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Symposium: Legal Problems in Job Elimination - Introduction

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Introduction

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THIS SYMPOSIUM on legal problems connected with the reduction of the labor force resulting from technical and economic developments is most topical.

Problems of this type have arisen and continue to arise in all those countries whose industry is in the state of transition, which is probably more rapid in the United States than elsewhere, but which can be observed in all industrially developed countries of the world.

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Whilst the problem may have been accentuated by automation, it is in no sense new. The conflict of interest between the employer who wishes to increase productivity through the introduction of labor saving devices and the employee who has a legitimate interest in his job is inherent in our economy and equally inherent in the socialist economies of the East.

The American system of grievance arbitration is being observed in other countries with interest, but with a certain amount of criticism. The criticism refers to the fact that the privileges of the American method of grievance arbitration seem, to the foreign observer, to be confined to that portion of the working class which is sufficiently well organized to be able to establish and to enforce such arrangements. This in no way detracts from the admiration which one must feel for the system where it works. The question is about the areas (both occupational and geographical) in which it does not work.

This observation is relevant to the dilemma which confronts all those interested in these matters: is it more advisable to arrive at an adjustment of the interests mentioned above through a system of arbitration based on collective bargaining (as in the United States) or through a system of legislation and through courts (which is the prevailing system on the Continent of Europe). Labor courts such as those existing in France, in Belgium, and in Germany to some extent fulfill functions comparable to those of the American grievance

arbitration system, perhaps not nearly so well, but with a wider range.

This is the problem which now faces those who are reflecting upon the future of labor relations and labor law in the United Kingdom. Since 1964 there have been in existence Industrial Tribunals with a legally qualified chairman and one employer and one employee judge which deal, amongst other things, with the administration of the Redundancy Payments Act, 1965.[1] Under that act employees who lose their jobs as a result of redundancy are entitled to a payment. This payment is calculated on a scale varying with the number of years of employment with the firm. It is being considered whether the jurisdiction of these Industrial Tribunals should be enlarged so as to make them more similar to the Continental Labor Courts. This might, for example, involve problems of sub-contracting and of plant removal which are also dealt with in the present symposium.

The American reader will understand, therefore, that this issue of the *Western Reserve Law Review* will be studied with keen interest not only in the United States but in other countries as well.

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[1] 9 & 10 Geo. 6, c. 62. *Ed. Note*: Some idea of the meaning of "redundancy" as used in the act can be gleaned from the following language:

> For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to —
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> (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or
>
> (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish. Redundancy Payments Act, 1965, 9 & 10 Geo. 6, c. 62, § 1(2).