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Some Thoughts on Public Policy and Industrial Peace

Bryan M. Downie

This paper examines various strategies for industrial peace. Strategies which attack both the root causes of conflict and the effects of labour-management strife are discussed. The author then draws some broad inferences for public policy and for the parties in collective bargaining.

The view has been expressed repeatedly over the past fifteen years that collective bargaining is archaic, that it is not working, and that strikes are obsolete and should be replaced as a dispute settlement mechanism. The term industrial relations could be substituted for collective bargaining because our collective bargaining system is simply a reflection of the larger industrial relations system. The above sentiments are expressed in the phrase, "there must be a better way". Moreover, there does seem to be a clear need for experimentation in our collective bargaining and industrial relations systems because of the pivotal position of industrial relations in the Canadian economy.

No one has thoroughly thought through the most appropriate strategies for industrial peace and the interrelationship between various strategies. This paper presents a framework to categorize and better understand various change strategies, broadly classifies these strategies into four groups, gives examples of each strategy, and sets forth the implications for policy makers and the parties in collective bargaining. The material presented is not new. Rather, the paper presents a synthesis of existing materials and experiences in industrial relations.

Given the characteristics of collective bargaining (adversarial) and the nature of the broader industrial relations problem, what viable approaches exist to improve the functioning of the industrial relations system while protecting the rights of unions and employees? What new approaches yet untried could be introduced to effect change? There have been a great many strategies proposed to change our industrial relations system. Some strate-

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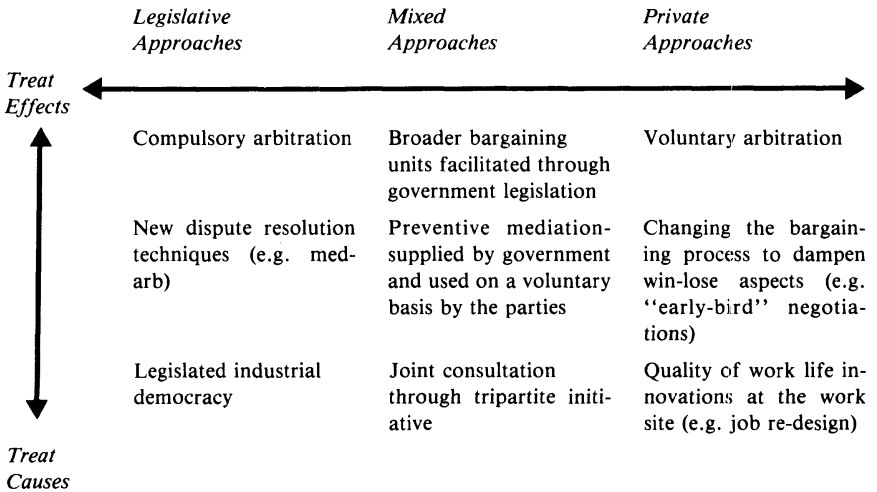
gies are already in use to a limited degree; others have simply been discussed or used very sparingly; some have never been used in Canada. The attempt here is to gather all of these together, focus on a total package of solutions, and help practitioners and those interested in policy think through the problem of facilitating change. In the next section the broad range of change strategies are categorized and in ensuing sections they are discussed in some depth.

BROAD APPROACHES TO CHANGE THE INDUSTRIAL RELATIONS SYSTEM

The industrial relations system can be improved through three mechanisms -- through legislative change, through the initiative of the parties, or through a mixed (public-private) approach. Figure 1 portrays some of the possibilities within the major orientations or approaches just noted. At the bottom of each approach is an example of a strategy if the fundamental *causes* of labor-management conflict (such as mistrust) are attacked. For example, one of the purposes of industrial democracy is to increase participation, and hence power-sharing, by employees. This in turn may change employer-employee attitudes and improve relationships. The middle row shows techniques employed to deal with *both* causes and effects (e.g.,

FIGURE 1

Framework for Viewing Strategies to Improve Industrial Conflict



strikes and lockouts). An example of this approach is preventive or early mediation which attempts to avoid strikes and lockouts by generating a problem solving approach by the parties. The top row includes some sample mechanisms which could be adopted if only the *effects* are treated. Arbitration is perhaps the most frequently suggested mechanism to this end.

To improve the system, then, the problem can be attacked from a number of standpoints. The entries in the body of Figure 1 are simply illustrative strategies that have been tried or recommended; they are by no means exhaustive. Taking the framework a step further all change strategies may be classified under the following four categories:

- (1) public policy reform;
- (2) structural reform;
- (3) procedural reform; and
- (4) attitudinal reform.

Most proposals will fall under one of the above categories; some will fall under two. Legislative solutions will typically fall under categories one and two above, while private solutions will fall under three and four. There could be overlap, however, and it is clear that no one category contains all the answers in terms of improvements to our industrial relations system. As one moves down the categories, there is movement from solutions which simply attack effects to solutions which attempt to treat the fundamental causes of industrial conflict. Therefore, the latter solutions are more likely to effect major and permanent change. A current example which demonstrates the weakness of public policy reform was the passage of Bill 100 and its effect on bargaining in Ontario primary and secondary education. One purpose was to bring out a greater degree of harmony in teacher-school board collective bargaining. Although there appears to be a reduction in strike activity, there are no signs five years after its passage that teacher-board relations have improved. Bill 100 is well drafted and effective legislation, but more time and new initiatives are required before significant reform takes place. Public policy reform is, nevertheless, the category most industrial relations experts focus on when proposing change and will be discussed first.

PUBLIC POLICY REFORM

A large measure of responsibility for collective bargaining -- its nature, outcomes and consequences -- lies in the hands of government (in Canada, provincial or federal depending upon the industry). Government can aid the bargaining process in a variety of ways which are outlined below.

Facilitating the Negotiation Process

There are traditional ways by which government has attempted to aid the bargaining process. Most notable and widely used is the provision for voluntary mediation or conciliation to assist the parties. A government agency may train mediators and then simply offer the services of such individuals. As an alternative approach, government may provide for *compulsory* mediation and fact finding before legal strikes or lockouts can occur. The compulsory two-stage conciliation process prevalent at one time in most Canadian jurisdictions is an example and this process also is a part of the legislated approach for dealing with railway disputes in the United States. A number of variations on this basic theme are possible. Bill 100, for example, provides for voluntary mediation but compulsory fact finding in teacher-school board disputes in Ontario.

These techniques constitute a relatively light handed approach to government intervention. In the same vein is the provision by government of a data base for the parties so that in negotiations they have common information. The Education Relations Commission gathers salary and working conditions information and distributes it to both sides involved in collective bargaining in Ontario education. The Pay Research Bureau under the stipulations of the Public Service Staff Relations Act provides data to both parties negotiating in the Federal public service.

There are, then, a number of devices government can provide on an *ex ante* basis to assist, at least theoretically, the parties in their search for an agreement. If all else fails in important disputes, this type of intervention may be extended to include the entry of government politicians to effect, or attempt to effect, resolution. It should be noted in passing, however, that some would argue that, although some of the above strategies have influenced the bargaining process, they have not facilitated it. This is particularly the case with forced government intervention and the intrusion, welcome or not, of politicians.

There does seem to be fairly broad consensus, however, that third party assistance is helpful if both sides voluntarily request the presence of a mediator. A major contribution of government, therefore, is in the area of providing mediators and discovering new intervention techniques. Third party intervention in a variety of settings is currently enjoying increased attention and interest. A better understanding of the process is emerging, as

well as new methods¹. One of the more promising proposals, of course, is "med-arb". Here, by agreement of the parties in advance, a single individual has the responsibility and authority to both mediate and, if necessary, arbitrate a dispute. The point has been made elsewhere, however, that many arbitrators in the past attempted to mediate prior to writing their award². In essence, med-arb does not take us much beyond what has already occurred.

Substitutes for Economic Sanctions

Thus far, government has been unable to come up with a viable, effective and mutually acceptable strike and lockout substitute. This is not because of a scarcity of proposals. There has always been a preoccupation in Canada with proposals to prevent, or limit, economic sanctions³.

Based on past experience, however, it is simply not realistic to expect much progress on this front. All proposals have fundamental limitations. The basic problems, however, are that the strike cannot be legislated out of existence unless at the same time effective collective bargaining is ensured, and that improved union-management relationships cannot be legislated. Conventional *compulsory* arbitration, for example, may lead to so many disputes being resolved by that method (the so-called "narcotic effect"), with so many unresolved items going to arbitration (the "chilling effect"), that the solution itself may lead to frustration and ultimately illegal strikes. There are disadvantages of compulsory arbitration (conventional and final-offer) that are well known and need not be expounded in this paper⁴. Suffice it to say that compulsory arbitration may not lead to effective or productive collective bargaining or to healthy labour-management relationships. Other solutions would be only partial solutions, would dramatically and unfairly shift the balance of bargaining power, or would be ineffective or inoperable.

1 A professional organization of third party neutrals has recently been formed (The Society of Professionals in Dispute Resolution), and numerous books and articles have been written on the process. See, for example, Oran R. YOUNG, *The Intermediaries: Third Parties in International Crises*, Princeton, N.J., Princeton University Press, 1967; William E. SIMKIN, *Mediation and the Dynamics of Collective Bargaining*, Washington, The Bureau of National Affairs, 1971 and Richard E. WALTON, *Interpersonal Peacemaking: Confrontations and Third Party Consultation*, Reading, Mass., Addison-Wesley Publishing Company, 1969.

2 CUSHMAN, B., "Current Experiments in Collective Bargaining", *Industrial Relations Research Association*, Proceedings of the Twenty-Sixth Annual Winter Meeting, December 1973, p. 133.

3 JAMIESON, Stuart, *Industrial Relations in Canada*, Toronto, The Macmillan Company of Canada, Limited, 1975, pp. 116-142.

4 For a discussion of these see Bryan M. DOWNIE, *The Behavioral, Economic and Institutional Effects of Compulsory Interest Arbitration*, Ottawa, Economic Council of Canada, Discussion Paper no. 147, December 1979.

Encouraging Labour-Management Cooperation

An indirect approach which would fall under the heading of "Encouraging Labour-Management Cooperation" is the support of quality of work life (QWL) initiatives by labour and management. Labour Canada has been engaged in just such a project. The program was designed to facilitate voluntary QWL experiments rather than force new initiatives on the parties. The province of Ontario has mounted a somewhat similar program in its labour department. Through information gathering and dissemination, plus the delivery of QWL expertise when requested by the parties, government can play a role in the formation of cooperative ventures at the work site. The formation of semi-autonomous work groups, job redesign and job enrichment experiments, joint labour-management committees, and other related activities that generally are included under the broad title of quality of work life should help to integrate the interests of labour and management and, thus, enhance the prospects for industrial peace and increased productivity⁵.

This approach is quite different from industrial democracy or worker participation required and enforced through legislation. A legislative solution has generally been rejected as not logical or desirable in Canada because of the nature and structure of the country's labour and management institutions and its system of collective bargaining and government⁶.

STRUCTURAL REFORM

A limited but, nevertheless, a distinct strategy for change involves changing the structure of bargaining. The purpose of structural reform is to shift the application of a set of negotiations (and/or the collective agreement) to a larger configuration so that the *number* of strikes is decreased. Concurrently, the size of strikes (in terms of numbers of employees involved) would be increased. For example, there is currently in Canada emphasis on increasing the effective size of bargaining units with specific emphasis on more multi-unit (industry or sector wide) bargaining, particularly in the public sector and in construction. It is hoped that this will alleviate whip-sawing and the series of seemingly endless negotiations in public and bell-weather sectors. One big strike rather than a series of smaller but nevertheless damaging strikes would be the result.

5 For a thorough discussion of QWL see *The Journal of Applied Behavioral Science*, Special Issue, "Collaboration in Work Settings", vol. 13, no. 3, 1977.

6 See, for example, John CRISPO, *Industrial Democracy in Western Europe: A North American Perspective*, Toronto, McGraw-Hill Ryerson Ltd., 1978 and John CRISPO, *The Canadian Industrial Relations System*, Toronto, McGraw-Hill Ryerson Ltd., 1978, pp. 538-545.

The idea of reforming bargaining structure in order to bring about more stability and peace is not a new one, and not only the government but also the parties themselves may be the force behind such a move. However, public policy does play a primary role in the determination of bargaining unit size and character through certifying an "appropriate bargaining unit". As well, government can encourage or make possible new bargaining arrangements which entail structural change. For example, officials from Labour Canada have been vocal advocates of, and have placed major emphasis on, much larger units to ameliorate the malaise in public sector bargaining, particularly in grain handling. The Prime Minister emphasized the same need to the Canadian Labour Congress several years ago. It is important to note that to facilitate broad based bargaining the Federal Government would have to waive certain restrictions in, say, the grain handling situation because some units come under the jurisdiction of the Canada Labour Code, while others fall under the Public Service Staff Relations Act.

Alternatively, structural reform may be introduced directly through a change in public policy. An Inquiry Commission on Wider-Based Collective Bargaining (the Bairstow Commission) was established by the Federal Government to study the problem at the federal level and legislation may flow from the Commission's recent recommendations⁷. In Ontario, legislation has been passed to provide for and implement province-wide bargaining in certain sectors of the construction industry. The stated purpose is to provide better labour relations in that sector. The Matthews Commission which is examining teacher-board bargaining in Ontario is considering, among other things, the possibility of enlarging the size of negotiating units.

Structural change need not come through government initiative. An example of structural reform occurred in the railway industry several years ago. The impetus came from the railway unions but with the encouragement

⁷ See *Report of the Inquiry Commission on Wider-Based Collective Bargaining*, Ottawa, Minister of Supply and Services, December 1978. The Commission, chaired by Frances Bairstow, made a number of important recommendations. The most significant one recommended that the mediation function be segregated out of Labour Canada and be placed in a new independent agency entitled the Federal Mediation and Conciliation Service. The report also recommended restructuring of bargaining units on a voluntary basis under the guidance and assistance of the FMCS. While sympathetic to the general thrust of the report, the position of the Canadian Labour Congress is that the recommendations would weaken Labour Canada and, therefore, possibly would be dysfunctional from the perspective of the Congress. Officials from Labour Canada are, quite naturally, apprehensive that a separation of functions would weaken the labour portfolio. On the issue of broader based bargaining, the parties who would be affected apparently opposed the concept. Overall there is antipathy towards a change to larger units at this time, although the report per se was well received.

of rail management. Recently, the seventeen unions in the industry formed a coalition known as the common front or more formally as the Association of Railway Unions. The formation of the coalition made negotiations somewhat more manageable and allowed the introduction of small but positive innovations in the bargaining process. It also prevents whipsawing of the unions by management. This point hints, however, at one of the disadvantages of structural reform. Such changes have an impact on bargaining power. Indeed, the main reason for consolidation may be to increase the bargaining power of one side at the bargaining table.

The above also points to the major weakness of tinkering with the structure of bargaining. Structural change, which involves a move to larger units clearly does not constitute or result in more positive labour-management attitudes. Moving to a larger unit may only make the bargaining process more manageable and possibly make procedural innovations more feasible.

The argument has also been made that the *smaller* the unit, the greater the likelihood of solving employee-employer problems at the level where problems actually arise. In larger units, local problems are difficult, if not impossible, to understand let alone resolve⁸. Perhaps of most consequence is the difficulty in ensuring any effective local union or management involvement and input. In fact, a move to larger units may work at cross purposes with attempts to improve labour-management relations because it removes decisions from the local level where attitudinal improvement must take place in order to truly improve the industrial relations system. Also, wage inequities within large units are generally compounded, and other bargaining rigidities seem to be a natural outcome of aggregation. Finally, larger units generally are the result of coalitions and coalitions tend to be unstable and break up. This is especially the case in face of the types of pressures just outlined. It is germane to note that the Association of Railway Unions previously mentioned is currently in the process of fragmentation.

In short, there is nothing inherently superior in large units and the benefits are likely to be adventitious. The hope for increased labour peace and productive joint dealings probably does not reside in structural change. Nevertheless, this type of reform may be of some limited short run help in a small number of special cases.

⁸ The pragmatic case for a disaggregated structure has been put by Edward CUSHMAN, "Management Objectives in Collective Bargaining", in Arnold R. Weber (ed.), *The Structure of Collective Bargaining: Problems and Perspectives*, New York, The Free Press, 1961, pp. 59-75.

PROCEDURAL REFORM

Thus far, the discussion has been on solutions or reforms that treat effects (i.e., strikes) largely through impasse resolution techniques and structural changes. Reforms in these areas are important but alone they will not create the degree of change that is so desirable today. Yet, ironically, industrial relations experts and politicians have been preoccupied for the most part with dispute settlement mechanisms and structural adaptations. It is therefore important to note that various types of reform are possible through the initiative of the parties. Illustrations of these are itemized in this and the next section.

Private Substitutes for Economic Sanctions

An important step in reforming the bargaining process and moving the parties away from the win-lose syndrome is the imposition of a sanction substitute by the mutual agreement of the parties. There is an emerging consensus now in industrial relations that, while interest arbitration imposed by government as a strike substitute may be harmful to collective bargaining, *voluntary* arbitration is a workable option. That is, voluntary arbitration actually may not destroy the give-and-take of collective bargaining. David Cole put the case for voluntary interest arbitration most forcefully.

As I have said on other occasions, to insist that we cannot have collective bargaining without depending on the strike is like saying that if we renounce war we cannot have diplomacy. To me, precisely the contrary is true⁹.

The best known experiment along these lines, of course, has occurred between the United Steelworkers of America and the major U.S. steel companies which bargain together as an industry-wide group. In 1971, the parties signed the Experimental Negotiation Agreement (ENA). In return for a no-strike pledge by the union, there is a provision for voluntary arbitration of all unresolved disputes by a three-man arbitration board.

There are those who favour innovation in industrial relations but not voluntary arbitration because they favour resolution of disputes through the efforts of the two sides alone. The idea of voluntary arbitration, however, is that it would rarely be used. Jacob Finkleman, when he was chairman of the Public Service Staff Relations Board, noted in an address

⁹ COLE, David L., "Role of the National Commission for Industrial Peace", *Industrial Relations Research Association*, Proceedings of the Twenty-Sixth Annual Winter Meeting, December 1973, p. 156.

to the Electrical Contractors Association of Ontario in 1972 that in the Ontario Clothing Industry voluntary arbitration was used for thirty years and that the number of contract disputes referred by the parties to arbitration were "very, very few". As another example, the parties have not used arbitration in the U.S. steel industry. But, if negotiations do break down and two parties have managed to improve their relationship under a system of voluntary arbitration, they can resolve their dispute with a minimum amount of disruption and without destroying any positive innovations that have been introduced.

Attempts to Streamline Bargaining

One of the main sources of delays in bargaining is the exercise of various gambits and ploys. As an example, gamesmanship with respect to the agenda is almost always prevalent in bargaining. Unions typically want to consider one item at a time and management, fearing that union negotiators will "nickel-and-dime them to death" invariably express the necessity for a total package approach. Negotiations often become bogged down over precisely this issue.

A compromise and a possible way out of the above dilemma is to mutually agree to a "parameter approach" to bargaining. An example is provided by rail negotiations in Canada. Three bargaining rounds ago the parties agreed to that type of approach on the economic package. Rather than tackling one fringe benefit at a time, the parties sorted out the items that both were willing and/or wanting to discuss. They then mutually agreed to the magnitude of past fringe benefit increases in old agreements (verified at 2 percent of payroll on two-year agreements). Because the parties were discussing a one-year agreement, the "parameter" for fringes was established as 1 percent of payroll. The companies then allowed the unions to follow basically a "cafeteria" approach to fringes within that parameter. This helped speed up negotiations considerably and allowed the parties to get to the second parameter and hard core issue -- wages.

A second way to streamline the bargaining process is to reduce the volume of issues. It has been demonstrated that, through hard work, the parties can streamline the agenda. Ontario Hydro and the Ontario Hydro Employees Union recognized and attacked this problem directly. They reduced the number of issues from 270 in their 1972 negotiations to 90 in their 1975 negotiations. At Labatts Breweries in Edmonton recently, only nine items were up for negotiation. This was the result of efforts to reform the bargaining process¹⁰. Also, in some cases, very complex issues have been

¹⁰ *Financial Post*, November 8, 1975.

set aside to be determined outside of collective bargaining. This has occurred in railway bargaining.

Therefore, at least three things may be done to streamline the bargaining process: use a parameter approach on money items; reduce the number of issues; and set aside complex issues. Through these procedures the agenda is reduced and the extent of gamesmanship attenuated.

Early Negotiations

Research findings have indicated that a sufficient period of time, and one free of deadlines, is necessary for problem solving and win-win rather than win-lose behaviour to take place¹¹. In light of this, it is not surprising that in some relationships the parties have deliberately set aside extra time as a strategy for peaceful conflict resolution. "Early-bird negotiations", as they are referred to, have been used on numerous occasions and with success. We can use the three cases referred to earlier in this connection (Ontario Hydro, the railway industry and the U.S. steel industry). In each case, the parties agreed to start their negotiations much earlier than usual.

A Target Date for Settlement

The above suggests another procedural reform. It seems to be important to have a target date for settlement and/or a well thought out time frame for negotiations. A target date, it should be emphasized, is much different from a deadline. The latter connotes a threat and implies adverse consequences. A target is a goal to strive for and has much less threat attached to it.

A preconceived and specific time sequence for negotiations was agreed upon by both sides at Ontario Hydro. This plan contained a target date for settlement and the parties reached agreement prior to that date. The ENA in U.S. steel also is very definite on this point. National negotiations must begin in mid-January with a target date for settlement of mid-April. The parties have always reached agreement on schedule. While there was no formal plan in Canadian rail negotiations in 1974, both sides came to the table exceedingly well prepared and had individually developed a time frame for negotiations. Their time frames were similar, and an informal target date of November 1 (two months prior to contract expiry) was agreed to by the two sides. This target was missed by only a couple of days.

¹¹ For a review of the literature on problem solving, see Rensis and Jane LIKERT, *New Ways of Managing Conflict*, New York, McGraw-Hill Book Company, 1976, pp. 141-155.

Early-bird negotiations and the setting of a target date for settlement help mute the dysfunctional aspects of deadline setting. By removing deadline pressure, these two aspects in conjunction also allow more consideration of items on the agenda and may facilitate a more thoughtful search process. Finally, the extra time available may lead the parties to interact more as a working committee than as protagonists.

A Wage Determination Formula and Common Data

Settlements in collective bargaining cannot be generated by a formula to set salaries. But the application of a *wage determination* formula may be of some utility in conflict resolution. The use by the parties of a mutually acceptable wage determination formula stimulates the use of "facts" and, hence, helps to depersonalize the conflict. The use of wage guidelines in collective bargaining under Canada's anti-inflation program is an example of this¹². To a certain extent guidelines substitute the application of a bargaining framework for the use of raw power¹³. A better illustration is provided, again, by the rail negotiations. In that case, a formula for negotiations was agreed to by both sides after Justice Emmett Hall supplied the parties with the formula in his arbitration award to resolve a dispute in the early 1970's. The details of the formula are not particularly germane. The most important fact has been that, in the wage rounds since that time, both groups have been committed to its use.

Very different numbers, of course, may be used in, and therefore derived from, such a formula. Its use, nevertheless, has three positive effects with respect to the negotiation process in addition to those mentioned above. First, it helps immeasurably in setting limits to the contest, so to speak, because both sides are committed to it and discuss their proposals in terms of "Hall". This is an important contribution in that it reduces the *actual* sizeable gap which typically separates, at least initially, two parties entering negotiations. Of perhaps more importance, it reduces the *perceived* gap initially separating them and thus helps to prevent escalation of the conflict. Second, its use allows the parties to more accurately gauge or envision where the final bargaining range will be. There are only so many rational applications of the formula, and through negotiations the various options

¹² See also Rensis LIKERT and Jane LIKERT, *op. cit.*, pp. 161-162, for the efficacy of this approach.

¹³ For a discussion of this see Bryan M. DOWNIE, *Wage-Price Controls and Collective Bargaining*, Kingston, Ontario, Queen's University Industrial Relations Centre, Reprint Series no. 29, 1976.

rapidly decline in number. To a negotiator this is no small contribution because the bargaining process is full of uncertainty including the area within which final offers will be exchanged. The reduction of uncertainty could facilitate more open dialogue between the parties. Third, attention and discussion is focused on the *application* of the formula. This introduces more rationality into the process and de-emphasizes, though by no means eliminates, the power dimension of the process.

The use of common, and mutually acceptable, data is another innovation which may help transform the bargaining process.

Objective data can contribute greatly to productive problem solving and to the resolution of disagreement. ... Most persons and groups... are quite prepared to accept facts and be guided by them in their search for a solution to the problem¹⁴.

The importance of the parties applying common data in negotiations has been recognized in a number of situations. The requirement for the Education Relations Commission under Bill 100 in Ontario to provide neutral data to the two parties in teacher-board bargaining is one illustration. Data does not resolve labour-management conflict but it should not be an additional cause for conflict. Therefore, the production of neutral or joint data is important to labour peace in that light.

ATTITUDINAL REFORM

There are a host of practical techniques that could be introduced to help facilitate attitudinal change. Some come from experience in other conflict settings; the origin of others is experimentation in inter-group relations in the behavioural sciences. Walton, for instance, has outlined some of the ingredients for attitude change in inter-group relations¹⁵. He notes that one method is to reduce the parties' perception of threat from the other side. There are several pragmatic steps which could be taken to do this in negotiations.

Removal of Bilateral Threat

Threats and counterthreats in bargaining arise predominantly because of the fact that at the end of the negotiation process there is the possibility of economic sanctions or, in some cases, *compulsory* arbitration. The threats typically refer to the possibility of stalemate. It is ironic that in a

¹⁴ LIKERT, Rensis and Jane LIKERT, *op. cit.*, p. 162.

¹⁵ WALTON, Richard, "Two Strategies for Social Change and Their Dilemmas", *The Journal of Applied Behavioral Science*, vol. 1, no. 2, April-May-June, 1965, p. 170.

broader context than the immediate set of negotiations such threat may be counterproductive. Bilateral threat prevents the parties from moving to joint problem solving and maximizing joint gain. The first experimental evidence on this point was provided by Deutsch and Krauss¹⁶.

Regardless of explanation, the implications of this research are very compelling. They strongly suggest that the less opportunity for threat any two parties have in negotiating a settlement, the more likely they are to share a profit in their negotiations. International settlements would be more profitable if neither party were able to threaten the other with war. Under certain conditions unions might even fare better without strikes...¹⁷

The apparent reason is that, if a person uses threat to intimidate, the person threatened will then react with hostility, counterthreat and resistance.

With bilateral threat present it is almost impossible to bring about long run attitudinal change. However, what would happen to attitudinal relationship if labour and management removed serious bilateral threat from collective bargaining? What would happen if the parties imposed conventional arbitration or final-offer arbitration on negotiations prior to their start? The above research suggests that much of the dysfunctional activity would disappear and cooperative relationships would be more likely to develop. Voluntary arbitration has shown enough promise to warrant adoption, particularly if coupled with other procedural reforms. Indeed, voluntary arbitration may be an important first step for procedural and attitudinal change.

Reducing the Number of Participants at the Table

One of the most visible features of win-lose conflict is the large number of participants on both sides of the table. As a simple rule of thumb, the larger the numbers at the table, other things being equal, the more adversarial the relationship. In many cases, personnel are brought in simply because both sides pursue bargaining in warlike terms. Indeed, bargaining is often viewed in military terms. "Body proliferation" is not an atypical occurrence in collective bargaining. That is, additional personnel are brought to the table to make sure the "battle" is fought on equal terms.

¹⁶ See Morton DEUTSCH and R.M. KRAUSS, "The Effect of Threat Upon Interpersonal Bargaining", *Journal of Abnormal and Social Psychology*, 61, 1960, pp. 168-175.

¹⁷ GERGEN, Kenneth J., *The Psychology of Behavioral Exchange*, Reading, Mass., Addison-Wesley Publishing Company, 1969, p. 70.

Each additional "body", then, may be viewed in terms of adding threat potential. According to Walton, one of the ways to bring about attitudinal change is to minimize the other side's perception of potential threat from your side. Reducing the numbers of personnel directly involved in negotiations would be a start in this direction. Moreover, a significant reduction in the numbers at the main table is one concrete act which could probably be taken in most situations without any strategic or tactical loss. In many cases, bargaining committees from a tactical standpoint are, if anything, too large.

New Seating Arrangements

Attitudes may also be changed by attempting to minimize perceived differences between the two groups. A manifestation of adversary bargaining is that the parties physically group themselves in a "we-they" arrangement. It has been demonstrated that conflict is promoted by such seating arrangements¹⁸. Some have noted that physical separation is a precursor of conflict. Filey, for example, has stated:

...spacial arrangements will themselves provoke or elicit various forms of behavior. Not only that but it has been found that the greater the distance between the two parties the less friendly they are perceived to be¹⁹.

By agreeing on new, more informal, less adversarial seating arrangements, the parties *may* be able to introduce an improved climate at the table. The single team bargaining concept entails precisely this idea. In certain circumstances no table is used or, if one is necessary, a round table is introduced. The elimination of the single spokesman ploy, generally considered functional and necessary for collective bargaining, is another strategy of a similar nature that has been introduced in single team bargaining. The basic idea is to maximize informality and to minimize the "we-they" atmosphere. The single team concept now has been used in a variety of settings including teacher-board bargaining in Ontario. It is not a "cure-all" for our industrial relations problems but the concept does warrant serious examination.

¹⁸ RUSSO, N.F., "Connotation of Seating Arrangements", *Cornell Journal of Social Relations*, 2, 1967, pp. 37-44.

¹⁹ FILEY, Alan C., *Interpersonal Conflict Resolution*, Glenview, Illinois, Scott, Foresman and Company, p. 79.

Personnel Exchanges

Encouraging inter-group contact on a broader scale is a method often used to improve relationships. International exchanges often take place to improve inter-country relationships. The goal of such exchanges is to develop empathy and understanding between two groups. This has rarely, if ever, been done in industrial relations. Yet there is no reason why young people in personnel and industrial relations could not spend a period of time (say, three to six months) in the employ of the union with which they must work on a daily basis. Conversely, there is no reason why union officials, particularly young union stewards, could not spend some time in a personnel and industrial relations department. The government, too, could offer sabbaticals to unionists and industrial relations managers to spend a year in a management or labour organization.

Union Leaders on Board of Directors and Other Forms of Participation

Attitudes may also be changed through demonstrating the mutual dependence of the two groups in conflict by enhancing the status of the rival group and by encouraging openness between the parties. In this context, the appointment of union leaders to an organization's Board of Directors is conducive to improved relationships. Trust between the parties is a necessary ingredient which may be developed by such appointments. It is an idea, of course, which has been used extensively, by government fiat, in West Germany and other countries. There are isolated cases of such participation in Canada as well. The recent appointment of UAW President Douglas Fraser to the Board of Directors of Chrysler Corporation is the most recent North American example of this idea.

The major obstacles to these appointments are the aspects of confidentiality of information, conflicts of interest for the union official, and the general lack of desire on the part of trade union officials to become involved with the operating problems of an organization. It is an innovation that is likely to increase only on a voluntary basis and only to a very limited extent. This and other forms of formal participation (e.g., profit sharing plans and the Scanlon plan) are often proposed as solutions to industrial conflict. Some would argue, for example, that worker participation is the essential ingredient for improved labour-management relations²⁰. Others

²⁰ NIGHTINGALE, D.V., "Industrial Democracy: A Strategy for Improving Productivity and Labor-Management Relations", *The Business Quarterly*, Autumn 1976, pp. 36-42.

suggest that in North America worker participation is unlikely and therefore its impact will be minimal²¹. While not a panacea, it does seem clear that, regardless of its prospects, worker participation is a concept that promises increased trust between labour and management and the integration of their interests. Therefore, it is a relevant strategy to consider for attitudinal change.

Innovative Joint Committees

Programs on an on-going basis outside of collective bargaining may be mounted to induce problem-solving behaviour and a greater degree of openness. Joint committees which operate on a year-round basis can be run with a problem-solving style and thus reduce conflict and introduce new attitudes between the parties. There have been numerous programs of consultation; some programs have been marginally successful and others less so. But the concept has remained static for years. What would seem to be needed now are imaginative bold experiments to generate more openness and trust which, in turn, will spill over to collective bargaining.

A model program has been mounted in a dying industry -- the U.S. Railroad industry. In 1975, with financial aid from the Association of American Railroads, the Federal Railroad Administration, the Missouri Pacific Railroad and various railroad labour organizations, the "St. Louis Project" began. This is a program of cooperative action outside of normal collective bargaining. It entails a program of joint labour-management experiments involving changes in operations at Missouri Pacific's (Mopac) St. Louis terminal. The Mopac terminal was selected, from many possible sites, as a location for innovative experiments.

The following approach has been adopted by the parties.

1. The parties identify barriers to terminal efficiency and service reliability.
2. They propose changes in management and labour practices (including changes in the contract) and in government regulations that affect the operation of the terminal.
3. Specific changes in operations are introduced.

²¹ STRAUSS, G., "Quality of Worklife and Participation As Bargaining Issues", in press.

4. They conduct on-line experiments designed to test the effectiveness of the proposed solutions. The changes or experiments are considered as temporary only.
5. The cost-savings become known and the unions involved then have the option of negotiating permanent change.

The problem has obvious advantages. First, it has demonstrated some clear-cut improvements in efficiency with both sides being better off²². Second, it has improved communication between local labour and management by a series of regular meetings between the employees and operating officials. It, therefore, involves many members of both groups in inter-group contact. As a consequence it facilitates attitudinal change. Third, the emphasis throughout the process is on problem solving.

Behavioral Science Intervention

Experiments have been conducted which illustrate the existence of gross distortion in the perceptions of labour and management of one another which, in turn, adversely influence their attitude toward the other side. In a thorough piece of research it was demonstrated that labour and management stereotype each other. Haire states:

...this distortion is sufficient to give rise to considerable misunderstanding between them of the subject matter of their conversations. It does not suggest that this is the sole source of difference of opinion between labour and management in negotiation. The kind of distortion demonstrated here should probably be viewed primarily as a barrier to communication which makes doubly difficult the problem of resolving differences of opinion or purpose²³.

The literature on organizational development and change offers concepts to facilitate the development of new perceptions. First, inter-group labs have been used extensively to treat win-lose conflict between departments in organizations. Behavioral interventions into situations of inter-group conflict outside labour-management relations have been successful and impressive. The lab approach involves trying to induce problem-solving relations by cutting through the tensions and conflict which exist between two antagonistic groups. Because inter-group labs may seem unrealistic or inapplicable in treating labour-management conflict, it is worth noting

²² "A Cooperative Program of Experiments Involving Changes in Railroad Operations: St. Louis Project", *1975 Progress Report* by St. Louis Project Team Task Force on Rail Transportation of the Labor-Management Committee, April 15, 1976.

²³ HAIRE, Mason, "Role-Perceptions in Labor-Management Relations: An Experimental Approach", *Industrial and Labor Relations Review*, 8, 1955, pp. 204-206.

that the concept has been used successfully in that context. According to reports, perceptions and attitudes were changed, and because of this a problem-solving orientation was adopted by labour and management representatives²⁴. The Canadian post office (Canada Post) has recently used the inter-group approach with the letter carriers' union in an attempt to improve their relationship. Both sides report a significant improvement in the union-management relationship.

PUBLIC POLICY IMPLICATIONS

In Canada, we have reached the point where little of an additional nature can be done to aid collective bargaining by direct compulsory intervention and, as noted, viable compulsory strike substitutes do not seem to exist although further research is necessary on this point. More importantly, such approaches deal directly with strikes and lockouts and in doing so treat collective bargaining in terms of its "power" dimension only. Essentially ignored is the attitudinal side of the process and the relationship between the parties.

An attitudinal change strategy implies a very different role for government. Through various procedures and processes, government could attempt to increase the level of attraction and trust between the parties and hence reduce overt conflict. Government influence under this strategy is less direct, less visible and, therefore, less appealing to the politician. Education and assistance are the primary tools. The U.S. Federal Mediation and Conciliation Service has a program entitled Relationships by Objectives (RBO) which follows this philosophy and the Ontario Ministry of Labour is currently developing a similar program.

If this approach is to work a government agency must start by retraining its own agents in negotiations, i.e., the cadre of third party neutrals who are appointed to resolve disputes each year. Those who serve as third parties are typically individuals with a background in law and/or those who have training as industrial relations practitioners (on the trade union or management side). Many of these are able third parties, but it is possible to move beyond the haphazard selection and development of third parties, whose training comes essentially from experience in traditional adversary bargaining²⁵, and, instead, qualify similar individuals through classroom and on-

²⁴ See R. BLAKE, H. SHEPARD and J. MOUTON, *Managing Intergroup Conflict in Industry*, Houston, Gulf Publishing Company, 1964, pp. 155-195.

²⁵ See Kenneth KRESSEL, *Labor Mediation: An Exploratory Survey*, Association of Labor Mediation Agencies, 1972.

the-job training to be not only "settlement seekers" and "power brokers" but also "peacemakers" and "change agents". In short, they should bring the skills of conventional plus preventive mediation to a dispute. The task involves not just trying to find a settlement but also identifying and exposing the "hidden agenda", important emotional issues, perceptual distortions, and communication barriers; gaining concessions and face-saving solutions which take care of both the overt and concealed factors dividing the parties; and recommending new processes, techniques and behaviours. This implies much more formal and sophisticated training than currently offered by government agencies in Canada.

Preventive mediation differs from conventional mediation in that intervention takes place before crises develop and also, often outside of collective bargaining. In fact, preventive mediation has been called "noncrisis mediation" in that it encompasses those activities of mediators not related to contract deadlines or to mediation of specific grievances. For example, it might be concerned with a faulty grievance procedure, consultation, or prenegotiation joint committees set up to resolve troublesome issues confronting the parties' future negotiations. Or, it might involve a post negotiation committee formed to resolve an issue that could not be resolved through regular negotiations.

The difficulties of preventive mediation are well-known and need not be dealt with here. The basic weakness is that the parties will rarely request mediation, of any kind, prior to a crisis. And, like marriage counselling, preventive mediation will not work if forced on the parties. However, the conventional mediator is generally in contact with the parties when their negotiations are in a critical stage and he is, therefore, an important player in that he can encourage the use of preventive mediation when the parties may feel the need for such an initiative. The impact of preventive mediation, in short, may first depend on the persuasiveness of the conventional mediator in convincing the parties to innovate, and then on the ensuing utility to the parties of the preventive mediation process.

If preventive mediation begins, the necessary third party skills, it must be reiterated, are by no means identical to those required in crisis bargaining. The analogy is closer to a marriage counsellor than a power broker. Many industrial relations practitioners may think the analogy naive, but the processes are distinctly different and the fact is that professional psychologists have been able to intervene in labour-management affairs and improve communications so that each side could see the point of view of their opposition more clearly. This change, in turn, substantially reduced tension and hostility²⁶.

²⁶ MUENCH, George, "A Clinical Psychologist's Treatment of Labor-Management Conflicts", *Personnel Psychology*, vol. 13, 1960, pp. 165-172.

The desirability for much more training of mediators, and training of a different variety, is not intended to argue against on-the-job experience. The necessity for experience in impasse situations is clear. The argument, rather, is that experienced mediators should acquire clinical and process skills through training. It is here that government and government agencies can play a vital role.

The idea of using indirect government influence to bring about change, of course, is not new in Canada. To this point, its impact has been minute because it has not been effectively directed at the establishment level. Joint consultation, for example, has been fairly actively pursued by the federal government and some provincial governments, as well. Manitoba's Labour-Management Committee (Woods Committee) which is a select committee of leading union and employer representatives in the province has been one of the most successful attempts of this type, and much is to be learned from such an undertaking. However, Kovaks points out one of the weaknesses of joint consultation practised at this level.

The employers' group does not have an organizational structure for committing them to provincial policy and industrial relations is only one area among many to occupy the attention of management. Therefore, only by example will any experience gained through joint provincial councils filter through to individual employers²⁷.

Over and above that, the subject matter of such consultation is limited. To illustrate, the focus of joint councils might be limited to an examination of labour legislation. This has positive potential but, at best, constitutes very limited change. The same is true of other possible approaches which attempt to introduce change from the top, such as tripartitism. Discussions among top union, management and government leaders would likely be superficial because those involved, particularly for management, are not likely to be the important decision-makers.

Consultation of the right variety, nevertheless, is useful. The emphasis should be on the establishment level or, in some cases, such as construction or hospitals, on the industry or sector level. For instance, through third party or other government initiatives the parties in construction might be persuaded to sit down and work out, with third party assistance, new procedures for the prompt and informal resolution of jurisdictional disputes. This could lead to other labour-management innovations in the industry. Again, the importance of having well-trained and fully informed third parties who have the respect of the parties is obvious.

²⁷ KOVAKS, Aranka E., "Joint Labour-Management Councils", in S.M.A. Hameed (ed.), *Canadian Industrial Relations: A Book of Readings*, Toronto, Butterworth & Co. (Canada) Ltd., 1975, p. 49.

SOME FINAL OBSERVATIONS

Structural reforms and public policy changes in dispute settlement methods are important change strategies and should not be denigrated. These experiments and changes are healthy and sometimes helpful. But they constitute little more than tinkering at the margin and bring about change of, at best, a tangential nature. Furthermore, any improvement may not be long lasting because the change is unlikely to have dealt with attitudes and perceptions. Structural change, in particular, simply introduces a new and uneasy equilibrium in power relationships. Pressures quickly build to change or modify the new, reformed structure.

With respect to public policy specifically, the federal and provincial governments have shown little inclination to experiment with the basic legal framework regulating industrial relations in Canada. With a few exceptions governments in Canada over the past twenty-five years have not forced massive change on the parties. It seems safe to assume that, at both levels, government is now unlikely to introduce dramatic innovations particularly in the areas of dispute resolution techniques (such as arbitration) or industrial democracy. As noted, even if government does take action on the public policy or structural front, it is unlikely that the changes will deal with the fundamental causes of labour strife.

But government does have a role to play and a responsibility in improving industrial relations practices and procedures. At the same time, from the above, it would seem that the best way, indeed perhaps the only way, to significantly improve industrial relations in Canada (and indirectly our economic performance) is through procedural and attitudinal reform. If the major opportunity for real change resides with these two strategies, a heavy responsibility obviously lies in the hands of labour and management. To stimulate change, however, government should provide much more in the way of professional services and, perhaps, financial incentives to those parties who innovate in the area of industrial relations practices.

Finally, it seems clear that to be effective an attack by government, and by the parties per se, on labour-management problems must be made congruently on two fronts. That is, attempts to reform the bargaining process will not be long lasting unless inter-party attitudes are improved, and *vice versa*. Here it should be stressed that attitudinal change must go beyond the individuals at the bargaining table. If attitudinal reform is to be seriously pursued it must include labour and management officials who deal with one another on a day-to-day basis. This suggests the need to train and equip first line supervisors, in particular, with problem solving skills. At the same

time, attitudinal innovations such as those outlined in a previous section, even if jointly introduced by labour and management to induce a better relationship, must be protected from the harsh realities and pressures of the bargaining table. The most effective way to operationalize the latter is through reforming the bargaining process so that win-lose conflict is muted at the table and does not spill over to day-to-day relationships and poison new initiatives. A marriage of the two strategies, therefore, would seem to be not only desirable but also necessary if there is to be an improved industrial relations climate.

Les pouvoirs publics et la paix industrielle

On exprime des inquiétudes au sujet de l'état de santé de notre régime de négociations collectives et de relations professionnelles en général. De nombreuses suggestions ont été faites pour améliorer le dossier de nos relations professionnelles, mais il n'y a eu que peu d'efforts, s'il y en a eu, pour lier diverses propositions ou en faire la synthèse. Cette étude offre un cadre pour l'analyse des stratégies de rechange dans les relations de travail.

Le vaste domaine des stratégies de rechange peut se diviser en quatre groupes ou catégories:

- 1) la réforme politique;
- 2) la réforme des structures;
- 3) la réforme des mécanismes;
- 4) la réforme des comportements.

La réforme politique suppose des initiatives de la part du gouvernement pour favoriser le processus des négociations collectives. Le gouvernement peut aider de trois façons. D'abord, les organismes gouvernementaux peuvent faciliter le processus de négociation en fournissant l'aide de tierces parties (enquêtes factuelles). En second lieu, le gouvernement peut proposer et imposer des mécanismes de règlement des différends qui remplacent ou modifient les sanctions économiques auxquelles les parties recourent. Troisièmement, le gouvernement peut encourager la coopération entre les employeurs et les syndicats et favoriser la paix industrielle en fournissant des données objectives et en encourageant la formation et la compétence des tierces parties.

Le but de la réforme des structures est d'élargir l'aire des négociations ou des conventions collectives de façon à diminuer le nombre des grèves. Le passage de la négociation locale à la négociation provinciale par législation en est un exemple. On peut en venir à des unités de négociations plus étendues, soit par l'action du gouvernement, soit à l'initiative des parties.

Les deux réformes ci-dessus se rapportent aux effets des conflits de travail (les grèves) essentiellement par des techniques de règlement des différends et par la modification des unités de négociation. Les parties peuvent aussi adopter divers types de réformes au processus de négociation. Le recours à l'arbitrage volontaire, des efforts en vue de procéder à la négociation continue, des négociations anticipées, la fixation de dates-cibles pour le règlement, une formule commune de détermination des salaires sont autant d'exemples d'innovations possibles dans ce domaine.

Enfin, un changement fondamental dans l'orientation des parties l'une envers l'autre est une méthode qui retient de plus en plus l'attention. La réforme des attitudes peut comporter l'accord entre les parties pour repousser le recours à la grève ou au lock-out, diminuer le nombre de participants à la table des négociations, faire un nouvel aménagement des sièges à cette même table, mettre au point des échanges de personnel entre les parties, recourir à des comités conjoints pour aider à la solution des problèmes ou encore fournir des formes variées d'intervention s'inspirant du behaviorisme. Des innovations quant à la qualité de la vie au travail entrent aussi dans cette catégorie.

Jusqu'ici, les réformes de caractère politique ont eu tendance à considérer les négociations collectives comme une lutte pour le «pouvoir» par des formes directes d'intervention. Aussi, au Canada, avons-nous atteint un point où peu peut être fait pour favoriser la négociation par intervention coercitive et, en même temps, les substituts obligatoires viables à la grève ne semblent pas exister. Plus, le changement structurel opère, au mieux, des réformes et des améliorations temporaires. On a complètement ignoré en matière de politique publique le côté comportement du processus de négociation et de rapports entre les parties.

En conséquence, les gouvernements devraient bien davantage mettre l'accent sur les deux dernières stratégies (la réforme des mécanismes et la réforme des comportements), car il s'agit d'approches beaucoup moins directes que celles qui consistent à essayer d'amorcer des changements par des modifications à la législation. Les premiers agents de changement dans un tel cas devraient être les tierces parties neutres du gouvernement, ce qui implique qu'elles doivent recevoir une formation plus large et plus intensive que celle qu'elles reçoivent actuellement.

Finalement, il semble clair que, pour être efficace et durable, l'initiative des parties en vue d'améliorer leurs rapports doit porter sur les deux points — la réforme des mécanismes et la réforme des comportements. Une combinaison des deux stratégies semblerait, non seulement désirable, mais nécessaire, si l'on veut une amélioration significative du climat dans notre système de relations professionnelles.