interplay of these three elements has created conditions which present a major challenge if the goal of the lasting establishment of responsible and mature construction labour relations is to be achieved.

The ways we have followed here have, as you have heard, not always been those followed in the United States. The fact that the industry is with only very rare exceptions governed by provincial and not uniform federal legislation has decidedly left its marks. This situation has been both beneficial and hindering, if not harmful, to us. It has helped inasmuch as provincial governments have been better able to carry out their efforts to create the climate for sounder labour relations through measures designed to best meet the need of particular conditions in their own province. On the other hand, to both labour and management which in this industry are so mobile, the varying provincial requirements have not infrequently been confusing.

Analysis of Construction Labour Relations Scene

Now permit me to proceed with an analysis of our construction labour relations scene. The craft unions have generally so far been able to attract and organize those workers engaged in major building construction, but only here and there those in the house-building and road-building and heavy construction sectors of the industry. House building in Windsor, water main and sewer work in Toronto and road building and heavy construction in British Columbia are examples. Organization of the major building construction sector has quite naturally concentrated on cities and proven more difficult in rural areas.

Often union organizational efforts have been directed at contractors and sometimes "clients" in preference to approaches to the workers themselves. Industry conditions make the former the simpler task for union organizers. Some employers operating nationally or in larger cities have given such recognition voluntarily for the sake of preserving labour peace. In the licensed trades, such as the electrical and plumbing ones, the unions have been helped by apprenticeship plans combined with top wage rates and more steady employment on a year-round basis. The competitive aspects resulting from wage differentials of as much as one dollar per hour have, however, led many contractors to refuse to grant unions voluntary recognition. This competitive aspect, combined with convenience, has resulted in labour negotiations being prevalently carried out through employer organizations at most larger centres.

The Basic Problem

To face the future, we should learn from the past. What, briefly then, has been in retrospect the basic problem in the unionized sector of the industry for both labour and management during the post World War II boom period? To my mind, this has undoubtedly been the snowballing effect of restoring to short-term expediency.

The fact that in labour negotiations contractors are normally no stronger at the bargaining table than their immediate clients permit has left its mark. Neither labour nor management was, under these circumstances and buoyant market conditions, perhaps too much concerned about the long-term effects of such short-term expediency collective agreements. Now as the industry suffers from overcapacity resulting in extreme competition in a "buyers" market, these effects are really being felt. Now it is being fully realized that just like any other service, demand for construction is stimulated by price. Labour and management do acknowledge that they have jointly, slowly but surely in some trades, been pricing themselves out of some markets altogether,

for example, bricklaying and plastering. Now it is being better realized by unions that what matters more to most construction workers is their annual income rather than the hourly wage rate.

Long-term Goals

The foremost need of all concerned then is to approach construction labour relations still more on the basis of meeting the industry's long-term needs for a greater volume of work giving labour more employment with gradually improving working conditions and contractors a better chance to perform more work and to do so at a reasonable profit. This objective should be accompanied by the desire to further develop lasting responsible and mature labour relations in the industry. This aim, I suggest, could be reached through pursuit of the following three long-term goals:

(1) The widest possible acceptance of multiple bargaining as the most beneficial procedure;

(2) The minimization of all aspects of competition on the basis of wage rates, fringes and hours of work within the construction labour relations scene; and

(3) Still greater acceptance of their respective full share of responsibility at the bargaining table and throughout the life of collective agreements by both labour and management.

I realize that this skeleton list amounts to being an over-simplification. However, that does not deter from its validity to any serious extent.

Let me briefly explain these three points more fully. Multiple bargaining to us in the industry means that all trades negotiate one agreement for one project or one given centre or perhaps area. This does not necessarily mean that the various crafts need to lose their identity or bargaining power. Separate appendices for each trade can take care of this. It does, however, mean that our clients are better protected against continuous delays resulting from a sequence of staggered work stoppages. Union workers are protected against picket line crossing problems and employers know that either all trades work for the life of the contract period—or none. Father Hebert has clearly indicated this in his paper.

The minimization of all aspects of competition on the basis of wage rates, fringes and hours of work within the construction labour relations scene would turn wage rates, fringe costs and hours of work into just one more tendering "specification" equal to all bidding contractors. In this manner, workers would be protected against substandard wages and management employing union labour against so-termed "unfair" competition. A contractor would remain competitive, but his ability to compete would be governed still more by his ability to assess and estimate a job, to finance it, to schedule and plan it and to carry it out. Equality of wage rates, fringe costs and the hours of work does not mean equality of labour costs. These, productivity will govern through job organization and work performance. This situation can probably best be brought about through a special construction industry "Fair Wage and Hours of Work" or "Standards" Act.

Such a statute would establish standards through a public board issuing schedules based on surveys of prevailing conditions by trades for zonalized areas and within these for the four main sectors of the industry, namely house building and minor construction, major building construction, road building and heavy construction and industrial maintenance construction. Such legislation would

need to provide for really effective enforcement—probably on the proven Quebec lines by "Joint Committees" as mentioned by Father Hebert. It would also—to overcome union objections—probably need to include some form of indirect protection of their legitimate interests. This proposal is by no means unrealistic and might perhaps before too long be drafted together by labour, management and possibly even government.

Finally, and to my mind most important, is the need for all parties to accept still more of their respective full share of responsibility both at the bargaining table and during the life of an agreement. To management this means recognition of substantiated valid union demands and full compliance with all agreement provisions without attempts of "cutting corners." To labour this means a realistic approach to negotiations on the basis of workers' best long-term interests. It also means the elimination of jurisdictional disputes and picketing for strikes during the life of an agreement which are illegal in Canada. It may in time also mean the recognition of new trades and the consolidation, if not elimination, of others. Here more and persevering "conditioning" through education and research rather than legislation will be required on both sides.

Conclusion

In summary then, we must look ahead, learn from the past and resolve to resist once and for all short-term expediency temptations. We must carefully pursue key long-term objectives and lay out a time schedule to implement these. This is by no means unrealistic—it can be done because it has been done. Governments may be needed to promote the right climate. The more labour and management can cooperate in this vital area the better, because the sooner the goal of permanently and universally responsible and mature construction labour relations and thereby a healthier industry will be achieved.

Let us never forget that we will be judged by our actions, not our words. Let us therefore resolve in the catch-phrase of Canada's Winter Works Campaign to "DO IT NOW."

[The End]

Labour Relations Policy and the Building Trades in Canada

A Discussion

By GORDON BLAKE

United College, Winnipeg, Manitoba, Canada.

I TAKE MY CUE from Dr. Somers' reference to birds in his discussion in which he likened himself, as I recall, to a mugwump. Under the impact of three excellent papers and one discussion in rapid succession, I feel more like the canary which somehow found itself involved in a badminton game.

I intend to spend very little time in running interference for the three gentlemen who have just presented papers. In a very few moments I shall withdraw my protection and let you all take shots at them. In this few moments, however, I will quite possibly display sufficient naivete, as a nonexpert in industrial relations, as

to be downright refreshing, although not intentionally so.

I am not going to attempt to comment at any length on Professor Jamieson's paper, leaving this instead to the more statistically minded, or at least more statistically competent, of his listeners. I may simply say that I think he has made a good case for his contention, based on the experience of British Columbia, that construction booms tend to generate industrial conflict after the boom has subsided. I would hazard a guess that, on a considerably reduced scale, the Manitoba experience would tend to support much of his thesis. I intend to leave it at this, with the observation that Professor Jamieson has here presented a nice piece of research, entirely in keeping with the high traditions of IRRA.

Remarks on Father Hebert's Paper

I am going to leave Professor Crispo's paper for the present, and remark upon Father Hebert's, while it is still fresh in our minds.

This was an interesting account of one method of dealing with some of the problems which appear to be inherent in the construction industry—a method which may well, I think, have been found unique, and, therefore, something of a surprise to those of his hearers who come from outside the Province of Quebec.

It seems to me to be an attempt to apply the "most favoured nation" principle to labour relations.

It contains, I suggest, some dangers. It is not inconceivable, for instance, that it could result in bad bargains, as well as good ones, being generalized by juridical extension, and applied to the competitors of the employer concerned. And despite the fact that it appears to be based on the initiative of the parties to the key bargain, it seems to me that it ends with government being rather deeply involved in the collective bargaining process, and, as well, in the control of competition, largely by placing a great deal of responsibility on the Minister of Labour. The terms "preponderant significance and importance" and "expedient modifications," for example, strike me as involving quite serious and important value judgments in this respect.

I should think also, although I may be wrong in this, that such a system contains inherent biases in one direction or the other, depending on the current relative strengths of labour and management, in terms of bargaining power. If so, it may well accentuate trends or cycles of, for example, wage increases or wage lags.

It might be of some small interest to the conference to know (many of you already do know) that the Province of Manitoba has something with not unlike consequences, although it appears at first sight to be quite different. Under the Manitoba Fair Wages Act there is a Fair Wage Board containing two union nominees, two employer nominees, and a nongovernmental chairman named by the members. It is the duty of this board to annually "determine and report on fair wages and maximum hours of work per week" for workmen employed in the construction trade, for both public and private projects. The criteria to be employed by the board are:

(a) Evidence of mutual agreement,
(b) Prevailing rates, and
(c) Other criteria designated by the Minister of Labour.

In practice, the schedules recommended by the board turn out to be agreed schedules, thus following criterion (a).

The Minister may approve the recommendation of the Board, disapprove any or all of them, resubmit, or amend.

There are designated zones. Zone A includes what was formerly the

Greater Winnipeg Water District, and is defined as the City of Winnipeg plus the area within a 30-mile radius of a centre at the Provincial Legislative Building. Zone B contains all other parts of the province for public works, and for private works, cities and towns outside Zone A having a population of over 5,000.

Again in practice, Zone B rates turn out to be 10 per cent below Zone A rates for private works.

While the initiative in the Manitoba scheme is different, I think the results are likely to be not dissimilar. Both the Quebec and Manitoba procedures can only be interpreted, I think, as in the last analysis implying compulsory arbitration of wages and hours in the construction trades.

I think the unions are somewhat schizophrenic about this kind of wage and hour determination, and with some reason. I suspect that employers may be too.

However, I do not wish to declare a personal position concerning this at this time, because, as the chairman has noted, I happen to be chairman of a committee set up to study the construction industry in Manitoba.

On Professor Crispo's Paper

Turning now to Professor Crispo's paper, this too was very interesting to me. I have been curious to know the results, to date, of the Goldenberg Commission.

I would like to say in particular that Professor Crispo's observations concerning the necessary future methods for dealing with the peculiar problems of the construction industry, while they may be branded by some as unrealistic, are eminently courageous. It seems that multiple bargaining, in some form, is taking on the characteristics of Mark Twain's weather. Everybody talks about it, but with a few notable exceptions, nobody does anything about it.

For my part, in extending Professor Crispo's suggestions in the direction in which they are obviously heading, I propose to be much less courageous. I intend to quote from the *Economist* of London of February 16, 1963. This of course is like reading from *Gulliver's Travels*. You are supposed to be able to do so with impunity, since it could not possibly be relevant to us. The *Economist* said this, in part:

"The best single thing that anyone could do, today, for the British economy would be to abolish craft trade unions."

"They (the craft unions) have played an absolutely central role in the rise of British industry. Now they are playing an equally central role in its stagnation."

"What, eventually, should Britain replace the craft unions with? The logical answer is industrial unions composed of all those working in a particular industry."

"This is the pattern throughout Europe, in the countries that had to start trade unionism from scratch again in 1945."

Now I have every expectation of being shot down in flames for daring to offer this quotation, despite my care in disclaiming any present personal conviction on the matter.

Conclusion

In conclusion, we seem to be left with a proposition and question. The proposition is this:—

What is wanted in the construction industry is a permanent labour force. And the question is this:—

What is the price of industrial peace in the construction industry?

[The End]

Collective Bargaining and the Public Interest

By ROGER CHARTIER

General Director of Personnel, Hydro-Quebec, Montreal, Quebec, Canada.

ONE FREQUENTLY HEARS management people contend that a given set of economic demands made by union representatives are "inflationary," and therefore "against the public interest." Union leaders retaliate by maintaining that managerial reluctance to yield to the union's financial claims tends to limit the purchasing power of the workers, and therefore is also "against the common good," the commonweal, the public or general will, or what have you.

Indeed, I have constantly found in all fields of social, political or economic endeavor a very close relationship between the claims of private interests and the definition of the national interest. As far as I can remember, my personal gains and individual objectives have always managed to keep in line with the best interest of this country! So my deepest sympathy goes to the often-misquoted Mr. Charles Erwin Wilson who candidly stated before a United States Senatorial Committee inquiring into the appropriateness of his nomination as Secretary of Defense:

"For years I thought what was good for the country was good for General Motors, and vice versa."[1]

The uproar that followed indicated that possibly there could be a useful distinction between General Motors and General Weal; and yet, I am positive that it never distracted even one UAW representative from the belief that what was in the interest of the Automobile Workers was unquestionably in the public interest!

The Public Interest

At this stage of my short address, it will come as no surprise to you that, as an introduction to this afternoon's session on "Public Interest Disputes and Their Settlement," I ponder over this notion of "public interest" or "will of the people"—that people which doubtlessly Hamilton had in mind when he shouted heatedly to Jefferson:

"Your people, sir, is nothing but a great beast."[2]

The concept of public interest constitutes the very core of democratic theories of government; it connotes the idea of responsible official decision-making in a democratic state. But then, if we use a behavioral approach to the study of the public interest in governmental decision-making, as Glendon Schubert suggests in a recent book:

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[1] *New York Times,* January 24, 1953, p. 8, col. 8.

[2] David S. Muzzey, *An American History,* Boston, Ginn Co., 1911, p. 192.

"Neither 'the American people,' nor special-interest groups, nor political parties, nor the Congress, nor the presidency, nor administrative agencies, nor plural courts are capable of deciding *anything,* except in a metaphysical sense. The atom of organizational behavior remains the individual; we can understand how and why complex aggregations of persons (which we term "groups" or "organizations") act only by examining the behavior of the individual actors, who are human beings."[3]

It should come as no surprise, therefore, that such a complex and variegated process leads to what Schubert calls "the cacophony of public interest." Is this concept so broad as to embrace almost any type of specific decision, or else is it so particular as to have no general meaning? After tearing apart what he terms the rationalist, idealist and realist concepts of the public interest, Professor Schubert concludes that "there is no public-interest theory worthy of the name and that the concept itself is significant primarily as a datum of politics" (p. 223).

The Common Good Defined

And yet, the logic of democracy is based on the conception that there is still a national unity and a common welfare. As MacIver puts it:

"The fact that the interest in the common welfare cannot be organized after the fashion of specific interests should not conceal from us either its existence or the need to sustain it. Democracy itself is the final organization of the common interest."[4]

I do believe, for my part, that there exists a common good, or public interest, which can, although with some difficulty, be defined and circumscribed at a given moment of a nation's life. Such a common good should not be opposed to individual welfare since in a very definite way it belongs to each individual in a given society. The same applies to group welfare. The public interest is not the mere arithmetical sum of the special interests, organized in groups or not. Nor is it an automatic consequence of the struggle of the special interests.

Such a common good is firmly embodied in each group and each individual, however transcendent it may be with respect to private interests. The public interest is not independent from the orientation of special interests toward a given equilibrum which is essentially moving in character. For instance, the sustained efforts of labor unions have doubtlessly led our Western society, in varying degrees from one country to the other, to a redefinition of the commonweal, or rather to a new relative weighting of its components, so that today the emphasis is gradually shifted from values of individual freedom to others of social and economic security. It is quite normal, in a democracy, that the common good be, in important aspects at least, a reflection of private interests shared numerically, economically or morally important groups within the society.

If I were to commit myself more specifically, I would venture a description of the main ingredients of the common good, or the public interest, as follows in the context of a free society:

Economic elements: general prosperity arrived at by the efforts of all, economic progress with equality of opportunity for all, economic security.

[3] Glendon Schubert, *The Public Interest,* Glencoe, The Free Press, 1960, p. 8.

[4] Robert M. MacIver, *The Web of Government,* New York, Macmillan, 1947, p. 220.

Socio-juridical elements: equal rights for all to economic prosperity and security, enhancing of freedom, dignity and worth of each individual.

Political elements: strengthening of democratic institutions.

Spiritual elements: such values as religion, culture, joint endeavor, and peace.

I realize how arbitrary the preceding elements may be; and yet, in our North American society, they are, by and large, part and parcel of any descriptive definition of the common good.

Who Can Define the Public Interest?

But who has a mandate to define the public interest, to apply the definition against given courses of action by individuals and groups? Who, may I ask, is in a position to see the public interest and to impose it as a guiding light?

First, I will answer negatively by saying that private groups or individuals, in Canada or the United States, are in no position and should not be expected to act as definers of the public interest and to use it as an immediate guide of their activity. In industry, this means that management and labor organizations, and individual members thereof, pursue their own private interests as best they can and as they see them. This, may I add, is all to the good and as it should be. I will even insist that managerial groups, labor unions and their members can and must directly seek the attainment of their own special interests and of these alone. And by ricochet, those institutions and individuals will be judged strictly whenever their activity deviates from the pursuit of their private objectives.

What becomes, then, of the common good or the public interest? Am I not inviting such groups and individuals to follow the path of systematic selfishness by setting for them as their sole concrete norm of action their special interests? Not so, at least to my mind. I have previously indicated that, especially in a democratic context, the relationship may be very close between the private interests of groups and the public interest. And I hasten to add that, while the common good may not *directly* be used as a guiding light for the activity of individuals and intermediate bodies, the latter must take the former into account as a basic datum, inasmuch as it is clearly defined. They must never act against it; and they must respect the other groups and individuals and their own special interests. In other words, I wish to eliminate the ambiguousness according to which the pursuit of special interests might be a social heresy. It is time, I believe, that we free intermediate groups like the union or management from the massive judgment by which their collective activity is morally evaluated according to whether it is in line with a usually vague "public interest."

Some Difficult Questions

I am reminded here of some tough questions which Justice Ivan C. Rand posed in a recent article without fully answering them:[5]

"What is the content of social responsibility vaguely deemed attributable to business? Assuming business to be subject to some degree of moral obligation, what of its nature and extent? Is there embraced an element of 'fairness' toward competitors and the public? In this sense, what is

[5] Ivan C. Rand, "Our Competitive Society: Are Profits and Our Professed Ethical Code Compatible?" *The Business Quarterly*, Vol. 28, No. 1, Spring 1963, p. 21.

'fairness?' Does it lend itself to a workable standard? Is there a moral incidence on wages, prices, advertising and other features of business? Is individual integrity to be imported into corporate acts? By what criteria is moral or ethical quality in any case to be measured? If these qualities have here a relative character, from what considerations are they to be deduced?"

Questions like these, which could just as well have been asked about labor or any other group, are basic to my subject at this time. I would be tempted to answer most of Justice Rand's questions by an elaborately qualified "yes."

Our North American Systems

What must clearly be seen and understood is the fact that in North America our legal and economic framework does not easily lend itself to the utilization of the criterion of public interest in union-management relations. This is true in Canada and the United States as well since there is hardly any difference, basically, between our two countries as regards collective bargaining patterns. The fact that in Canada, contrary to the United States situation, the major role in industrial relations belongs to the provinces does not weaken the basic similarity since there is evidenced an almost total uniformity of legislation and administrative rules from one province to the other and in relation to the federal situation on points which are relevant to my topic.

Indeed, what is characteristic of both our collective bargaining systems and distinguishes them from the British or Continental ones is the accent on the individual firm and even, within the firm, on the individual plant as the typical locus of collective bargaining and as the basic productive or distributive unit at the local level.

Save a few exceptions, we do not have a vast contractual and regulatory basis, multi-employer and even industry-wide in scope. Our bargaining still favors the grass-roots dimension and reflects the spirit of free private enterprise and free individual contract very slowly extended to larger and larger collectivities. Most contracts are negotiated at the local level between relatively free-moving parties. This should not obscure the fact, of course, that more and more *procedural* rules regarding contract negotiation and administration are set forth by government, and that important *substantive* elements are introduced in the local agreements by the union or federation, the employers' association and even government. And yet, local-level bargaining, or more precisely bargaining for the local, is still dominant on this side of the Atlantic in the wake of our capitalistic tradition, of the pragmatic character of the parties involved, of our individual-centered legislation and of our dynamic economy.

One exception to that pattern which is nurtured by statute is the system of decrees existing in the Province of Quebec under the Collective Agreement Act, and according to which "a collective agreement respecting any trade, industry, commerce or occupation shall also bind all the employees and employers in the Province or in a stated region of the Province." This is another instance where the exception confirms the rule, and the decree system in Quebec, as you have seen this morning during Father Hebert's presentation, poses special problems which I have no time and no desire to examine with you.

Need for Industry-Wide Collective Bargaining

I have found nothing in the Canadian industrial relations legislation, whether

federal or provincial that literally prohibited industry-wide bargaining. More or less the same language is used throughout. The parties may be the individual employer or an employers' organization, a trade union or a "council of trade unions." Ontario states clearly that a trade union may include provincial, national or international levels. However, the various Labor Relations Boards in Canada, whose responsibility it is to define and to demarcate the bargaining units, have consistently done so at the local-establishment level. While such a trend may safeguard basic, and at times dubious, values of a free society and may well correspond to the ideals and attitudes of the more conservative elements of that society, it must be obvious to all here that it is not conducive to a broad view of the common good by the parties thus condemned by official decree to systematic short-sightedness at the local level, within the framework of one plant or even of one craft.

Such a policy does not encourage collective bargaining for large sectors of the economy, at which level the parties would possibly get closer to the common good and see better the point of moving equilibrium at which the public interest would more closely be achieved. At the local level, and even though the union or federation and the employers' association may and often does intervene, the emphasis is on conflict, while at the industry level it would likely shift toward cooperation.

If there were vast aggregates of unions and employers which were allowed to negotiate for a whole industrial sector, both sides would be compelled to take directly into account the public interest, to which they would get increasingly closer. Slowly, selfish provincialisms would give way. General standards could be set more easily as regards remuneration, productivity, job classifications, etc., away from the pitched battle of antagonistic local interests and competition.

Government as Definer of Public Interest

In Canada especially, provincial barriers would have to be temporarily eliminated in order to respect natural economic regions, so that all industries and services overlapping provincial boundaries be subjected to federal legislation. Since the preceding pronouncement may not be constitutionally realistic for some time to come, I suggest that we first work *within* the boundaries of each province! But since the parties to collective bargaining, with the present system centered around the local unit, are in no position to make an operational use of the public interest as a direct guide for their economic endeavor, what institution will define for them the elements of the common good in specific instances? There remains government. While I reject all forms of totalitarian socialism or state corporatism; I am forced to realize that government, and government alone, is in a position to act as definer and distributor of the commonweal, and to state clearly the demands of the public interest for private groups and individuals whenever the need arises.

Government, of course, is not monolithic. Especially in a democracy, it will be well advised to consult socio-economic groups before defining the common good and orientating them toward it. In the final analysis, however, it behooves government to act as pilot and coordinator and to indicate where the public interest lies when the latter does not spring normally from the free activity of groups and individuals. Government pronouncements on the public interest will, of course, be the result of numerous

pressures from within and from without. Legislative decision-making will reflect the complex mixture of pressures emanating, in varying degrees and directions, from the people directly, from political parties and other interest groups, from the courts, from administrative agencies and especially from the cabinet and the chief executive. Thus it is that government, moved by constant internal pressures which have to be equilibrated, will also have to act primarily as an arbitrator, leaning to one side against the other; that is, favoring a given set of special interests which seem to be most compatible with what it conceives to be the right direction for the society's development and the proper definition of the people's will.

In order to broaden the views of the parties to collective bargaining, if this be seen as a desirable objective, government must enlarge the scope of the bargaining unit and invite the parties, through their provincial or national organizations, to cooperate ever more closely with it in social and economic matters. It must integrate them more fully in the decision-making process bearing on economic life by establishing the appropriate legislative and administrative framework which will gradually lead to what European social thinkers have termed the "organized profession," which is to be conceived as a branch of economic activity (whether dustrial, commercial or services) recognized by government (although not a tool in its hands) oriented by the efforts of both employers' and employees' associations bargaining for the whole economic sector.

Conclusion

To conclude, I say that we are here faced with the sempiternal problem of values. If we are serious when we pit union or management activity against the public interest, then many changes, which I have already suggested, must be brought about in our legislation or rather in the administration of our legislation. The alternative to this is the status quo, which I do not favor.

[The End]

National wealth . . . has no other purpose than to secure without interruption those material conditions in which individuals are enabled to lead a full and perfect life. When this is consistently the case, then such a people is to be judged truly rich. . . . From this it follows that the economic prosperity of any people is to be assessed not so much from the sum total of goods and wealth possessed as from the distribution of goods according to the norms of justice, so that everyone in the community can develop and perfect himself. For this, after all, is the end toward which all economic activity of a community is by nature ordered.—Pope John XXIII, *Mater et Magistra*.

SESSION IV

Public-Interest Disputes and Their Settlement

Canadian Policy Experiments with Public-Interest Disputes

By H. D. WOODS

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A STUDENT of public labour relations policy in Canada and the United States will not proceed far with his investigations before he realizes that in many respects there are important differences between policy arrangements in the two countries. Since a much larger volume of research and writing is available on the United States, this paper is confined to Canadian experience with only a casual reference to the United States where such observations will serve to highlight the similarities and differences.

I shall not attempt a definition of a public-interest dispute at present, but shall outline briefly the major steps taken in this country with regard to certain industrial disputes which, because they were singled out for special legislative action, must have been considered to have a high level of public interest. Before doing so it is well to remind ourselves that in Canada, unlike the United States, the labour relations function is largely decentralized with the provinces having the lion's share as against the Dominion.[1] However, as will be made explicit later, a rather large proportion of the industrial relations area under Dominion jurisdiction involves industries whose functions are usually, for one reason or another, considered to have a high public-interest character. Let us turn now to some history of public policy.

HISTORY OF PUBLIC POLICY

Nova Scotia in 1888 passed a Mines Arbitration Act which introduced three principles: (a) freezing of working conditions which prevented the employer from dismissing the workers during a period of investigation, (b) the suspension of the strike, and (c) compulsory arbitration of the dispute. The act failed of its purpose on the first and only try. The employer challenged its validity in court and the union resorted to the better-known technique of a strike.[2]

[1] To distinguish government at Ottawa from government in Washington, the somewhat battered term "Dominion" will be used to refer to the former while "Federal" will apply to Washington.

[2] W. S. A. Martin, "A Study of Legislation Designed to Foster Industrial Peace in the Common Law Jurisdictions of Canada," unpublished thesis, University of Toronto, 1954, p. 113.

A second and very important attempt to deal with public-interest disputes was under Dominion auspices, was concerned with railways only, and was more successful. In 1902, following a 1901 strike of Canadian Pacific trackmen, the Minister of Labour introduced into Parliament a bill to provide for compulsory arbitration of labour disputes on railways. Labour and other opposition to compulsory arbitration resulted in the measure coming out as compulsory conciliation, and a basic Canadian pattern was established which with modifications has persisted to the present. This Railway Labour Disputes Act of 1903 provided for a two-stage form of intervention, an ad hoc conciliation committee and a board of "arbitration." Initiation of the process could be by either of the parties, by a municipality, or by the Minister of Labour. In all cases, however, it was the Minister ultimately who decided if a conciliation committee was to be established. If the committee failed to effect a settlement, the Minister could establish a Board of Arbitration. The Counciliation Committee had the accommodating responsibility of trying to mediate the dispute. But the Board of Arbitration was required to "make thorough, careful and expeditious inquiry into all the facts and circumstances connected with the difference and the cause thereof and . . . consider what would be reasonable and proper to be done by both or either of the two parties with a view to putting an end to the difference, and to preventing its recurrence, and . . . make the Minister a written report setting forth . . . the said facts and circumstances and its findings therefrom including the cause of the difference and the Board's recommendation."[3]

It is interesting to note that the Canadian Parliament was prepared to impose compulsory conciliation and investigation, and to authorize the Board to confront the parties with recommendations. Of equal interest was the recognition in the preamble to the act of a public interest. Strikes and lockouts could, it was said, interfere with the proper and efficient transportation of mails, passengers and freight, interrupt trade and commerce, cause railways to fall into disrepair, endanger the lives of passengers and employees and in various other ways occasion serious injury both public and private. In 1906 the Railway Labour Disputes Act was combined with a general voluntary Conciliation Act of 1900 into the Conciliation and Labour Act. The Dominion thus had a provision for voluntary conciliation of any dispute and compulsory conciliation, investigation, reporting in railway disputes alone. In the latter case the process was compulsory but the "award" or recommendations were not.

Industrial Disputes Investigation Act

The next major landmark in Canadian labour policy was the Industrial Disputes Investigation Act passed by Parliament in 1907, following a severe coal mine strike in Alberta in 1906. This Act borrowed the principles of compulsory mediation and investigation from the earlier railway act and added the suspension of the strike. It also broadened the scope by making its provisions applicable to several classes of industries through the definition of employer which was to include ". . . any person, company or corporation employing ten or more persons and owning or operating any mining property, agency of transportation or communication or public service utility, including . . . railways,

[3] Railway Labour Disputes Act, 1903, Sec. 10.

whether operated by steam, electricity or other motive power, steamships, telegraph and telephone lines, gas, electric light, water and power works."[4]

Thus, for the first time Canada had a system of state interventions which applied generally to public utilities and to mines. Moreover, while a Dominion law, it was in practice applied generally throughout the country in the specified industries. This application in all jurisdictions was set back in 1925 when the judicial Committee of the Privy Council ruled in the *Snider* case that the Act was *ultra vires* of the Dominion Parliament. Consequently it was amended so as to be applicable to industries which by the constitutional interpretation fell clearly within Dominion authority.[5] However, the Act also contained a permissive claim by which a province could legislate its application in the provincial jurisdiction. In the following years, all provinces but one did so and the policy of public-interest dispute intervention was thereby continued almost universally in Canada.

World War II

As might be expected, the War of 1939-45 had the effect of extending enormously in the public mind the territory of public-interest disputes. It also brought about a temporary shift of legislative authority in the labour field. Parliament had full power to enact laws which it considered necessary for the security of the state in time of war. Through the War Measures Act of 1917, Parliament vested its authority in the Governor-in-Council, which opened wide the door to government by order-in-council. The government acted rapidly and on November 7, 1939 the I. D. I. Act was extended to cover defence projects.[6] It is unnecessary to go into detail, but is is important to note that the effect of the war was, because of the importance in the national interest of a very wide range of industries, to make most industrial disputes public-interest, or even emergency disputes. The well-established public-interest machinery of intervention was therefore extended and became in effect applicable to a large number of disputes to which it would not have applied in peacetime. There were additional wartime provisions including such matters as supervised strike votes, wage and price control and others, but these are not important in the context of this paper. Finally in 1944, P. C. 1003 combined the compulsory conciliation features of Canadian experience with the compulsory recognition and compulsory collective bargaining principles which the United States had applied in the Wagner Act of 1935.

Consequences of Wartime Experience

Two important consequences flowed from this wartime experience. The first was that a technique which had originated with the Railway Labour Disputes Act of 1903 which recognized railway disputes as matters of public interest, had become so wide in coverage as to be hardly distinguishable as a technique designed for emergency situations. The second was that in the postwar period the country did not revert to the *status quo ante,* but instead carried into peacetime as permanent policy for general application

[4] Industrial Disputes Investigation Act, 1907, Sec. 2(e).

[5] See "Constitutional Validity of the Industrial Disputes Investigation Act, 1907," King's Printer, Ottawa, 1925; B. M. Selekman, *Postponing Strikes,* Russell Sage Foundation, 1927; F. R. Scott, "Federal Jurisdiction over Labour Relations—A New Look," *Proceedings,* Eleventh Annual Conference, Industrial Relations Centre, McGill University, 1959.

[6] P. C. 3495, Nov. 7, 1939 and amended by P. C. 1708, Mar. 10, 1941.

the old compulsory conciliation technique which had been applied for over 40 years to public-interest disputes only. The means by which this transformation was carried out were the Dominion Industrial Relations and Disputes Investigation Act of 1948, and similar laws passed in most of the provinces in the years before and after 1948. The policy may be illustrated by reference to the Ontario Labour Relations Act which provided that where no collective agreement was in operation, no employee was permitted to strike and no employer to lock out employees until the conciliation procedure had been completed and seven days had elapsed. It is to be noted that "employer" was not limited to public utilities or emergency situations. The distinction between public-interest disputes and other disputes had been dropped. This means that at present we still retain the system of compulsory investigation, but it applies to all disputes whether they are of serious dimension as in the railways, or of trivial consequence as in the case of a bubble-gum factory.

The fact that the original system of public-interest dispute intervention has by the accident of war become a technique applicable to all disputes does not mean that there is no interest in special instruments to protect the public interest from the consequences of industrial conflict. Two provinces, Alberta and Manitoba have introduced emergency provisions of limited application into their labour policies. Neither of these has in fact been invoked; yet because of the possible influence on the behaviour of the parties in industrial relations, simply because they do exist, a brief description is necessary.

Alberta Labour Act

The Alberta law[7] authorizes the government, whenever it believes there exists a state of emergency because of a labour dispute, involving serious jeopardy to life or property by reason of any breakdown or impending breakdown or stoppage of work in a plant or equipment furnishing water, heat, electricity or gas to the public, or in hospital services, to order by proclamation the application of an emergency procedure. Any strike or lockout becomes illegal, and the Minister of Labour is charged with the responsibility to establish a procedure to assist the parties to reach a settlement. The Minister is empowered to do "all such things as may be necessary to settle the dispute." This last authority would appear to include compulsory arbitration, and the Act is so interpreted by the Deputy Minister of Labour of the Province. It is the view of this official that the provision, while never actually invoked, has had the effect of increasing the sense of responsibility of the parties, and of actually improving bargaining. In this regard it might be worth noting that a feature of the law is its built-in uncertainty. The parties have no advanced knowledge of any specific step that might be imposed by the Minister under the emergency provision, but only that he is empowered to do whatever is necessary to produce a settlement.

Manitoba Labour Relations Act

The Manitoba law[8] is more complex but may be summarized. In the case of a labour dispute over the negotiation of an agreement involving certain specified public utilities such as the Manitoba Power Commission, the Winnipeg Electric Company, and the Manitoba Telephone Commission which

[7] Alberta Labour Act, Sec. 99.

[8] Manitoba Labour Relations Act, Secs. 55 and 71 to 78 inclusive.

supply light, communication, and power, as well as the Liquor Control Commission which provides yet another public service, the Minister has the discretion, acting on request from either party or on his own initiative to establish a Mediation Board. The Board is appointed by the Minister from established lists. It is required to hear the parties and make its report or award. The parties are then given seven days to accept or reject the award. If they both accept, the award is binding. If a party rejects the award, hearings are held and thereafter the Lieutenant-Governor-in-Council is required either to confirm or vary the award. If at the same time he declares that the unimpeded operation of the business or service is "essential to the health and well-being of the people of the province, or some of them" the parties are bound by the order confirming or varying the award.

It will be noted that this procedure differs considerably from the Alberta one. It applies to specific companies or commissions rather than to classes of industry or service. Secondly, with one exception it applies to socialized industries. Thirdly, it has a series of complicated steps which make it a variety of reluctant compulsory arbitration. Finally, the procedure in Manitoba is laid down by statute. The political discretions concern whether or not the award will be altered, and whether or not, in the last analysis, the award will be imposed. In Alberta the discretion concerns, first, whether an emergency will be declared, and secondly what device or devices will be used to produce agreement. Let us recall that neither the Manitoba nor the Alberta emergency dispute clause has to date been used.

There has been considerable experience, particularly in Quebec, with legislation designed to supplant part of the normal collective bargaining and dispute settlement process by procedures especially designed for certain public service relationships where, presumably, it is not in the public interest to permit a cessation of the service. Without going into elaborate detail, the principle may be illustrated by reference to the Quebec Municipal School Corporations Act. In effect, this law imposes standing boards of arbitration on municipalities and school corporations and their employees. Each board is appointed by the government for a two-year period and all awards are binding on the parties. Under the Public Services Employees Disputes Act of the same province similar restraints are imposed on the communications and transportation industries and those engaged in the production of gas, water or electricity. In other words, Quebec has met the problem of public-interest disputes by imposing compulsory arbitration on a wide range of utility and servicing industries. The procedures differ from the provisions in Manitoba and Alberta in one very important respect. In Quebec there is no governmental discretion regarding the application. In other words the Quebec machinery is operative automatically and is used extensively. Perhaps I should emphasize that there are in other provinces special procedures for such occupations as police and firemen and others. I chose Quebec because that province has gone much further than the rest in bringing collective employment relations in public services and so-called essential occupations under public control and restraint.

Ad Hoc *Legislation*

Finally some brief consideration of the use of *ad hoc* legislation is needed. Again it is not possible to do more than refer to a few of the more spectacular illustrations in Canadian history.

The Dominion Government in the wartime crisis of 1917 brought the coal fields of Alberta under the authority of a Director of Coal Operations who was given powers seldom possessed by any one official in Canada. For four years this individual could set the price of coal, investigate labour disputes and set wages and bonuses and other conditions of work. Moreover he had the services of the Mounted Police to enforce his orders.[9] This was compulsory arbitration in an essential industry in wartime and it applied to all disputes in the industry until the emergency was over and transition to a peacetime economy had taken place.

Perhaps of greater significance was the use of legislated arbitration in a specific dispute on the Canadian railways. In 1950,[10] 15 unions in the non-operating group struck the Canadian railways and effectively brought rail transport in the country to a halt. The full procedure of two stage compulsory conciliation had been completed, and a special mediator had attempted to resolve the dispute after the report of the conciliation board. After the strike started, Parliament was called into session and it immediately passed the Maintenance of Railway Operation Act. The bill instructed railway companies to operate the lines, called on the employees to return to work within 48 hours, set a time limit for voluntary settlement, and provided for compulsory arbitration at the end of a month. Ultimately the arbitrator did function. Ten years later the Dominion Government again used the legislative device to settle a railway dispute, but this time it came before a strike rather than after it had been started. The law[11] extended the existing agreements for several months, directed the unions to notify their members that strike action was suspended during the extension period, ordered reinstatement of certain employees who had been laid off, and declared that the rights and privileges of the involved unions and employers under the I. R. D. I. Act would be preserved at the expiration of the special legislation.

This use of the legislative power by the Dominion may appear to be somewhat audacious, but it pales into the realm of timid caution in comparison with the action of the Newfoundland Legislature in 1959 when, by a Special Act,[12] it revoked the certification of two locals of the International Woodworkers of America, stipulated that they could not apply for certification again without the prior approval of the government, and forbade the Labour Relations Board from granting certification to them without such approval. The Dominion in its use of the legislative power had suspended certain rights and imposed special obligations on both parties. The Newfoundland legislation was less complicated. It simply destroyed one of the parties, and incidentally for the case substituted the government for the Labour Relations Board. The Act referred to the "grave emergency" and lawlessness on the part of the loggers.

[9] D. E. Armstrong and Muriel Armstrong, "Third Party Intervention in the Alberta Coal Industry," *Patterns of Industrial Disputes Settlement,* Industrial Relations Centre, McGill University, 1958.

[10] Ray Reynolds, "Public Policy with Respect to the Settlement of Labour Disputes in the Canadian Railway Industry," unpublished thesis, Massachusetts Institute of Technology, 1951; also, "The Railway Strike of 1950," *Labour Gazette,* V. L., p. 1638-1654.

[11] Railway Operations Act, 1950.

[12] An Act to Make Provision for Safeguarding the Public Interest in View of the Unsettled Conditions in the Woods Labour Part of the Pulp and Paper Industry in the Province, 1959.

More Ambitious Study Needed

This has been a very sketchy outline of Canadian experience with the problem of public-interest disputes. Those who are familiar with the literature on this subject in the United States will realize just how sketchy the treatment has been. They will also recognize that there has been much that is unique to this country. What is needed, of course, is a much more ambitious study which will encompass all the major aspects of the problem in addition to the brief outline of public-policy activities I have discussed. At a time when both Canada and the United States are showing increasing interest in the problem, studies in depth of Canadian experience would be very much worthwhile.

Summary

Meanwhile I should like to make a few concluding observations. Canada's major experiment in intervention started with public-interest disputes. Ultimately the technique worked out was enlarged in scope until it became a procedure of general application. In the process public-interest disputes were swallowed up in a sea of general disputes. A probable consequence, in contrast with the United States, has been a lack of research and discussion such as that which has been sparked by the emergency provisions of the Taft-Hartley Act. The only legislative provisions in this country which resemble the Taft-Hartley measure have not been used, and therefore have provided little basis for discussion, and no research.

We have learned something from the experience with special legislation such as the law relating to public service employees in Quebec and elsewhere, but we have really had no thoroughgoing analytical study of these experiments. Some work has been done on the railway labour disputes arbitrations but little has been published.

Unfortunately, while American experience is valuable for us, we cannot find in that country a ready-made model to be applied here. The strong American resistance to intervention of any sort has given them an industrial relations public policy quite different from Canada's. We have already accepted intervention in negotiations generally to a degree that usually shocks Americans when they first encounter it. The mix of the mixed economy shows a much higher rate of participation of government directly in economic life in Canada than in the United States. Consider, for example, the public sector of the power or transport or communications industries in the two countries. This means that in Canada a rather large proportion of the very industries where public interest in industrial peace is high involves governments, national, provincial or municipal as employers, and changes the context of industrial relationships.

Conversely the United States is not going to find in Canada a formula to relieve the President of the awesome responsibility imposed by the emergency clauses in Taft-Hartley. As our ex-President, Charles Myers, has told us, there is much in industrial relations systems that is not exportable. Nevertheless, our two economies and our system of industrial relations are sufficiently similar and even interlocked to an extent that makes comparison useful. Plans are underway for a full study of the Canadian experience at the McGill Industrial Relations Centre. Undoubtedly comparison with the United States will be a major part of that effort.

[The End]

Observations on the United States Experience

By BENJAMIN AARON

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THE TITLE OF THIS PAPER implies a retrospective treatment of its subject. This is appropriate, because an examination of the past not only illuminates the present, but also provides some indication of future developments. On the basis of the following brief review and analysis of the American experience in dealing with public-interest disputes,[1] I shall attempt to forecast, in a limited way, what lies ahead.

Changes in Public-Interest Disputes

Few aspects of labor-management relations remain static very long, and public-interest disputes are no exception. The nature of these disputes has changed markedly in recent years. Yesterday's issues related primarily to the improvement of wages, hours and other conditions of employment; those of today relate primarily to manpower utilization and job security.

The social and economic context in which these disputes occur is also in a state of rapid and fundamental change. The rate and extent of technological innovation are creating problems of unprecedented magnitude and complexity for society as a whole. Despite recent indications of an increase in the rate of economic growth, the American economy is not expanding rapidly enough to provide the number of jobs necessary to accommodate a growing labor force. The American labor movement is in a period of decline; its membership has not kept pace with the increasing number of new workers. The percentage of older workers and very young workers in the labor force who lack both the skills required for available jobs and the capacity to be trained for such jobs is rising. Competition against American goods both at home and abroad is becoming keener. Finally, and most regrettably, there appears to be no immediate prospect for a substantial relaxation of international tensions.

Public Tolerance for Strikes Diminishing

These and related factors are more than sufficient to account for the changing attitude of many Americans toward public-interest disputes. In a recent address Secretary of Labor W. Willard Wirtz, with characteristic candor, declared that "public tolerance for strikes is diminishing rapidly." After analyzing some of the reasons, he summed up the present situation in words that bear repetition here:

"I conclude, even applying the necessary discount rate to trials and tribulations of the moment, that we stand today at what history will probably mark as a fairly clear fork in the development of labor-management relations in this country. Neither the traditional collective bargaining procedures nor the present labor dispute laws are working to the public's satisfaction, at least so far as major labor controversies are concerned. It doesn't matter any more, really, how much the hurt has been real, or has been exaggerated. A decision has been

[1] As used in this paper, the term, "public-interest disputes," means disputes over the provisions of new collective agreements—as distinguished from disputes involving interpretation or application of existing agreements (grievances)—with which the general public is substantially concerned.

made, and that decision is that if collective bargaining can't produce peaceable settlements of these controversies, the public will."

Mr. Wirtz believes in collective bargaining and is doing what he can to strengthen and preserve it; but others in the United States have already written off collective bargaining and are looking for substitutes more acceptable to them. It is appropriate at this time, therefore, to consider how well the various procedures for settling public-interest disputes in the United States have worked in practice. The views expressed are personal, being based very largely on my own experiences as a participant in these processes. Nevertheless, I think they would be generally supported by many others who are familiar with the subject.

Emergency Board Procedures of the Railway Labor Act

The emergency board procedures of the Railway Labor Act have grown increasingly formal, cumbersome, expensive and unproductive. The ritual of presenting the case to the board is as stylized as the courtship dance of the great crested grebe. The board, immobilized by hours of hearings during which prepared testimony is literally read into the record, and smothered by an avalanche of printed exhibits and briefs, has no time for open, forthright mediation; at best it can make only a few tentative, sometimes clandestine, efforts to bring the parties together. Genuine collective bargaining seldom begins until after the board's report and recommendations have been released. The latter are invariably denounced by one or both sides; nevertheless, they have usually provided the basis for the eventual settlement.

As the economic condition of the railroad industry continues to decline, however, and the issues in dispute become increasingly difficult to resolve, the emergency boards are proving less effective. The failure of the presidential commission, appointed in 1960, to settle the intractable work rules controversy on the railroads has added to the present difficulties. When the commission was appointed, it was hoped that the five distinguished public representatives would be able, without the pressure of tight deadlines and publicity, to mediate a settlement between their industry and labor colleagues. The commission's report, made public in 1962, contained exhaustive and authoritative findings, as well as a full set of proposals to resolve the dispute; but these were denounced and rejected by the unions. Now, the matter is once again before a statutory emergency board, and the outcome of the dispute is very much in doubt.

Another disturbing development is the tendency of the parties to resort to the courts for mandatory or prohibitive injunctions against each other. Inevitably, the courts have become entangled in metaphysical distinctions between "major" and "minor" disputes,[2] and have issued inconsistent decisions as to when the federal anti-injunction law (Norris-La Guardia Act) does or does not bar the issuance of injunctions.[3] It sometimes seems

[2] "Major" disputes are controversies over rates of pay, rules, or working conditions to be incorporated in collective agreements. "Minor" disputes involve the interpretation or applications of wage and rule provisions in existing agreements. The latter are subject to compulsory arbitration by the National Railroad Adjustment Board, and strikes over such disputes may be permanently enjoined by the federal courts. *Brotherhood of R. R. Trainmen v. Chicago River & Ind. R. R.*, 353 U. S. 30, 32 LC ¶ 70,566 (1957).

[3] See Benjamin Aaron, "The Labor Injunction Reappraised," *U. C. L. A. Law Review*, Vol. 10, January, 1963, pp. 314-17.

that the parties strive harder to gain a tactical advantage than to settle the underlying dispute.

Taft-Hartley Emergency Procedure Machinery

Despite its many weaknesses and inadequacies, the Railway Labor Act's emergency disputes procedure has been more effective than the corresponding machinery of the Taft-Hartley Act, which has proved virtually useless in preventing strikes and has contributed little to their settlement.

There is still no consensus as to when a dispute truly imperils the national health or safety. If purely economic criteria are applied, few cases would meet the test;[4] but the line between emergency and inconvenience is frequently hard to draw, and public resentment against strikes in key industries, regardless of their effect on national health and safety, is a political force which cannot be ignored. Though scholars and practitioners may argue over the correctness of invoking Taft-Hartley emergency procedures in any given case, public opinion almost invariably supports the President when he does so.

The convening of the statutory board of inquiry is an empty pretense. This action is taken only after the President's advisors have persuaded him that an 80-day injunction must be obtained. The board's report is usually perfunctory, consisting of a series of conclusions almost entirely unsupported by evidence. Ironically, the board usually works within such close time limits that only the full cooperation of both disputants permits it to complete its job within the period allowed. In one recent dispute the board was given less than 36 hours to assemble, hold the hearing, and prepare its report to the President. Representatives of one of the unions involved had to travel across the country for the hearing and did not arrive until after the report was finished; their position was obligingly telephoned to the board by the union's international office.

Use of the injunction, which freezes the *status quo* and thus forces employees to continue working under conditions which they regard as unsatisfactory, is still deeply resented by organized labor. Except in the case of the 1959 steel dispute, however, unions have offered only token resistance, or none at all, to the issuance of the injunction. This is understandable because such resistance would doubtless be unavailing; but it could make necessary more extended hearings and more carefully documented reports by the boards of inquiry. That unions have not resorted to this tactic suggests that the injunction is really not needed; a procedure similar to that in the Railway Labor Act would probably be just as effective to maintain the peace.

Weakness of Last-Offer Technique

The vote on the employer's last offer is an expensive, clumsy, and virtually useless device—perhaps the greatest triumph of hope over experience in the modern history of industrial relations. In the face of overwhelming evidence to the contrary, Congress clings pathetically to the fantasy that workers, if allowed to express their preferences by secret ballot, will repudiate their union leaders. The reasons why this is not and cannot be so are too obvious to require elucidation. Suffice it to say that on occasions

[4] See, for example, George H. Hildebrand, "An Economic Definition of the National Emergency Dispute," in *Emergency Disputes and National Policy*, Irving Bernstein, Harold L. Enarson, and R. W. Fleming, eds. Industrial Relations Research Association Series, New York, Harper, 1955, pp. 3-23.

when employees have voted on the employer's last offer, they have rarely failed to reject it overwhelmingly. In a recent exceptional case the employees voted to accept the employer's last offer; but in that instance the union had already lost the fight on the main issue and knew it. Accordingly, in order to save face, it urged acceptance of the offer, which in all other respects was satisfactory.

Another major weakness of the last-offer technique is that the offer is frequently too complicated to put on a ballot; in some instances it consists of an entire collective agreement. Under those circumstances it is extremely unlikely that many of the employees voting will have a chance to study the detailed proposals.

Some persons have argued, on the basis of a rather naive pragmatism, that the Taft-Hartley procedures are effective because the disputes in which they are invoked eventually get settled. That, of course, is true about all disputes; but settlements of national emergency disputes are almost invariably reached after the statutory procedures have been exhausted, and frequently after a strike has occurred.

The strike cannot legally occur until the injunction has been vacated. At this point the weakness of a democratic government is most painfully exposed. The parties have not "cooled off" during the 80-day period of enforced peace; they probably have not even bargained purposefully; they have simply bided their time and planned their respective strategies. Then the injunction is vacated; open warfare begins, and the government is virtually powerless to act.

In a serious crisis the President can do one of two things. He can act independently to accomplish what he thinks is necessary, even though the courts may subsequently tell him he acted unconstitutionally. He can also refer the dispute to Congress for appropriate action. Of the two alternatives, the former is preferable. The President is sure to be better informed than Congress and likely to be more restrained in what he does. Moreover, his action will not become law. Resort to a legislative solution of a specific dispute under the Taft-Hartley procedures has, fortunately, never been tried; the thought of what an aroused and ill-informed Congress can do when it legislates in haste and in anger is terrible to contemplate.

Chief Weakness of Nonstatutory Procedures

The chief weakness of nonstatutory procedures is just that they lack the sanction of law. Parties who do not want to participate in proceedings before a nonstatutory board invariably accuse the government of trying to circumvent the Taft-Hartley Act, ignoring the fact that the dispute may not constitute a genuine emergency in the opinion of the President and that the statute simply says that he *may*, not *must*, appoint a statutory board. Whether or not they are justified in taking that view, they usually win a wide measure of public support. It must also be admitted that even when the parties do cooperate, the government exercises heavy pressure upon them to accept the board's recommendations. Recalling, for example, the strong, though unsuccessful attempt of President Truman to force United States Steel Corp. to accept the recommendations of the nonstatutory board he appointed in 1949, one must concede that in some cases the resort to this technique converts the process of fact-finding with recommendations into something very close to compulsory arbitration.

Nonstatutory procedures initiated by the parties are almost invariably successful, for the voluntary election by the disputants of this approach im-

plies a mutual determination to effect a peaceable resolution of the controversy. The trouble is that even voluntary arbitration of interests disputes is resisted in principle by most employers and unions, and has been extensively used in only a few industries.[5] The voluntary use of private mediators has proved to be fairly successful when tried, but the number of such instances is statistically insignificant.

"Hardy Perennials" in Legislative Proposals

Americans are addicted to the comforting but erroneous notion that all problems in the conduct of labor-management relations can be ameliorated or solved by more legislation. Consequently, each new session of Congress produces a host of legislative proposals for the amendment of present laws or the adoption of new ones. Space permits only a brief reference to a few hardy perennials.

A continuing favorite is the proposal to make unions subject to the antitrust laws. The true intent of this plan is, of course, to reduce the economic power of unions to the point where a legal national emergency strike would be a virtual impossibility. Barring a change in the present structure of American society so drastic as to make this entire discussion completely irrelevant, the proposal has no chance of adoption.

Compulsory arbitration is another nostrum that always commands a modest following. Currently, the Bonner bill, which would apply this method of interests disputes settlement to the maritime industry, is being widely discussed in and out of Congress. Its chances are rather dim, because most employers and unions in the United States have traditionally opposed this means of disputes settlement. Nevertheless, some form of compulsory arbitration legislation remains a possibility, especially if a long and serious strike shuts down a major industry while Congress is in session.

Legislative proposals which enjoy the broadest support and the best chances of success are those which would amend the present Taft-Hartley procedures. The amendments most frequently suggested would broaden the President's powers by giving him an "arsenal of weapons," including the authority to seize property; would give boards of inquiry the right to make public recommendations; and would eliminate the vote on the employer's last offer. All of these proposals make a great deal of sense, so far as they go, and all have been endorsed, in one form or another, by influential private or semi-official groups of experts. The advantage of giving the President a wide range of alternatives is that it would prevent the disputants from planning their conduct on the basis of what they knew was going to happen. Presumably, the resulting uncertainty would make them more disposed to serious bargaining at an earlier stage of the dispute. Permitting boards of inquiry to make recommendations would also put pressure on the parties to solve their problems; but the experience under the Railway Labor Act indicates that this process, too, runs the risk of degenerating into sterile formalism. Nothing more need be said about eliminating the vote on the employer's last offer; at the very least this would save a useless expenditure of the taxpayers' money.

Slight Chance for Enactment

It should be noted, however, that none of these proposals has much

[5] Irving Bernstein, *The Arbitration of Wages*, Los Angeles, University of California Press, 1954, pp. 14-17.

chance for enactment. The reasons are to be found in the nature and structure of our political system. Our arrangement of checks and balances is better designed to prevent the passage of bad legislation than to assure the adoption of good legislation. The immense power of such congressional committees as the House Rules Committee is not always fully understood by our friends abroad, nor is the seniority system which governs the appointment of members to committees.

Moreover, our political system is characterized by the absence of party responsibility. Divisions in the House and Senate over questions of labor policy are not on party lines, but on the basis of regional, economic and social loyalties. Despite the sizeable Democratic majority in the House of Representatives, it is quite likely that a considerable number, perhaps a majority, of the members would vote against giving the President substantially more power to deal with labor disputes than he presently has.

Recommendations of Expert Nonlegislative Groups Ignored or Rejected

Finally, it should be remembered that we have a tradition in the United States of ignoring or rejecting the recommendations of expert, nonlegislative groups similar to the Royal Commissions of England and Canada. For proof, one need only compare the fate of the recommendations of our Presidential Railroad Commission with that of the Canadian Royal Commission established in 1957 to study the dispute between the Locomotive Firemen and Enginemen and the Canadian Pacific Railway.

Conclusion

Despite my rather bilious commentary on the shortcomings of present procedures for settling public-interest disputes in the United States, I think the outlook for progress is not completely unfavorable. Strikes and lockouts—as distinguished from the *right* to engage in such activity—have never been popular with the majority of labor or management, and the trend in the amount of lost time caused by such stoppages is downward.[6] Faced by the imminent prospect of a serious labor dispute, Americans have tended to react in a way that reminds one of both Winston Churchill and Wilkins Micawber. We have readily recognized the wisdom in the Churchillian dictum that "it is better to jaw, jaw than to war, war"; but until relatively recently we have implemented that philosophy with nothing stronger than the mindless optimism of Mr. Micawber, hoping that something would turn up any day to make things right. At long last, however, there are a few reassuring signs of maturity and responsibility.

Unions and employers in key industries are now experimenting with more or less continuous bargaining, in hope of solving major problems before they give rise to major disputes. No fixed pattern has yet emerged, and none is likely to; but the recent news of the adoption of this approach in the steel and automotive industries represents the freshest and most hopeful development in a long time.

What role, if any, government will play in the private resolution of these problems remains to be seen, but to me it seems inevitable that the extent of participation by government in col-

[6] "A Review of Work Stoppages During 1961," *Monthly Labor Review*, Vol. 85, June, 1962, pp. 662-67.

lective bargaining will increase. The fact of governmental intervention is less significant, however, than the form it takes. Government plays many roles in our industrial relations system: it organizes, regulates, assists, conciliates and punishes. The principal task of industrial statesmanship today is to devise ways in which government can participate in the collective bargaining process as an advisor and service agency rather than as a policeman.

[The End]

Public-Interest Disputes and their Settlement

A Discussion

By BORA LASKIN

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THE TWO PAPERS which we have heard have been, respectively, historical and analytical, and each has made certain assumptions about the subject matter to which they are addressed. Professor Woods, with disarming innocence, has thrown me the bait by his opening declaration that he refrains from attempting any definition of what is a public-interest dispute. I am silly fish enough to take the bait, at least to the extent of toying with Professor Woods' line for a spell, but reserving the right to prove, by circular reasoning, similar to his, that I can be as temporizing as he. Professor Aaron plunged us directly into the prescribed procedures in the United States for resolving interest disputes, and has chosen to emphasize the changing nature of the interests on which clashes occur. I can only conclude from his treatment that the term "public" in the title "public-interest disputes" means for him the governmental framework within which interest disputes must be resolved. In this he approaches, in his analytical presentation, the position to which Professor Woods perforce arrives in his historical excursus.

I confess to some mystification about the proper view to take of the subject under examination. Is it intended by the phrase "public-interest" dispute to refer to certain types of interests about which management and labour may be in conflict, regardless of the industry or activity in which the conflict may arise? Or, did the programme committee have in mind, by the term "public-interest" dispute, particular industries or activities or undertakings, without regard to the labour-management issues which may arise therein? I do not offer these opposed positions merely as illustrations of a lawyer's ability for technical cavilling, but propound them seriously as representing differences in kind rather than of degree only. Professor Aaron has obviously taken the first of the two suggested meanings and Professor Woods, just as obviously, the second.

What Professor Woods' paper shows is that the early legislative controls on certain kinds of disputes, or rather disputes in certain lines of activity, have become common controls for all classes of disputes, thus robbing the public procedures of any basis for providing a definition of a public-interest dispute. In the years when these controls had a limited application, it was easy enough to say that the public interest manifested thereby gave

the industries or activities governed by them a special standing; disputes of the same kind, but breaking out in other industries or activities, were left to be resolved on an *ad hoc* private basis in which the courts played the leading role, and damages or an injunction or both provided the regulatory framework. Now that the special has become the commonplace, what else is new in Canada? Some provinces have added additional restraints; Manitoba and Alberta have been mentioned, as has Quebec which, at least, has taken a clear line. Its Public Service Employees Disputes Act was enacted in 1944 at the same time as its general compulsory collective bargaining act, the Labour Relations Act.

Quebec may be said, therefore, to have given an *a priori* indication of what it considered to be "public-interest" disputes. It has not left the question to *ad hoc* administrative determination, as is the case in the United States under the emergency provisions of Taft-Hartley; nor has it left in doubt the prescriptions which bind the parties in the designated businesses or undertakings, as is the case in Alberta and in Manitoba. The Quebec statute is unequivocal and the regulatory framework certain: strikes and lockouts are forbidden in all circumstances and there is compulsory remission to arbitration to settle conditions of employment for a period not exceeding one year.

Prince Edward Island has in its recent Industrial Relations Act, effective April 6, 1962, joined the lists of jurisdictions imposing additional restraints on certain classes of operations. Its Act exhibits the common Canadian formula of required resort to conciliation before there may be a lawful strike, but to this is superadded the requirement of a strike vote (found also in Alberta and British Columbia). Beyond this, where the employer is a public utility (as defined in the Electric Power and Telephone Act) and there is a vote favouring a strike, the Public Utilities Commission takes over as a super labour relations board and must hold a public hearing at which it shall "confirm, modify, reverse, extend or vary" the recommendations of the board of conciliation. A strike may not lawfully take place until the expiry of 15 clear days following its finding or decision.

Need to Define

If there is any virtue in trying to define or classify certain activities as having a high public interest count in their labour-management postures, it can only be because of a conviction that the procedures for settling disputes therein should be different from those made available for disputes in other undertakings. Do we then have such a conviction about disputes in some kinds of operations? And in asking this question, I have no wish to complicate it by intruding the notion that our views may be different about the size of the special category according to whether we are judging the matter in time of shooting war or in time of peace, however uneasy.

I am satisfied that there are areas where the conviction of which I speak is widespread. The police function is an obvious one; perhaps the fire protection service is another such illustration. Here are publicly operated non-profit services for the entire community whose cost is a charge on public revenues. The central question, however, concerns the criteria to be used in judging eligibility for membership in our special or elite group.

Criteria for Judging

Should the test be whether the activity or service is an arm of the government, excluding, however, commercial operations in which govern-

ment is engaged either directly or through a wholly owned corporation? Should the class be expanded to embrace businesses which are subject to regulation as to their charges or tariffs as well as to their operations? Should the class include services, such as hospital care, to which public money is contributed? Should it not, also, embrace the public utility services of electricity, gas and water, to which a person is entitled as a resident of the community in his character as such? I share Professor Aaron's apprehension that in any ambitious attempt to be exhaustive about emergency disputes (which I will equate here with my concept of public-interest disputes) it is going to be difficult to draw the line between public inconvenience and public emergency.

After one national railway strike in Canada and one threatened strike, with the dispute in each case being settled by *ad hoc* legislation requiring compulsory arbitration, and after a similar *ad hoc* legislative solution to the threatened hydro-electric employees strike in Ontario last year, who will deny that to all intents and purposes the right to strike has been abrogated on the national transportation systems and possibly even in publicly-owned utility systems? Indeed, unions and managements in the public utility undertakings have exhibited a knowing restraint in resort to economic weapons to settle their bargaining differences, and this has obviated any pressure for permanent standby legislation. A more severe test of this restraint is in the offing in Toronto where the union representing the non-professional employees in the city's largest hospital has threatened to strike over the refusal of a check off and, even more interestingly, it has offered to submit to arbitration as a standard means of settling bargaining table differences, an offer which so far the hospital has rejected.

How Can Disputes Be Resolved?

Assuming that by some means or other we can agree on our list, or establish acceptable criteria for determining what are public-interest disputes, the more important question is how should we resolve them? Here I can take a look at Professor Aaron's paper again, especially in his references to the Railway Labor Act and to Taft-Hartley.

Not all students of labour relations in Canada agree with our obligatory resort to conciliation, with its general concomitant of a report by a bipartisan public board, advancing recommendations for settlement. These boards are not simply inquiry boards but are charged, as their primary duty, to endeavour to effect a settlement and only if their conciliation-mediation efforts fail are they enjoined to bring in a report with recommendations. These boards could not possibly function if they had to work within the initial time limit required under Taft-Hartley. I am persuaded that our boards have tended to degenerate into the kind of formalism in which the emergency boards under the Railway Labor Act have become unmeshed. Their very existence can be much more a reason for postponing genuine bargaining than for accelerating it. That, however, is another story, better saved for another occasion.

I am constrained, however, in this connection to pick up one of Professor Aaron's points about the nature of today's interest disputes, and to suggest that even our leisurely boards of conciliation will have to bring more knowledge, more energy and more expertness to bear on the range of issues that will face them than they have had to do or felt obliged to do in the past.

Compulsory Arbitration

Do we substitute something different from our boards of conciliation to help resolve "interest" disputes in the public-interest sector which I have so lamentably failed to define? Our arsenal of weapons now includes obligatory procedures which go beyond the proposals being made in the United States to broaden Presidential powers of intervention. I do not gather that the proposals of which Professor Aaron spoke include powers to enforce a settlement.

In Canada, compulsory arbitration is a fact, either immediate and peremptory, as in case of the police and fire forces and as in case of public service disputes in Quebec; or prospectively enforceable on both parties as in Manitoba, and apparently also in Alberta where the government has the widest power to settle the dispute and could do so by an order without even the pretence of a hearing. I am sorry that I cannot bring to you any account of the effect that compulsory arbitration has had on the quality of collective bargaining. For it seems to me that in all that we have heard from our two speakers they have unspokenly assumed that free collective bargaining, with its open end invitation to economic conflict, is still the basic policy to be pursued in our two countries. Professor Woods may possibly not have been as strongly unspoken on the question as has Professor Aaron, but then he has been conditioned or sobered by Canadian experience which has no parallel in the United States. If there are procedures that will preserve this policy and yet give fair assurance of industrial peace, they are as appropriate for public-interest disputes as for disputes in other sectors. Professor Aaron has brought to our attention the experiment in continuous bargaining that is now going on in some key industries in United States. Something of this sort—but directed more to the elaboration of a set of acceptable principles—is going on in Nova Scotia in a labour-management conference convened by the Dalhousie University Institute of Public Affairs, in furtherance of a recommendation of the recent McKinnon Report on industrial relations in Nova Scotia.

Conclusion

If we in Canada are to get something more positive in the particular areas where, to use Professor Woods' phrase, "public interest in industrial peace is high" it is likely to be compulsory arbitration of which we have already had more than a bare taste. I, myself, for reasons which may be obvious, would be opposed to any compulsory requirement but see no objection to facilitating resort of the parties to voluntary arbitration. There may even be a case for a half measure between complete compulsory arbitration and free collective bargaining trammelled only by Canadian conciliation procedures, by putting the onus on either one of the parties to request compulsory arbitration and, if so, to make it obligatory for the other to respond. As in the example of the hospital union, it need not be assumed that it will always be the employer who will invoke it. Each party may be reluctant to do so, and the very uncertainty of the result may persuade each not to ask for arbitration, unless they seek it together. **[The End]**

We must dream of an aristocracy of achievement arising out of a democracy of opportunity.—Thomas Jefferson

Arbitration

Decisions • • •

Developments

79-Day Delay in Seeking Arbitration Not Fatal

Under a contract requiring submission of disputes to arbitration as promptly as reasonably practical, a union was not prevented from arbitrating a dispute because it delayed 79 days in bringing it to arbitration, a board chaired by John P. McGury has ruled.

The company contended that there was undue delay which rendered the matter not arbitrable. The board found, however, that there was no pattern of delay shown, and it proceeded to hear the case on the merits.

. . . and Lateral Transfers Upheld, but Not Discrimination

The merits of the dispute involved company action in transferring an employee laterally within his classification without regard to his seniority on his particular job.

The union contended that the company lacked the authority to make lateral transfers without regard to seniority and that, in any event, the employee in question had been the victim of discrimination.

The board found that lateral transfers within a classification were changes in methods of operations and, therefore, could be made unilaterally by the company. However, it concluded that the company had discriminated against the particular employee involved, because he had filed several grievances. The company was ordered to reinstate him to his former job (*Sinclair Refining Co. and Oil Workers, Local 7-210,* 63-2 ARB ¶ 8632).

Breakdown Found Curable, but Good-Faith Shutdown Held Proper

A company did not violate its contract by sending employees home when there was a good-faith belief that machinery was inoperable, even though it was later discovered that the machinery could be used, a board of arbitration chaired by Arnold M. Zack has ruled.

The company sent its employees home after a water failure caused a shutdown of certain equipment. The company later found that the equipment could be adjusted to operate on reduced water pressure, and the union argued that the employees should have been paid for the improper layoff.

Under the contract, emergency layoffs were permitted if caused by power failures, machinery breakdowns, or other similar emergencies. The union contended, however, that none of these circumstances was present since the company should have discovered that the machinery was operable before it sent the employees home.

The board majority disagreed. It held that the company had acted in good faith and, at the time of the layoff, had seen no possibility of resumption of operations. Concluding that there had been both a power failure and a

machinery breakdown within the meaning of the contract, the board ruled that the company did not act improperly in sending the employees home (*Cornish Wire Co. and IUE, Local 299*, 63-2 ARB ¶ 8635).

Superseniority of Stewards Barred Transfer in One Case

The contractual right of union stewards to superseniority prevented a company from transferring a steward from her regular department to another, Arbitrator Vernon L. Stouffer has ruled.

The contract provided for superseniority for stewards within their areas of jurisdiction for purposes of layoff and recall. The company argued that superseniority was applicable only when there was an immediate danger of layoff from the work force and did not apply to transfers out of departments. It contended, further, that the steward was not damaged since no loss of wages was involved.

The arbitrator found that the only reason for giving stewards superseniority within their areas of jurisdiction was to keep them working in the areas they represented. He construed the superseniority provision to find that it applied in cases of layoff from the area of jurisdiction, as well as in cases of layoff from the plant. He therefore held that transfer of the steward was improper (*National Electric Coil Div., McGraw-Edison Co., and IUE, Local 745*, 63-2 ARB ¶ 8648).

. . . but Not in Another

In another case, however, a union claim that the transfer of a steward to another department was a violation of his superseniority did not impress Arbitrator Maurice E. Nichols.

The contract provided for both superseniority for stewards, and for the necessity of having one steward in each department. The union argued that the transfer of the steward to another department, giving that department two stewards, would circumvent the superseniority provision of the agreement. It claimed that the company could then lay off one steward, which it could not have done under normal circumstances.

Arbitrator Nichols held that stewards were given superseniority for the purpose of layoff alone. Since the only seniority unit recognized was plant-wide, and since the grievant had retained his job despite the transfer, the arbitrator held that the company had not violated the agreement, and he denied the grievance (*Paterson-Leitch Co. and BSOIW, Shopmen's Local 468*, 63-2 ARB ¶ 8643).

Arbitrator Upholds Filing of Multiple Grievances

A company's claim that each of seven grievances filed by the union had to be heard separately by different arbitrators failed to impress Arbitrator Paul M. Hebert.

The company urged that the contract did not make multiple arbitration mandatory, and if multiple grievances were to be allowed, the union could resort to delaying tactics and thus thwart the arbitration procedure.

Arbitrator Hebert ruled that the absence of language in the contract prohibiting the filing of multiple grievances made such a procedure mandatory upon the request of one of the parties. Finding that the seven grievances in question were ripe for arbitration, he held that they could be combined and heard in a single proceeding before one arbitrator (*H. K. Porter Co., Inc., Refractories Div., and Brick & Clay Workers, Local 968*, 63-2 ARB ¶ 8672).

Rank and File

News of Work and Working People

New FLSA Requirements Start September 3, A Reminder

Employers and employees are reminded that the effective date of certain new requirements of the Fair Labor Standards Act is September 3, 1963. On that date, these changes become effective:

The minimum wage for employees covered by the FLSA prior to the amendments of 1961 advances from the present minimum of $1.15 an hour to a new minimum of not less than $1.25 an hour.

The maximum workweek standard of 44 hours goes into effect for employees, principally those working for retail and service establishments, made subject to the overtime provisions of the law for the first time by the 1961 amendments. After 44 hours of employment in a given workweek such employees must be paid one and one-half their regular rate of pay.

Additional Clinics on Welfare and Pension Plans Scheduled

In furtherance of its efforts to instruct and assist administrators of employee benefit plans, the Department of Labor's fall schedule of clinics includes a number of additional cities. The clinics, part of a nationwide program, are intended to help administrators of employee benefit plans as well as insurance consultants, accountants, actuaries, attorneys, corporate trust officers, union officials, and plan consultants to understand better the requirements of the Welfare and Pension Plans Disclosure Act and the 1962 amendments.

The clinics will consist of two parts, one on reporting and one on bonding. The fall schedule, which completes the program, calls for clinics in the following cities, on the dates listed:

Richmond, Va.	Aug. 27	Chicago, Ill.	Oct. 8
Providence, R. I.	Aug. 29	Cleveland, Ohio	Oct. 10
Boston, Mass.	Sept. 10	Birmingham, Ala.	Oct. 22
Pittsburgh, Pa.	Sept. 12	New Orleans, La.	Oct. 24
Memphis, Tenn.	Sept. 24	Jacksonville, Fla.	Nov. 5
Louisville, Ky.	Sept. 26	Miami, Fla.	Nov. 7

Meany to Urge Approval of Merger Plan for Lithographers, Engravers

Approval of plans for the merger of the 40,000-member International Photo Engravers Union of North America and the Amalgamated Lithographers of America which claims 20,000 members, has been urged by AFL-CIO President George Meany. According to an AFL-CIO news release, heads of the two unions have approved a merger agreement.

Meany said merger of the two unions would be in the interest of labor unity and consistent with AFL-CIO policies. One beneficial effect of the

move would be to restore the Lithographers to AFL-CIO affiliation, Meany stated. The union has been independent since breaking away from the federation in 1958.

If the ALF-CIO executive council, which meets August 12, approves the merger plan, the question of merger will then go to a mail referendum of all members of the two unions.

Changes Made in NLRB's Rules and Regulations

By amendment the NLRB has effected certain changes in its statements of procedure and in its rules and regulations. The amended rules, becoming effective on September 3, 1963, reflect the following changes:

Trial Examiner's intermediate reports will be called "decisions";

Complaints will have to specify clearly and concisely the basis of the Board's jurisdiction and the acts claimed to constitute unfair labor practices;

Trial Examiners will be permitted to ask the parties for their respective positions or theories relative to any issue during the hearing, and to consolidate hearings prior to issuance of decisions;

Cross-exceptions will be permitted to be filed by parties who have not previously filed exceptions;

Post-decisional motions to reconsider, rehear or reopen a record will be permitted;

Exceptions to a report on challenged ballots or objections in consent election cases will have to be printed or otherwise legibly duplicated (carbon copies not acceptable), and requests for extension of time must be received by the Board 3 days prior to the due date;

Hearing Examiners, upon motion, shall direct the production of signed statements by witnesses; and

Former employees of the NLRB are reminded of the sanctions under the federal criminal laws.

. . . American Bar Association Hears Report on NLRB Practices

"With one exception the Board appears to have substantially followed the recommendations of the Committee in revising the proposals submitted . . . for consideration and comment," so stated the Committee on NLRB Practice and Procedure of the Labor Relations Law Section of the American Bar Association in its report to the Association. In the Committee's report on its relations with the NLRB, which was submitted at the Association's annual meeting in Chicago, Illinois, during August 1963, certain observations, relative to the NLRB's delegation of authority to its regional directors, and recommendations for further changes in NLRB practices, were made.

Strike Activity at Low Level During First Half of 1963

Strikes caused fewer workers to be idle during the first six months of 1963 than in any comparable period since 1945, according to the Department of Labor. About 1,880 work stoppages began in the first half of the year, involved 540,000 workers, and cost 9.1 million man-days.

About 450 stoppages, involving 135,000 workers, began in June. Among them four strikes affecting 5,000 or more workers each. These included constructions strikes in the Detroit and Buffalo areas, a strike at General Electric plants in Fort Wayne, Indiana, and the lumber industry shutdown in California, Oregon, and Washington.

CURRENT LITERATURE

in the Labor Field

Industrial Relations

The Management Function: A Positive Approach to Labor Relations. Leonard A. Keller. Bureau of National Affairs Incorporated, Washington, D. C. 1963. 289 pages. $9.75.

This book is an outgrowth of workshops presented for management officials by the Employers' Association of Detroit in cooperation with the Institute of Labor and Industrial Relations, University of Michigan-Wayne State University. Mr. Keller was the discussion leader of these workshops.

Many idealists have looked upon and written about the industrial relations climate in the United States as a necessary conflict of interest solvable by cooperation between the protagonists. Others have indicated that no cooperation is possible and that the rights and duties of each party must be executed to the letter, and that each new situation not governed by written instruments must be solved instantly before it festers into a larger sore.

Mr. Keller has a way of cutting through these idealistic theories to state clearly just what problems do face labor and management. He does this by calling a spade a spade. Yes, management has rights. These rights flow from management's responsibility; a responsibility that establishes duties to the industrial organization, to the public and to our economic system. "It is not too much to say," says Mr. Keller, "that the survival of our economic system depends upon effective management."

This is not a book designed mainly to reinforce the intestinal fortitude of a manager, present or embryonic, or to inform a union leader what he has to cope with.

What is management? What is a union? What is a collective bargaining contract?

Questions like these are analyzed and principles are adduced from the wealth of experience the author has had in this relationship. No manager and no union leader can read this book and not come away much profited. To be sure the book discusses specific, general and implied restrictions of collective bargaining contracts, seniority principle, discipline, grievance and arbitration procedure, but all of these in the context of how industrial peace and well-being through industrial peace can and should be attained.

Of the management function, the author says:

"The subject of the effective exercise of the management function is so complicated that we must, at the risk of overemphasis, repeat that many observers of the industrial scene, including prominent government officials, arbitrators, and writers, have failed to see that the whole structure of employee rights, the common law of

industry of which the unions are rightly proud, depends for its existence upon the health of industrial management. Whatever may have been the situation many years ago, today management is struggling to make the private enterprise system work, with full consciousness of its obligation to workers which it has neither the desire nor the power to avoid, but also recognizing that it has an even more compelling obligation to the consuming public. It is not too much to say that the survival of our economic system depends upon effective management.

"This means, among many other things, that management should not be unnecessrily hobbled in its day-to-day job. The removal of cumbersome restrictions upon the effective use of workers should be regarded as a duty of all directly concerned in industrial relations—union officials, government representatives, and arbitrators, as well as management people. It should not be necessary to take long strikes to force reform of labor contracts which are unduly restrictive, or to eliminate bad practices. There can be no true peace in industry until this is accepted.

"The draftsman of the agreement and its interpreter have a special responsibility here. As Cox said, the contract goes a certain distance in sharing the management function with the union, but it also stops. The limitations it imposes should be explicit, even though general. Where the contract is silent, it should be assumed that the matter in dispute was left where it was—within the province of management decision. This presumption should also be adopted normally in cases of ambiguity. Unions have both the knowledge and strength to make a limitation clear. Arbitrators should not fill in the agreement with their own notions of good industrial relations unless the parties clearly have conferred this broad power upon them."

In Future Issues . . .

WE ARE PLANNING to bring to you in a future issue a manuscript dealing with the problem of employee solicitation on nonworking time in general and with specific reference to the *Stoddard-Quirk Manufacturing* case which was decided by the NLRB in a divided opinion.

ANOTHER TIMELY ARTICLE deals with the legal and managerial control of work restrictions in industry. It stems from research under the auspices of the Bureau of Business and Economic Research and the Division of Research of the Graduate School of Business Administration, University of California at Los Angeles.

AN EXCELLENT ARTICLE scheduled for a future issue discusses with special reference to the railroad industry the origin, complexity and limitation of the approach to the solution of job problems through the doctrine of "attrition."

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