

# Industrial Relations and Social Security

## The Issue of Union Security

By B. S. KEIRSTEAD

CANADIAN and American trades' unions are to-day engaged in a post-war battle to obtain what they call "union security." Employers, as a rule, oppose the demand for union security, on the grounds that the various forms it assumes, are all "undemocratic." The general public, confused and apathetic, is in danger of growing impatient and, in its desire to put an end to labour conflict, of supporting legislation which in the long run would not be wise. It is the purpose of this article to explain the nature of the union security issue, to assess the arguments of both sides, and to propose a possible solution in the public interest.

### Types of Union Security

Union security is obtained in a collective contract by one of several devices, the closed shop, the union shop, the preferential shop, maintenance of membership, compulsory or voluntary check-off. When the collective agreement provides that no one will be hired by the company, who is not a member of the union, a "closed shop" results. When the agreement provides that all employees must, within a specified period of time, usually three months, after obtaining employment, become members of the union, a "union shop" results. When membership of the union is not stipulated for employment, but is a condition of promotion a "preferential shop" exists. A "maintenance of membership" clause provides that all members of the union at the time of signing the agreement must maintain good standing in the union in order to remain employed. The "compulsory check-off" is an agreement

whereby the company collects union dues from the pay envelopes of all employee-members. The "voluntary check-off" is the same, except that union members must individually agree to the collection of union dues from the pay envelope.

All these arrangements are designed, to a greater or less extent, to maintain union membership at full strength, and the union shop provides in addition for the more or less automatic growth of union membership with new employment. The reason Canadian trades unions want this "security" is plain. In the period of conversion there is bound to be some unemployment. Collective bargaining is always more difficult when there are unemployed seeking jobs, and willing to accept them at less than the union wage. Moreover there are many new workers coming into the labour market, notably from the armed forces. If trades unionism in Canada is to remain strong, these new men must be brought into the movement. Organized labour is especially concerned to prevent any rift between its membership and ex-servicemen.

Finally, the unions believe, rightly or wrongly, that there will be a strong counter-attack launched by Canadian business against the unions. They allege that Canadian employers will use the reconversion unemployment and the labour reserve of the veterans in an attempt to force down wages, refuse renegotiation of collective contracts and seek in every way to break the union movement. There is certainly evidence that some Canadian business men think along these lines, though the present writer does not believe that this attitude is characteristic. Many of our business leaders recognize that trades unionism is here to stay and that good trades unions are in the public interest. Visiting English businessmen, however, have expressed surprise at the amount of anti-

labour sentiment encountered in Canada and the United States, so that we may take it, I think, that labour is not entirely unjustified in its suspicions and fears. In any case, whether the distrust felt by labour is justified or not, we have to recognize its existence as a fact and, further, we have to realize that it is the natural outgrowth of the anti-labour tradition in certain sections of Canadian business in the past. It is no good "regretting" facts; policy demands that they be recognized and understood, if wise decisions are to be taken.

### Aim of Security Clauses

We understand, then, why Canadian unions demand "union security" and why they believe it is the most important issue in labour-management relations today. They regard security clauses, of one sort or another, as essential to their continued existence. Canadian business, on the other hand, and to some extent the middle-class public, is critical of these demands. It is said that "union security" clauses enable union leaders to establish dictatorial control over unions, that they are undemocratic and an infringement of personal liberty, that they take away from the business manager control over his own business, and that they make for labour racketeering. These arguments are not all of equal weight, nor are they applicable to all types of "union security" clause.

The closed shop does give great power to the union leader; it has been associated with racketeering and is used, sometimes, along with excessive entrance fees, to set up a kind of labour monopoly. Thus it does infringe personal liberties and, of course, it imposes severe restrictions on the employers' right to "hire and fire." When abused, it leads to situations where a few workers, usually in a skilled craft, refuse to admit new members except for an excessive fee, and thus are able to maintain abnormal wages and to prevent any mobility of labour supply. This is socially undesirable whether it is done by bricklayers,

typesetters, lawyers or doctors. However, it is all rather irrelevant to the present controversy in Canada, because the closed shop is practically never demanded by Canadian unions. Even when it is demanded, it is usually on the bargaining principle of asking for more than you expect to get.

The preferential shop clause may also be dismissed as largely irrelevant to the current controversy in Canada. It is a compromise arrangement which the unions accept only if they cannot obtain a union shop or maintenance of membership clause. It is also unpopular with management for obvious reasons. It makes for a bad kind of indirect pressure and may be regarded as generally undesirable.

The check-off, too, a convenience to the union and a minor nuisance to management, is an unsatisfactory compromise. It is free of the criticisms brought against other types of union security by business men, but does not offer any real security and hence is far short of what the unions are demanding. The real issue, therefore, turns on the union shop or maintenance of membership. It is doubtful if all the objections of employers are valid criticisms of these clauses. The union shop, to consider the more rigid of the two, does limit the power of the employer to hire and fire, it does force all employees eventually to join the union, it might occasionally be abused by union leaders in jurisdictional disputes with other unions. It must be said that trades unionism in general limits the "hire and fire" power of the employer. Grievance procedure, the penalties provided by law against unjust dismissal of any person for union activity, indeed the whole trend in labour-management relations is to limit the employers' absolute power over his work-people. This is surely not undesirable. We have gone a long way in protecting the worker from the possible spite of a foreman. The further limitation implied by the union shop is not serious. The employer retains the

right, essential to efficient management, to discharge the incompetent and to promote the efficient. If union seniority rules hinder the latter, that is a separate issue from the union shop and should not be allowed to confuse the union shop issue. No doubt some seniority clauses of some Canadian unions badly need revision in the interests of justice and industrial efficiency. We might note that some employers find a union shop makes for better shop discipline, easier control, simpler grievance procedure, and find they prefer to sign a single contract rather than have the problem of negotiating a collective agreement which applies to only a percentage of their people. They also regard the union shop as a protection against jurisdictional fights between unions. On the whole, the argument that the union shop makes for inefficiency is a weak one and may be dismissed.

Union shop clauses do force workers into unions and this occasionally leads to a worker who objects to unions being forced to choose between his principles and his job. As a matter of fact this rarely happens, because the sort of worker who does not join a union is usually one who is just not interested in such things, but who, grumbling, perhaps, submits under pressure, to bearing his small share of maintaining the union. However, the case of the honest, high-principled worker who wants to give his all for his employer and who wants friendly personal relations with him untroubled by the difficulties of union bargaining has so often been cited in argument that it is necessary to examine it. Certainly the union shop is an infringement of such a worker's personal liberty. Strong trades unions, on the other hand, are necessary to protect the rights and liberties of the workers as a whole. This is, then, one of the many familiar cases of a conflict of liberties. As Abraham Lincoln said, the liberty of the slaveowner to enjoy his property is inconsistent with the liberty of the slave to live his own life as he pleases.

My neighbour's liberty to drive his car as he likes might endanger my liberty as a pedestrian to cross the street safely. Hence traffic lights at busy corners. Democratic society is always having to resolve conflicts of liberties in the public interest. If union security is necessary to the continued existence of healthy unionism in Canada, then the right of an individual worker not to join and pay dues may have to be infringed, just as the rights of individual farmers are curtailed under some marketing acts, and the rights of parents under provincial education and child welfare acts. I cannot myself feel serious concern about the union shop as an infringement of the freedom of the individual.<sup>1</sup>

### The Rand Award

The decision of Chief Justice Rand in the Ford dispute, rendered since the first draft of this article was written, makes an interesting compromise on this issue. All employees, under this decision, must pay union dues, thus bearing their share of the expense of union protection, but a worker may, for conscientious reasons, refrain from joining the union as a member. Also the Chief Justice's award gives the company a sanction or redress against the Union if the latter violates the contract during its legal life, in that the Company may withhold the paying over of the union dues it collects during the period of such violation. This somewhat dangerous experiment gives the company a power that might sometimes be abused. It is very difficult sometimes to determine whether action under the grievance clause of a contract is properly taken under that clause or becomes a violation of, say, a no strike clause in the contract.

### Special Cases

There is another aspect of the question of union constraint, however, which is

1. For those you find this cursory treatment unconvincing may I recommend the careful and objective analysis of this problem given by Dr. Abernethy in his "Liberty Concepts and Labour Relations," Washington, 1942.

considerably more serious. A union, which has a majority of the workers, often asks for a union shop in order to coerce, not an individual or so, but the entire local membership of a rival union. In this way the demand for a union shop is sometimes used as a weapon in the ruinous and foolish civil war of Canadian labour. In my opinion it is undesirable from the point of view of management, the public and labour itself that the union shop should be used for this purpose. It intensifies the inter-union conflict, it prevents the normal development of a growing and vital unionism in favour of some sort of status quo, it becomes not a bulwark of the labour movement, but simply a device in union politics used in manoeuvring and jockeying for position. It sometimes leads to strikes that confuse and annoy the public and weakens the position of the trades union movement.

It is for this reason that I doubt the wisdom of applying the principle of the Saskatchewan legislation, making the union shop obligatory in collective agreements when demanded by a specified percentage of the workers. At the same time the suggestion that the union shop should be outlawed (it is a moot question whether or not the Quebec Labour Relations Act makes it illegal) is reactionary and dangerous. To the present writer the desirable solution is arbitration with compulsory acceptance of the award on the union shop issue, voluntary acceptance of wage awards.

Canadian trades unions have always opposed compulsory acceptance of arbitral awards, and their view is probably sound. They feel the strike weapon must be held in reserve in all wage negotiations. In the matter of security, nevertheless, it seems that an impasse has been reached which, in the lack of third party intervention, will be disastrous to labour and capital and the public good. If, however, the union security issue is to be solved by arbitration, something must be done to clear up the confusion which is apparent in recent decisions handed down by Boards

in Canada. About the only principle that emerges after a study of these decisions is that of not awarding a union security clause in first contracts. This principle is not generally sound, as there are frequent occasions when union security is most urgently needed in a first contract. Since there is a growing tendency for Boards of Arbitration to be guided by precedent, it would never do to permit the union security issue to be determined by arbitral tribunals following this precedent. A governmental resolution embodying a directive to arbitral tribunals would seem to be adequate to correct this and to clear up existing confusion as to the public policy in the minds of Board members. Such a directive should instruct Boards to award the appropriate form of union security, usually union shop or maintenance of membership, in all cases where there is no jurisdictional conflict between unions. Where such conflicts exist, Boards might recommend check-off, but should see that the minority union is protected in its right to continue to organize, to demand, at the termination of the contract, a new certification vote, and, if that vote failed to give a majority of, say, 75%, the right to equal "security" in any new contract. Such a policy would maintain the "dynamic" of the labour movement and enable progressive unions to penetrate employments where existing unions have become static and dead.

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### What the Factory Worker Really Thinks

The industrial worker has a number of definite opinions, not only about his immediate working conditions, but also about broad issues in the whole national industrial field, according to results obtained in a country-wide survey of factory workers conducted by the American magazine *Factory*. The survey investigated the workers' outlook on such vital questions as wages and hours, strikes, full employment, veterans, productivity, nationalization of industry, and labor in politics.

### Wages and Hours

Despite union leaders' demands for a 30-hour work week, 66% of the workers preferred a 40-hour week, and 77% wanted a five-day week. About 40% felt that wage rates will remain about the same, 31% believe lower wages are coming, and only 24% look for higher wage rates. If jobs should be scarce during peace-time, 49% of the workers felt they would be willing to work for less money, and only 27% declared unqualifiedly they would not.

### Strikes

Almost exactly three-quarters of the workers predicted more strikes during the next two years than there were before the war, and 60% of these thought the strikes would be caused by wage disputes, while 9% attributed them to cost of living. However, when asked how top management could reduce the number of strikes, only one-quarter felt the answer lay in higher wages, nearly as many thought management should cooperate with labor, and an additional 23% felt that management should get closer to labor. Top labor leaders, said 31% could make their greatest contribution to industrial peace by cooperating with management, while another 26% felt leaders should make more reasonable demands.

### Veterans

Over 95% of workers agreed with the Government's Reinstatement Policy (essentially the same as that of Canada) of giving the veteran back his old job. When it came to a question of a veteran replacing a civilian with greater seniority, 61% still felt the veteran should be given preference. Veterans who have never held jobs before should be given some preference, said 57% of workers, but not to the length that a civilian would be laid off to make room for the veteran.

### Productivity

The worker is not sure that employees should work as hard as they can. To the question, "When a man takes a job

in a factory, do you think he should turn out as much work as he can, or should he turn out as much as . . . the average man in his group?" 49% said "as much as he can," 40% said "average amount."

Those who said "average amount" were suspicious of management's motives in raising output. If a man turned out more than the average, 30% felt management would raise production quotas, 23% thought the man would be unpopular with other workers, others foresaw a reduction in piece rates, physical breakdown for the worker, and unemployment.

Labor-saving machines will eventually mean better wages, 69% believed, but only 50% felt such machines create more jobs. When these new machines cause layoffs, 58% of the workers felt the company should find jobs for them. Only 8% looked to the government to provide employment or compensation, and 3% felt the laid-off workers should have to look for jobs on their own.

### Nationalization

Most workers had heard of the victory of the British Labour Party, and while 35% felt the nationalization policy of the new government was a good plan, 33% condemned it and 32% had no opinion. But when they were asked if banks, coal mines, electric utilities and railroads in the United States should be nationalized, an emphatic 62% said, "No," and only 27% were definitely in favor. When the question was extended to include nationalization of factories, the response was even more one-sided, with 74% nationalization of factories, the response against such a step.

### The Rand Formula for Industrial Peace

On Jan. 29, after 40 days arbitration following 99 days of strike, industrial peace came to the Ford Motor Company's plant at Windsor with the decision handed down by Justice Ivan C. Rand of the Supreme Court of Canada. The issue was "union security;" the solution

was an ingenious and original formula undoubtedly destined to have great significance in future Canadian industrial relations. In his article, "The Issue of Union Security" on page 00, Prof. B. S. Keirstead comments on the Rand decision. Main provisions of the formula are as follows:

1. Demands of Ford Local 200, United Automobile Workers (C10) for a union shop were not sustained.
2. All Ford employees must pay monthly union dues, although not obliged to become union members.
3. Dues of \$1 monthly are to be collected monthly by management in monthly check-offs from pay envelopes.
4. Employees may become union members by payment of initiation fees, abiding by union rules.
5. No strike shall be called by the union unless a secret ballot vote has been taken by all employees, union and non-union, and a majority of all employees shall vote in favor of the strike.
6. The union is required to repudiate within 72 hours, all unauthorized strikes, and to declare picketing illegal. Failure by the union to repudiate, or a declaration by the union of a strike without a vote having been taken, will result in suspension of check-off for from one to six months.
7. Individuals participating in an unauthorized strike will be fined \$3 per day, and will lose a year's seniority for each week they are on strike.
8. Future disputes between labor and management at the Ford plant will be settled by a provincial government umpire.

In the preamble to his report, Justice Rand laid down a highly important principle which may well become one of the foundation stones of future industrial relations. "I consider it entirely equitable," he declared, "that all employees

should be required to shoulder their portion of the burden of expense for administering the law of their employment, the union contract; that they must take this burden along with the benefit."

### University Courses for British Trade Unionists

Labour education has for many years played an important role among the activities of British trade unionists, much more so than in this country and the United States. Courses of instruction for trade union members organized through the medium of the Workers' Educational Association have been established in all industrial districts of England, Scotland and Wales. Cooperation in these courses with the university is very close and for students who have successfully graduated from the local instruction centres, there exists in Oxford a special Labour College. But the General Council of the British Trade Union Congress who recently reviewed its educational program, felt that enough has not yet been done and that the educational efforts of the labour movement should be further intensified after the war. Among other schemes the Council is proposing a university course for trade union officials to be provided through the Social Science Department of the London School of Economics. The students taking this course would be called upon to study economic history, applied economics, (including industrial organization) statistics, industrial and trade union law and accountancy, and social administration, including central and local government, social services, and national systems of health and unemployment insurance, education and kindred subjects. A joint committee of the London School of Economics and of the Trades Union Congress are working out the details of this university course for trade union officials. It may be regarded as an advanced course suitable for those who hold or hope to hold senior positions in the trade union movement.