THE SETTLEMENT OF CONTRACT NEGOTIATION DISPUTES: A LABOR VIEWPOINT

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It has become customary to regard the year and a half immediately following V-J Day as marking a breakdown in industrial relations in the United States. It is true that during this period an unprecedented number of workers were involved in work stoppages due to industrial disputes. Yet most of these work stoppages were brief and most of them occurred within a short five-month period extending from January through May of 1946. Nor was the record of strikes in this troublesome year in our industrial relations as calamitous as is generally believed. For the entire year of 1946 the monthly average of man-hours lost due to strikes was only 1.5 per cent of the total man-hours worked. In the last seven months of 1946 the time lost on account of strikes amounted to only one-half of one per cent of the total time worked.

Since April, 1946, the trend in strikes has been downward. But even before that, relatively few strikes accounted for most of the idleness due to all strikes. To illustrate, during the one-year period following V-J Day, three strikes accounted for 45.5 per cent of all idleness due to strikes; seven strikes accounted for 60.8 per cent of the total man-days lost; and forty-two disputes were responsible for over 70 per cent of the total idleness.[1]

These figures give some measure of perspective to the postwar strike wave, but they do not show what caused it. According to figures compiled by the Department of Labor, more than 80 per cent of the total man-days of idleness in postwar, strikes resulted from disputes over a single issue: wages.[2] It is clear that the postwar industrial unrest was not the result of a breakdown in collective bargaining procedures, was not provoked by the deficiencies of the Wagner Act, and had nothing to do with disputes over the union shop or other forms of union security. Seldom, if ever, in our history has a single force behind such a wave of unrest been so clearly revealed. That powerful economic force, the compelling cause of these disputes, was inflation. The overwhelming majority of postwar strikes were due to a sharp rise in the cost of living in the face of declining earnings of the workers.

As a general rule, before the end of the war, wartime wage controls had per-

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[1] *Postwar Work Stoppages Caused by Labor-Management Disputes*, 63 MO. LAB. REV. 872 (1946); *Labor-Management Disputes*, 64 MO. LAB. REV. 262 (1947).

[2] 63 MO. LAB. REV. 886 (1946).

mitted only a 15 per cent increase in wage rates over those prevailing in January, 1941. Extensive overtime work, night-shift premiums, and assignment to higher-paying wartime jobs were mainly responsible for the wartime increase in earnings. Beginning in 1944, the upward trend in earnings was reversed. With the end of the war, most overtime schedules were eliminated and in increasing numbers workers were forced to transfer to lower-paying jobs, bringing about a sharp curtailment in wage income. During that period there was no way in which the average worker could balance his family budget: the price of groceries continued to rise; expenditures necessary to maintain a home could not be cut—there was no place to move; and so the worker insistently demanded higher pay. In most cases satisfactory agreements were reached through negotiation. Where workers did go out on strike, they almost invariably struck for higher wages.

Evidence of the decline in total wage compensation since 1944 is conclusive. According to the United States Department of Commerce, total wages and salaries declined from $112.8 billion in 1944 to $111.4 billion in 1945 and to $106.6 billion in 1946.[3] During this period prices rose to new heights and the buying power of these wages was sharply cut. Between 1944 and 1946 real wages and salaries, measured in 1944 dollars, dropped from nearly $113 billion to slightly over $90 billion. In the meantime the upward march of the cost of living continued. Between December, 1945, and December, 1946, the consumer price index rose 18 per cent, while wholesale prices advanced 31 per cent.[4] The growing disparity between the workers' wage income and their living costs had increasingly cut into their savings. Measured in current dollars, net savings of individuals fell from $39 billion in 1944 to $17.5 billion in 1946. Small wonder that lower-paid workers were forced to go into debt in order to make ends meet, as shown by the recent Bureau of Agricultural Economics-Federal Reserve Board study,[5] and that installment credit, despite remaining restrictions, was breaking all records.

Even under the severe strain of such far-reaching distortions, most postwar wage disputes were being successfully settled by direct negotiations between labor and management. The great majority of AFL affiliates in a wide range of industries and trades provided an impressive demonstration that wage settlements can be achieved peacefully without a sacrifice of the resulting wage standards whenever management is responsive to the need of reaching a fair settlement. But an objective appraisal of wage disputes since the end of the war shows conclusively that the major share of responsibility for work stoppages during this time falls neither on labor nor on management, but on the intervention of government in the process of wage determination. There is no denying that the 18½-cent formula set an artificial mark in the minds of millions of workers to whom it was not intended to apply.

[3] *National Income and National Product*, Survey of Current Business, Feb., 1947, p. 8 (Table 4).
[4] *Prices and Cost of Living*, 64 MO. LAB. REV. 278, 289 (1947).
[5] 32 FED. RES. BULL. 719 (1946).

Nor can it be successfully disputed that in many key sectors of the price structure the government, through the use of its price-control powers, helped to translate wage increases into price increases out of all proportion to the actual wage costs.

The greatest injury to the economy was inflicted in this series of semi-political decisions of the government when it made its wage-price determination in the steel industry,[6] an incident which illustrates the ineptitude of such government intervention. On the initiative of John W. Snyder, then Director of War Mobilization and Reconversion, the government approved the 18½-cent across-the-board increase in steel wages on the condition that the industry, to be able to pay the wage increase, would be accorded "price relief" in the form of an increase in the price ceilings of more than $5.00 per ton. This was done in response to the plea of the major steel manufacturers that wages could not be raised without increasing prices proportionately. The United States Steel Corporation, the chief pleader in the case, has since supplied figures showing that between 1945 and the third quarter of 1946 (with the wage increase put into effect in the spring of 1946) the average wage cost per ton dropped about $1.40, while net profits per ton almost doubled. In other words, at the level of operations which was fully assured for this period, United States Steel could have paid the wage increase and at the same time reduced its steel prices, instead of effecting the large and highly inflationary price increase which it had been so gratuitously allowed.[7]

This is not to say that some of the small steel fabricators, subjected to the uniform formula, fared equally well or even escaped a tight squeeze in some instances. The point is that the use of the wage-price formulas in this and other situations made a rational and non-political settlement of wage disputes well-nigh impossible. This is not the place to discuss the wage-price problem involved in the major industrial disputes of the last year and a half. Which firms or industries could have raised wages without increasing prices is now a moot question. The next recession will afford many managements and more workers ample leisure to ponder it. In the meantime the evidence is conclusive that prices went up most, as in food, where wages had been raised the least.

Further sharp increases in the price structure and in the cost of living appear unlikely. On the contrary, the far-reaching and still growing imbalances in our economy point to drastic cuts in production and prices in a number of major lines in the very near future. There is nothing in our current economic policies to provide a hope for sustained employment and production, unaffected by a recession. The important immediate question of policy is not how to prevent work stoppages arising from the workers' demands for higher wages, but how to avert widespread unemployment and a general breakdown in the established wage standards.

[6] *Labor-Management Disputes*, 62 MO. LAB. REV. 425, 426 (1946).

[7] Derived from data presented in 44th and 45th Annual Reports of the United States Steel Corporation: MOODY'S INDUSTRIALS (1946) and reports filed with Securities and Exchange Commission.

It must be recognized, of course, that a downward price readjustment accompanied by an intensified pressure on labor costs is bound to lead to attempts at wage-cutting. This development will result in acute controversies between labor and management, but it need not develop into widespread strikes.

How can work stoppages be avoided in future wage disputes? The basic solution no doubt lies in the sphere of direct wage negotiations between unions and employers. In the past fifteen years unprecedented progress has been made by unions in increasing reliance on facts in negotiating wages. The American Federation of Labor alone reports that more than forty of its national and international unions have established research departments, in addition to the wage negotiation services provided directly by the Federation.

Under competitive conditions a firm cannot be expected to make its detailed cost data available to the public. But a union-management agreement is a private contract. In the formulation of that contract two elements must be present: (1) informed understanding by management of the problems surrounding the wage compensation of the workers as seen by the workers themselves and as interpreted by their chosen representatives; and (2) understanding by the workers' representatives of the management problems involved in the wage settlement. This involves the exercise of a mutual responsibility by both parties toward each other. Management usually tends to regard wage payments solely as a cost of production. In this, management representatives often overlook the fact that what really counts is the unit wage cost. Years of experience have proved that relatively higher wage *rates* are likely to yield better productivity and lower unit wage costs. The adequacy of wages as income cannot be disregarded by the management negotiators. Adequate wage income has a vital bearing on sustained efficiency of workers. It helps sustain peaceful labor-management relations. Recognition of the worker's income problem by management is plainly good business.

Workers, on the other hand, tend to consider wage income as the most important factor to them in making a wage settlement. Unless the union negotiating committee is given access to the cost data which are controlling in wage negotiations they cannot understand the true nature of the management problem; and without understanding there can be no responsibility. The sense of responsibility of workers toward the welfare of the enterprise cannot be developed so long as the union is denied access to basic information regarding the operation of the enterprise.

Access by qualified union representatives to the income and cost data of the enterprise does not constitute and does not entail an infringement upon the management prerogative. In many widely different sections of industry and trade, company "books" have long been open to union negotiating committees without any untoward effects on labor-management relations and without any disclosure of the basic facts to competitors. Where interchange of income and cost information has

been free, union-management co-operation has proved to be most effective and peaceful relations have been most enduring. Such interchange of information is indispensable to fully effective collective bargaining based on a functional community of interests between labor and management. When direct wage negotiations fail to produce an agreement, conciliation and mediation are the first steps in averting a deadlock in the dispute. The United States Conciliation Service has established an impressive record of bringing about final settlements in difficult wage controversies. Steps have recently been taken to equip the commissioners of conciliation with ready and current information regarding the prevailing wage levels and to keep them abreast with the current practice of wage determination. Employers and unions are both agreed, as shown by the unanimous action of the Labor-Management Conference and the subsequent recommendations of the Labor-Management Advisory Committee, that the personnel and facilities of the Conciliation Service need to be strengthened in this respect and need to be retained within the framework of the Department of Labor.

Some wage disputes will always remain irreconcilable and unresponsive to ordinary mediation. Some strikes over wages are unavoidable. This is especially true of areas where collective bargaining relations are relatively new and collective agreement has not yet become the instrument of lasting confidence which must be at the core of the relationship between labor and management. Agreement of the parties to submit to arbitration should be the final step in the settlement of wage controversies where negotiated agreements have been previously established.

According to a recent Bureau of Labor Statistics study of 1,254 representative collective-bargaining agreements,[8] about three-fourths of the agreements analyzed make individual wage disputes, including those over wage rates and wage classifications, subject to arbitration. In the light and power industry, practically all contracts of the International Brotherhood of Electrical Workers provide for arbitration as the final step in the settlement of disputes, including disputes over wages. In addition to voluntary arbitration, IBEW contracts with public utilities contain no-strike clauses, assuring continuity of operations at all times. In plants covered by the Brotherhood's contracts there have been no work stoppages or interruptions of service in twenty-eight years. In another public utility field, local streetcars and busses, the AFL union maintains a requirement for voluntary arbitration in its national constitution. Voluntary arbitration of wage disputes in the printing trades is long-established and time-honored. In the garment trades, the pottery and chinaware industry, the elevator manufacturing industry, and many others, arbitration is the long-accepted, voluntary, final step in the settlement of wage and other disputes.

The already established procedures for voluntary arbitration may be modified and perfected to meet new and changing conditions. A few months ago, the Labor-

[8] U. S. DEP'T. OF LABOR, BUR. OF LAB. STAT., ARBITRATION PROVISIONS IN UNION AGREEMENTS (BULL. No. 780, 1944).

Management Advisory Committee to the Secretary of Labor recommended the use of special "boards of inquiry," established with the consent of the parties, to serve as a final means for the settlement of wage and other controversies. Utilization of such procedures in the major area of industrial disagreement—the determination of wages—can serve as an adequate safeguard against work interruption in most situations likely to arise in the next two or three years.

The record shows that since V-J Day more than 80 per cent of trouble in industrial relations has been over wages. The great drive for labor laws made in the Eightieth Congress has the prevention of strikes and assurance of industrial peace as its declared objective, yet none of the measures proposed deals with the causes of, nor attempts to devise remedies for, the unrest resulting from the decline in wage income and the unchecked rise in the cost of living. Nor are these measures related to any of the difficult problems of wage negotiation and collective bargaining underlying most postwar labor disputes.

Changes in the National Labor Relations Act, no matter how desirable they may be for other reasons, cannot bring about more peaceful labor relations. Proponents of bills declaring the closed shop illegal may argue their cause with all vehemence and eloquence, but they cannot legitimately claim that their proposals would prevent work stoppages. For, in the first place, disputes over union security have not been a significant cause of postwar strikes. In the second place, the areas of greatest stability and peace in labor-management relations since the end of the war are found in industries such as paper and pulp, women's clothing, hosiery, and printing, where the closed shop is prevalent.

The same is true of the several proposals for compulsory settlement of labor disputes. Compulsion will not end work stoppages unless the compelling power is prepared to march the entire length of the road to totalitarianism. The Commonwealths of Australia and New Zealand have both operated under systems of compulsory arbitration for many years, yet their strike record has not been better, and in recent years it has been far worse, than that of the United States.

The legislative proposals embodying compulsion have taken many forms, including compulsory cooling-off periods, compulsory fact-finding, and compulsory submission of disputes to labor courts. In some bills provisions for compulsory arbitration are carefully camouflaged or limited in scope to make them appear mild and innocuous. Some would limit compulsory arbitration to public utilities and coal mining; others would confine it to disputes affecting the public interest, safety, or health.

No convincing case has been made out in support of compulsory cooling-off periods. In most sizable work stoppages since V-J Day, the parties had negotiated for at least thirty days prior to the walkout. The compulsory cooling-off proposals require an advance strike notice. Experience under the Smith-Connally Act[9] has

[9] 57 STAT. 163 (1943), 2 U. S. C. §251, 50 U. S. C. App. §§309, 1501-1511 (Supp. 1946).

further demonstrated the obvious consequence of such a requirement: the advance strike vote tends to serve as a declaration of war and the "cooling-off" period merely intensifies the determination to strike on the part of the workers concerned.

Compulsory fact-finding boards were set up by the government in several reconversion disputes, as a part of the extended wartime stabilization program. They hardly proved successful. The unwillingness of employers to submit to compulsory fact-finding was even more intense than that of unions. In the end the fact-finding boards' recommendations were either arbitrarily modified by the Director of War Mobilization and Reconversion or by the President, or were put aside in favor of some other method of settlement.

Compulsion, no matter how small its degree, vitiates the voluntary process of collective bargaining. To the extent that any proposal requires a worker to remain at his job it is coercive; to that extent it relies on involuntary servitude, outlawed by the Constitution. The right to strike for a lawful purpose must not be abridged. Abridgment of that right cannot be easily enforced. Government coercion, necessary to force a large number of persons to work against their will, breeds powers repugnant to a free people Coercive and repressive measures, used where just grievances exist, generate bitter resentment and deep-seated hate on the part of the workers, directed against constituted authority. Such compulsory measures would not eliminate the sources of disputes nor resolve them; but they would shift the areas of conflict from the economic to the political scene.[10]

The National Labor Relations Act has provided a procedure for the settlement of disputes over union recognition. Disagreements over the application and interpretation of existing contracts are usually settled somewhere along the line of the grievance procedure, with its customary final resort to arbitration. It is disputes over the terms of new or renewed contracts which present the serious difficulties of settlement. The attitude of the employer toward the newly formed union and toward collective bargaining itself is decisive in the settlement of disputes over new contracts. Equally important is the extent to which experienced and skilled representation is afforded the newly formed union by its parent organization. A new agreement, to be workable, must represent a meeting of the minds of the two parties. It is often decisive to the future of labor-management relations in a plant or shop. It must be a true agreement, for which there is no substitute, no matter how much outside influence may be injected.

Negotiations for the renewal of existing agreements usually begin thirty days prior to the expiration date of the contract. If, as the deadline for the termination of the contract approaches, the parties have still not reached an agreement, several courses of action are open. In many cases, if definite progress has been made towards ironing out the disputes, the parties will agree to continue the existing contract for another thirty days, or for some other period of time, with the usual

[10] See Shishkin, *The Case Against Compulsory Arbitration,* Amer. Federationist, Feb., 1947, p. 18.

proviso that any agreement reached will be retroactive to the expiration date of the old agreement.

If the parties are not making progress toward an agreement the services of a government conciliator are usually requested. The chief government agency in this field is the United States Conciliation Service of the Department of Labor. In addition, a number of states and several cities have developed conciliation and mediation services of their own. In 1946 the United States Conciliation Service averaged more than 1,300 disputes settled each month.[11] Conciliators were instrumental in settling disputes without a work stoppage in 90 per cent of the cases.

Voluntary arbitration as a method for settling labor contract disputes is gaining increasing acceptance among both union and management groups. It is most appropriate where the issues in dispute are matters which lend themselves to impartial factual analysis. Questions of wage increases, changes in piece rates, and changes in hours come in this category.

On the other hand, some issues are not readily adaptable to the arbitration process. This particularly applies to questions of principle such as union recognition, union security, and the establishment of benefit funds. Except within the limits of agreed standards, or with regard to specified details, principles are not arbitrable.

Collective bargaining, supplemented by conciliation, mediation, and arbitration, is the basic "machinery" for maintaining peaceful labor-management relations. This system, developed over a period of many years, has generally proved effective whenever it has not been stymied by unwarranted government intervention and when it has been based on genuine acceptance of the principle of collective bargaining. But this system is not intended to, and does not, guarantee complete and inviolate industrial peace. Complete lack of industrial disputes can be achieved only in a totalitarian autocracy, where voluntary agreement between labor and management will not be tolerated.

Our democratic society does leave room for disputes and even strikes. We should recognize that the strikes which took place at a time of far-reaching government intervention into labor-management relations, as was the case in the spring of 1946, are not characteristic or typical of our free economy. In any event, these abnormal work stoppages did no irreparable damage to our system of enterprise and production. Within a year and a half after the end of the war we were able to supply, out of current production, most of our current needs, fulfill a large portion of the demand accumulated during the years of war, and at the same time ship huge quantities of food, fuel, and clothing to relieve the needs of the devastated countries overseas. No other system of production has ever demonstrated ability to perform such a feat.

This is not to say that there is no room for improvement in our labor-manage-

[11] 64 MO. LAB. REV. 264, 265 (1947).

ment relations. On the contrary, positive steps are needed to strengthen the basic elements of our voluntary system by voluntary means. As seen by labor, these are the specific improvements needed:

(1) Collective bargaining should develop greater reliance on facts and less on horse-trading and table pounding. Labor and management should both be aided by government in securing comprehensive, accurate, and up-to-date information for negotiations. The sources of basic economic data in the Bureau of Labor Statistics have been gravely jeopardized by Congressional slashes of appropriations. Both labor and management need more and better factual material. Better information on wage rates, earnings and hours, productivity, unit costs, the cost of living, and other essential economic factors is indispensable to sound collective-bargaining relations. Labor and management should learn improved methods in the practical and fair use of such statistics, supplemented by information they themselves are able to develop.

(2) Top representatives of management and labor should meet periodically, not to settle disputes but to discuss operating problems, marketing problems, and employment problems of mutual concern. Workers must have the opportunity of developing, through their union, a sense of direct responsibility for the enterprise. Improved efficiency and higher production standards can be achieved through the workers' intelligent understanding of, and constructive day-by-day co-operation in meeting, the questions which the management must resolve and which it usually cannot resolve single-handed. Union-management co-operation can make a major contribution toward better and more efficient operation of the enterprise and at the same time assure more peaceful labor-management relations.

(3) Proper provision should be made for the parties to a dispute to invoke the services of a mediation agency before a work stoppage occurs. In 1946 about two-thirds of all strikes settled by the United States Conciliation Service were already work stoppages at the time a conciliator was invited to participate. The use of conciliation services should be agreed upon in advance and should be the result of a joint request when a direct settlement cannot be reached.

(4) The United States Conciliation Service should be retained in the Department of Labor and its effectiveness strengthened all along the line. It is our primary safeguard against the breakdown of peaceful labor-management relations. Labor-management advisory committees, national and regional, should be given a larger share of responsibility for reviewing the operations and the policies of the service. Adequate funds should be made available to maintain an adequate staff, which should be kept currently informed regarding current developments in the field of labor relations.

(5) Special attention should be given to the development of improved techniques of mediation. Some experimentation has already taken place, utilizing mediators

who specialize in certain types of disputes, mediation panels consisting of more than one mediator, special boards of inquiry established with the voluntary acceptance of both parties, etc. These techniques should not be confined to spectacular cases but should become part of the regular mediation service in all types of disputes.

(6) Voluntary arbitration services should be expanded and improved. There should be periodic consultation between representatives of labor and management regarding the use of voluntary arbitration and other aids, in the light of changing conditions in each industry or trade.

These are practical and simple steps. About some of them much has been said and little has been done. Perhaps one major reason for that inaction is the widespread ignorance on the part of the general public of the methods by which labor-management problems are being successfully solved every day. Wherever possible, the story of their day-to-day work in this field should be told by labor and management jointly. That story should be told not only in printed word, but also in films, radio broadcasts, and joint labor-management workshops demonstrating how workers and employers solve their problems together. More knowledge and better and wider understanding of basic facts will help to assure wider support of sound programs for improved labor-management relations. This is a task which unions and employers must discharge together.