INDUSTRIAL RELATIONS:

WHAT IS WRONG WITH THE SYSTEM?

AN ESSAY ON ITS THEORY AND RE

Flanders

Industrial Relations: What is Wrong with the System?

An Essay on its Theory and Future
by ALLAN FLANDERS

We no longer feel complacent about our national system of industrial relations and many, often conflicting, proposals are being made for its reform. This concise and lucid essay offers a valuable contribution to the present debate by giving a general view of what is wrong with the system and how it should be changed. After stating the principles on which our industrial relations have traditionally been based, Mr Flanders argues that they are now being challenged because new values are current in society. One challenge has come from above through increasing government intervention, another from below with an upsurge of bargaining in the plant. These challenges can only be met when the system has been reconstructed to accommodate both more national planning and more workplace democracy.

Mr Flanders, author of *The Fawley Productivity Agreements*, which has been widely acclaimed as a brilliant and timely study, is one of the country's leading experts in the field. He is a Faculty Fellow of Nuffield College and Senior Lecturer in Industrial Relations at the University of Oxford.

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THE FAWLEY PRODUCTIVITY AGREEMENTS

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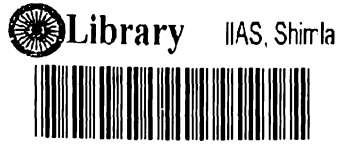

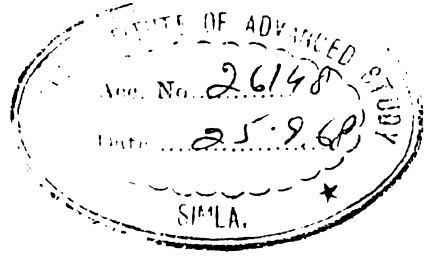

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Chapter 1

THE NEGLECT OF THEORY

How to achieve evolutionary change at a revolutionary pace is one possible description of the most pressing preoccupation of our time. The spectre which now haunts almost every country in the world is the fear of being left behind. It hovers, however, mainly over the closely inter-locking realms of science, technology and economics, where advances in knowledge and its application demonstrably add to national power and material progress. Certainly in Britain, when we speak about the need for change, drastic modernization of our political and social institutions is less readily contemplated. Here tradition continues to hold sway and has an easy conquest over reason; to say that any institution has 'stood the test of time' still remains its best defence.

Our industrial relations institutions are no exception. In the two decades that have passed since the war left its imprint upon them, few innovations—and no major ones—have occurred on the national scene. Adopting a longer perspective, their underlying principles, if not their precise patterns, were largely settled in the nineteenth century. Yet, until a few years ago, the dominant attitude in this country towards our 'voluntary system', as we like to call it, was one of smug complacency. It was believed to be a model of maturity, which other countries envied and would do well to emulate, could they but muster the same spirit of tolerance to make it work.

While it would be rash to suggest that this attitude has completely disappeared, there are many signs of its having been badly shaken. Whether trade union structure is under debate, or the organization of employers' associations, or the prospect

of an incomes policy, or the frequency of unofficial strikes, or the relaxing of restrictive practices, or the failure of joint consultation to realize the earlier hopes that were placed in it, no one is any longer disputing that pressing and largely unresolved problems abound. More than that, there is a widespread uneasiness that they are not being resolved because our system of industrial relations, praised in the past for its adaptability, is suffering from an excessive institutional rigidity. The actual texture of relations in industry is being continually transformed along with their technological and economic background, yet they remain pressed uncomfortably into the mould of institutions which though outmoded are strongly resistant to reform.

That the machinery creaks and groans, that new strains and stresses should become more and more manifest is hardly surprising. We are inclined nevertheless to look at each case of breakdown in isolation from the rest, and to think of it in terms of temporary repair rather than of radical reconstruction. The pragmatic approach to industrial relations, so deeply rooted in our society, inhibits a comprehensive causal analysis of the growing dissatisfaction with our traditional system as a whole. Such an analysis can only be undertaken when its leading features have been understood. But prior to that the very notion of a system of industrial relations raises difficult points of definition which cannot be ignored. On the face of things there is little that appears to be systematic about our arrangements, and one of the tritest observations that can be made about them is that they do not conform to any standard pattern.

A multitude of trade unions and employers' associations—apart from individual firms and public authorities—take part in collective bargaining, each with its own peculiarities. The collective agreements they sign display the same variety in contents and coverage. These in turn are supplemented by a wide range of unrecorded customs and practices that often differ from one locality to another within the same industry. Even the law relating to industrial relations, which one would expect to be a force for uniformity, reveals a baffling complexity. Finally, it is not enough to look at those institutions which have evolved outside the firm mainly for the purpose of regulating labour markets. Industrial relations within reveal still greater contrasts.

In what sense are we entitled then to refer to all these diverse arrangements as constituting a national system? Is some kind of unity to be found in such diversity? The notion of a system is, of course, a theoretical abstraction. We are quite accustomed, however, to describing economic and political systems in terms of the fundamental principles underlying the manifold detail of their operation. It is merely a new thought for most people that industrial relations can be treated in a similar fashion. The reason for its novelty lies in the way the subject has been studied in the past.

'To date the study of industrial relations has had little theoretical content. At its origins and frequently at its best, it has been largely historical and descriptive. A number of studies have used the analysis of economics particularly in treating wages and related questions, and other studies, particularly of factory departments, have borrowed the apparatus of anthropology and sociology. Although industrial relations aspires to be a discipline (it) . . . has lacked any central analytical content. It has been a crossroads where a number of disciplines have met—history, economics, government, sociology, psychology, and law.'[1]

This is not the place to embark on a lengthy exposition of the case for treating industrial relations as an intellectual discipline in its own right. Even if the subject is regarded as no more than a field of study to be cultivated with the well-tried methods of other disciplines, its development must depend on the mutual support of theory and research. At its simplest, theory is needed to pose the right questions and research to provide the right answers, granted that a constant inter-play has to take place between the two. An indiscriminate accumulation of facts leads not to conclusions but to confusions. Some framework of theoretical analysis, however rudimentary and provisional, is always needed to order one's inquiry and to arrive at general propositions.

The drawback of relying on the theory of any one of the several disciplines that have impinged on industrial relations is that it was never intended to offer an integrated view of the whole complex of institutions in this field. Theoretically speaking, these disciplines tear the subject apart by concentrating

[1] John T. Dunlop, *Industrial Relations Systems*, Holt, New York, 1958, p. 6.

attention on some of its aspects to the exclusion or comparative neglect of others. And a partial view of anything, accurate as it may be within its limits, must of necessity be a distorted one. Hence the significance of the notion of a system of industrial relations which expresses the subject's inherent unity.

But to make any sense of the notion the first question to be answered is: system of what? Economics deals with a system of markets, politics with a system of government. What is the substance of a system of industrial relations? Nothing could be more revealing of the past neglect of the subject's theory than one simple fact. Not until recently has it been explicitly stated that a system of industrial relations is a system of rules.[1] These rules appear in different guises: in legislation and in statutory orders; in trade union regulations; in collective agreements and in arbitration awards; in social conventions; in managerial decisions; and in accepted 'custom and practice'. This list is by no means exhaustive, but 'rules' is the only generic description that can be given to these various instruments of regulation. In other words, the subject deals with certain regulated or institutionalized relationships in industry. Personal, or in the language of sociology 'unstructured', relationships have their importance for management and workers, but they lie outside the scope of a system of industrial relations.

Given this starting point, the next step is to distinguish which rules or which regulated relationships are to be included. Unfortunately the subject has inherited a misleading title. Not all the relationships associated with the organization of industry are relevant. No one takes it to include, for instance, the cartel agreements among firms, or their trade associations, or the relations which they have with their customers or the community at large. The only aspect of business enterprise with which industrial relations is concerned is the employment aspect; the relations between the enterprise and its employees and among those employees themselves. One way of identifying these relationships is to place them in their legal setting. They are all either expressed in or arise out of contracts of employment (or service), which represent, in common speech, jobs. The study of industrial relations may therefore be described as a study of the institutions of job regulation.

[1] *Op. cit.*, pp. 13–16.

Chapter 2

ANALYSIS OF JOB REGULATION

The rules in question, like all rules, are of two kinds. They are either *procedural* or *substantive*. We can observe this distinction in the clauses of collective agreements, which are mainly composed of a body of rules. The procedural clauses of these agreements deal with such matters as the methods to be used and the stages to be followed in the settlement of disputes, or perhaps the facilities and standing to be accorded to representatives of parties to the agreement. Their substantive clauses, on the other hand, refer to rates of wages and working hours or to other job terms and conditions in the segment of employment covered by agreement. The first kind of rules regulate the behaviour of parties to the collective agreements—trade unions and employers or their associations, and those who act on their behalf; whereas the second kind regulate the behaviour of employees and employers as parties to individual contracts of employment. In short, it is the substantive rules of collective bargaining that regulate jobs. Since, however, the procedural rules of collective bargaining regulate the making, interpretation and enforcement of its substantive rules, they provide this particular institution of job regulation with its form and constitution.

To take this distinction a little further, one of the effects of rules is to establish rights and obligations, which together define status. Generally, the procedural rules of industrial relations can be said to settle the status of any of the parties participating in job regulation, whether this be through collective bargaining or by other methods. Similarly, the substantive rules of industrial relations, by attaching various

rights and obligations to jobs, settle their status, regardless normally of the individuals who occupy them.[1] They fix, as we say, 'a rate for the job', but, of course, many other standard terms and conditions of employment as well.

These two different kinds of rules regulate different sets of relationships. Those regulated by procedural rules have sometimes been called *collective relations*, since they involve representative organizations. Collective relations are not confined, however, to trade unions and employers' associations. The state and society participate in them; so do managements and work groups. What such collective relations have in common is their not being an end in themselves; they are constituted as a means of regulating the basic relationships in industry in which employees are placed by virtue of their jobs.

What is the nature of those relationships covered by the substantive rules of industrial relations? They are partly but not wholly economic in character. In its economic aspect the contract of employment represents a transaction in a labour market, a bargain between a buyer and seller of labour. At its simplest the employer agrees to pay the employee so many pounds in wages for so many hours of work, but, as we know, the transaction is usually much more complicated than this. Payment may be made by results, instead of by time, or there may be a mixture of the two. Apart from fixing the normal working week, the contract may have something to say about overtime and holidays and many other matters relating either to remuneration or to the work that is to be undertaken in exchange for it. Whatever its precise terms, and whether they are expressly stated or implied, the contract is always, in its economic substance as distinct from its legal form, a wage-work bargain.

Bargaining, however, is only one of the two characteristic processes of every market, including the labour market.[2] The

[1] Occasionally agreements attach 'personal' rates to individuals which disappear with their relinquishing of the job. This device is usually employed to facilitate the transition to a more ordered wage structure.

[2] See, R. M. Maciver and C. H. Page, *Society—An Introductory Analysis*, Macmillan, 1953, p. 474. The authors suggest that the economic method 'rests on two premises, competition and bargaining. *Competition* is the simultaneous offer of like or of alternative economic services to the same potential purchaser. *Bargaining* is the process by which the antithetical

other is competition, and both may be made the subject of regulation.[1] While the rules directly regulating bargaining settle standard prices for labour, those regulating competition restrict the demand for it or the supply. The latter, for example, may circumscribe the employer's discretion as to whom he may employ by limiting the number of learners or apprentices, or by distinguishing between men's and women's work, or by imposing union membership requirements, and so on. These *market relations* between employers and employees include opportunities to enter into contracts in addition to the terms on which they are concluded.

But once there is a contract the employee on the job enters another set of relationships. He has agreed to obey certain instructions with respect to his work, to submit to some kind of discipline. If he is a supervisor or occupies some higher post in management, he may also be entitled to give instructions to others, but only within the limits set by a superior level of authority until the summit of the managerial hierarchy is reached. The complexity of these relationships depends on the scale and technology of the enterprise, but every business enterprise has, in Peter Drucker's words 'an internal order based on authority and subordination, that is, on power relationships'.[2] In the broadest sense of the word these relationships are political, not economic. We may refer to them as *managerial relations* because they arise out of the organization of management, which has the task of governing the enterprise in order to further its objectives.

The rules regulating managerial relations in effect regulate the work behaviour of employees. But we now recognize that their behaviour on the job is not only controlled by management. This formal organization of a business enterprise is supplemented and complemented by an informal organization created by the employees themselves (managerial as well as

interests of supply and demand, of buyer and seller, are finally adjusted. . . . The two . . . , though often confused, are entirely distinct. Competitors do not need one another—they seek to oust one another. Bargainers offer complementary not competitive services. Each stands to gain from the transaction, because each wants what the other offers'.

[1] As the two processes are interdependent, competition is *indirectly* affected by the regulation of bargaining and *vice versa*.

[2] Peter Drucker, *The New Society*, Heinemann, 1951, p. 27.

non-managerial) to meet their own social needs at work. The basic unit of this organization is the work group and its most familiar, though by no means universal, expression on the shop floor is regulation of output.[1]

The important point about this third set of relationships is not so much their informality, which is incidental, but their purpose. Whatever form they take, they are always maintained by employees to serve their own ends rather than the ends of the enterprise.[2] For this reason they have been called *human relations*, although the term is open to considerable misunderstanding. They are not unstructured personal relations, but organized group relations, and thus essentially social in character; the equivalent within the enterprise of voluntary associations in society at large.

To sum up with another phrase of Drucker's, a business enterprise has 'a triple personality'; it is at once an economic, a political and a social institution. In the first of these personalities it produces and distributes incomes by operating within a nexus of factor and product markets. In the second it embodies a system of government in which managers collectively exercise authority over the managed, but are also themselves involved in an intricate pattern of political relationships. Its third personality is revealed in the 'plant community'[3] which evolves from below out of face-to-face relations based on shared interests, sentiments, beliefs and values among various groups of employees.[4]

[1] T. Lupton's study of two workshop situations (*On The Shop Floor*, Pergamon Press, 1963) showed that in one (the Wye Garment Company) the workers' social groups had no behavioural norms relating to output and earnings.

[2] This implies the possibility of conflict between these ends, but not its necessity. Managerial employees, because of the identification of their career interests with the success of the enterprise, may use their informal organization to counteract the shortcomings of its formal organization.

[3] As Drucker explains: 'Its existence does not rest on the needs and purposes of the enterprise but on the needs and purposes of the members as human beings. Management can neither make the plant community nor abolish it; it is spontaneous and irrepressible in every enterprise.' *Op. cit.*, p. 263.

[4] Although the primary unit of organization within the plant community is often described as a 'work group' this is a complex phenomenon. Leonard R. Sayles (in *Behaviour of Industrial Work Groups*, Wiley, 1958,

His job therefore places every employee in each of these three sets of relationships either with the enterprise (as a corporate entity) or with his fellow employees. They are all subject to regulation by the substantive rules of industrial relations. So too—and this fourth category must not be left out of account—is his relationship to the physical environment in which he works, such rules being designed in the main to protect his safety, health and welfare.

Having surveyed the various types of relationship covered by the subject, we may return to the notion of a system of industrial relations. More precisely, there is not a single system, but a complex of systems within systems. Every business enterprise is itself a social system of production and distribution. It has a structured pattern of relationships which have a permanence and a distinct identity, irrespective of the individual personalities involved. Some of the institutions of job regulation are an integral part of this system; they are, as it were, the domestic industrial relations of the enterprise. A code of disciplinary works' rules, a factory wage structure, an internal procedure for joint consultation or for dealing with grievances, are possible examples. There are other institutions, however, that clearly belong to the external environment in which the enterprise is placed. These limit the freedom of the enterprise and its members in their own rule-making activities. The provisions of protective labour legislation, the rules of trade unions or employers' associations, the regulative contents of the agreements between them, fall into this category. This suggests a distinction between what may be called *internal* and *external* job regulation.

The essence of this distinction, which is of profound analytical importance, does not lie in whether the rules are peculiar to one business enterprise or have a wider coverage. The decisive question is whether they can be changed without the consent of an external authority; whether they are settled autonomously by the enterprise and its members. Rules embodied in works agreements with trade unions, for example, cannot be included under internal regulation. A trade union is an external organization with respect to a business enterprise. It

pp. 144–61) distinguishes 'friendship cliques, work teams and pressure or interest groups' with overlapping memberships.

is not part of its social system, but a separate social system, though the memberships of the two overlap.

Shop stewards, or other union representatives who are also employees of a business enterprise, usually straddle both systems. This, in itself, is a very illuminating aspect of their role. As spokesmen of work groups in the enterprise, they may participate in the making of internal rules either separately or jointly with management. As representatives of their union they have a responsibility for enforcing its rules or the agreements that it has entered into with employers. Only rules which stewards are able to make or amend on behalf of their constituents without seeking the approval of external union authorities can be counted as belonging to systems of internal job regulation.

The significance of the distinction between external and internal job regulation is, perhaps, best appreciated when we compare the different reasons for their growth. Historically, the leading theme in the evolution of external job regulation has been the social need of employees, especially manual workers, for protection against the devastating and degrading effects of unregulated labour markets. With the rise of *laissez faire* capitalism destroying or weakening the statutory or customary defences of trades, and creating new classes of manufacturing operatives with little or no protection at all, new external rules which would qualify the freedom of employers were required to fix minimum or standard rates of pay, to limit working hours, and to reduce the worst physical hazards of industrial employment. The main driving force in building up these restraints on employers naturally came from the employees' own organizations, their trade unions.[1] Nevertheless employers were also interested in curbing 'cut-throat' wage competition among themselves; and the state increasingly stepped in either to support private regulation or, where that was lacking, to offer some minimum of protection itself.

Trade unions, it is true, grew out of 'the customary practices

[1] Sidney and Beatrice Webb summed up the 'fundamental object' of trade unionism as 'the deliberate regulation of the conditions of employment in such a way as to ward off from the manual-working producers the evil effects of industrial competition'. (*Industrial Democracy*, Longmans, 1902 ed., p. 807.)

and social habits of wage earners at their work long before formal organizations appeared among them'.[1] Union organization often served to strengthen or to re-enforce processes of regulation that were never completely eliminated. Internal job regulation however, as practised by work groups or shop clubs, was never a sufficient answer to the market forces that threatened the workers' livelihood and status. These forces could in the nature of things only be controlled externally, so external regulation became the unions' main concern. Moreover, with labour and product markets expanding as a result of improvements in transport and communication, the coverage of the rules of external regulation had similarly to be extended if they were to offer effective protection. Accordingly the structures of trade unions and of collective bargaining were progressively adapted to make this possible.

But it was not only the effects of unbridled competition in labour markets which furthered the development of external job regulation. Society was interested in keeping conflict between unions and employers within reasonable bounds, and so were the parties themselves. While substantive rules were applied to market relations, procedural rules were made to govern collective relations with a view to facilitating the peaceful settlement of disputes. In both respects there was a need for order which could only be met by the acceptance of rules. Later, to the extent that other than market relations also became issues of group conflict—treatment on the job for example—some external rules of a substantive character appeared within the system to regulate managements as well as markets.[2]

The development of systems of internal job regulation, in contrast, has been pushed forward by different forces to answer different needs. Here the principal drive has come from

[1] William M. Leiserson, *American Trade Union Democracy*, Columbia U.P., 1959, p. 17.

[2] Neil W. Chamberlain has argued that it is possible to reduce the many theories of the nature of collective bargaining to three: '(1) a means of contracting for the sale of labour, (2) a form of industrial government, and (3) a method of management'; and that, to some extent, they represent different phases of its historical development. (See Ch. 6 and 7 in *Collective Bargaining*, McGraw Hill, 1951.) His marketing, governmental and managerial theories would appear to correspond with the above statement of the stages in the evolution of external job regulation.

managements seeking to bring the work behaviour of employees under greater control. As might be expected, the factors that have contributed to the production of elaborate and complex systems of rules within business enterprises (in order to regulate work directly or through the rewards attached to it) are associated with the changing character of those enterprises. If any one factor had to be selected as being of decisive importance it would be their size, but this cannot be separated from several others. With increases in the scale of organization came the separation of management from the ownership of capital and the change from a personal to a bureaucratic type of administration. This demanded an impersonal rationality and equality of treatment in the running of business that had to be expressed in the application of rules. The fragmentation of work into many separate operations, the specialization of knowledge and skill required for industrial purposes, the consequent problems of co-ordination, by complicating the managerial function also made an augmented body of rules the only alternative to chaos. At the same time in the realm of ideas, the movement for 'scientific management', started by Frederick Winslow Taylor, resulted in new techniques intended to submit work to greater technical regulation and measurement, often allied with new incentive wage systems.

This did not mean, as has already been shown, that the rules made by management necessarily replaced those made by the employees themselves. The same forces that were promoting a greater regulation of managerial relations were having a similar effect on human relations, if only because the informal organization of an enterprise is, to a large extent, a response to its formal organization. A simple example to illustrate the point would be the introduction of an incentive wage system by management, based on rules which relate pay to work measurement. In so far as this results in a spread of earnings which the workers consider to be unfair, they are induced to construct further rules of their own to regulate what individuals are entitled to earn.

These brief references to large and intricate historical processes may suffice to indicate why external should not be confused with internal job regulation. In practice, of course, the borderline between the two may sometimes be very difficult to

determine. It is a moving frontier with rules passing out of the one realm into the other. Furthermore, the *de facto* autonomy of a business enterprise and its employees in their rule-making activities may not be identical with the scope of their autonomy *de jure*. The distinction is ultimately one between systems. Invariably, when we speak about national systems of industrial relations, it is the procedural and substantive rules of external job regulation that we have in mind. In any country, enterprise systems of internal job regulation evolve or are constituted within the broad limits which its particular national system sets. Obviously, the more permissive the national system, the greater the freedom of management and workers in each enterprise to follow their own preferences in regulating any of the relationships in which they are involved.

Not that national systems of external regulation are necessarily homogeneous. Their procedural and substantive rules are likely to vary from industry to industry or from place to place. In so far as these rules are derived from collective bargaining, the diverse technological, market, power and cultural contexts of the separate bargaining units are bound to produce many contrasts in their contents. And even where external rules are to be found in legislation and statutory orders, it does not follow that they are national and all-embracing in their application; they may be restricted to particular industries or categories of employees. What is it, then, that knits all the rules of external regulation together into a systematic whole? Why is there an identifiable national system?

The answer is no different for industrial relations than for economics, or politics, or the law. There are national systems of each because the nation itself is an entity. The unity in this diversity is to be found in certain underlying principles, expressing value judgements, which are broadly accepted throughout the nation. The general legal framework of external job regulation is one manifestation of such principles, but so is the administrative role of government and the attitudes which the representative organizations in industry adopt in their dealings with each other and with the government. Without some elements of a common ideology or a number of 'shared understandings'[1] the system would lose its coherence and stability.

[1] See Dunlop, *op. cit.*, pp. 16–18.

Once serious conflict arises at this level, the system must change or be disrupted by it.

Our own national system of industrial relations appears to be anything than systematic. It was never deliberately planned; nor has theory had any noticeable influence on its design. Instead it has emerged in a piecemeal and seemingly haphazard fashion over a century of history, with much of its past still reflected in the present. As a system one should nevertheless be able to describe it as a unity. This may be done in terms of certain normative principles that have governed its working throughout. What are those principles?

Chapter 3

PRINCIPLES OF OUR TRADITIONAL SYSTEM

The first leading principle is one that our traditional system shares with many other national systems of advanced industrial countries which are plural societies. *A priority is accorded to collective bargaining over other methods of external job regulation.* Despite its somewhat misleading title, which we owe to the Webbs, collective bargaining is essentially a rule-making process.[1] It could more appropriately be called joint regulation; since its distinctive feature is that trade unions and employers or their associations act as joint authors of rules made to regulate employment contracts and, incidentally, their own relations. They may sometimes use third-party assistance in the form of conciliation, mediation, arbitration and public inquiry, but it serves only as an auxiliary aid to reach their own agreements, for whose contents and observance they are equally responsible.

Theoretically one can distinguish five other methods of external job regulation, according to the parties participating in the authorship of its substantive rules. Trade unions may engage in it unilaterally by binding their members to observe

[1] For the Webbs collective bargaining was simply the collective equivalent of individual bargaining, but they were not comparing like with like. Individual bargaining is a market or economic process. Collective bargaining, involving as it does the use of power as well as the making of rules, is really a political process. It can therefore only be compared, as above, with the other political, rule-making processes of industrial relations. It regulates, rather than replaces, individual bargaining.

working rules which the 'other side' has had no say in making. Employers' associations may similarly impose regulations on the firms that belong to them. There is also a form of tripartite regulation, of which our Wages Councils are an example, in which three parties are involved: independents or public representatives as well as unions and employers. The fourth and fifth alternative methods to collective bargaining are state and social regulation—the one by statute or common law and the other by custom and convention. In these methods industrial associations do not carry any direct responsibility for the rules.[1] State regulation, in this sense, is not synonymous with legal regulation, which is a broader concept; collective agreements, for example, may be legally enforced. The methods are classified not by the nature of the sanctions available for the enforcement of the rules, but by the parties actually responsible for their authorship. In practice the methods easily shade into each other at the margins: definitions always produce their frontier disputes.

In Britain, as elsewhere, the origins of collective bargaining are to be found in other methods of job regulation; it did not rise like a phoenix out of the ashes of individual bargaining. Where it did not evolve out of internal job regulation, it usually came to be preferred to social regulation or to unilateral regulation by unions or employers. Social regulation was far too inflexible to suit a dynamic industrial society, and the two types of unilateral regulation had other disadvantages. They frequently led to conflict which they could not resolve, or lacked effectiveness without some support from the 'other side'. Unilateral regulation by unions still retains a marginal significance in our system, but it is mainly undertaken in defence of craft practices such as job demarcation.[2] Moreover, the tacit acceptance of these rules by employers over a long period makes them difficult to distinguish from the terms of unwritten

[1] In the case of state regulation they may be consulted by the government and affect the content of the rules as political pressure groups, but the responsibility for authorship rests with the government.

[2] This is not to be confused with unilateral regulation by union *members* in the workplace which belongs to enterprise systems of internal job regulation. This may extend over many other subjects and workers other than craftsmen.

collective agreements. State and tripartite regulation, on the other hand, have been employed principally to cover those areas of employment where organization was inadequate to sustain voluntary collective bargaining. That they are regarded as inferior substitutes is best shown by two facts: they only establish minimum standards which can be improved upon by negotiated agreements; and they normally include built-in safeguards against their replacing such agreements.[1]

Where the British differs from most national systems displaying a similar preference for collective bargaining can be expressed in a simple factual statement, whose explanation leads to the formulation of the second leading principle. It has provided little work for lawyers. We take it so much for granted that industrial disputes will hardly ever find their way into the Courts, or that collective agreements need not be drafted with the precision demanded of legal documents, that we rarely give a thought to the reasons for our easy avoidance of litigation. There are two complementary halves to the explanation. Collective bargaining has been made the subject of little legal regulation, but it has also been afforded little legal support. And, by and large, the second condition has been readily accepted in order not to prejudice the first. It has been realized that greater legal support would almost certainly bring greater legal regulation in its train, in the manner that the Taft-Hartley Act followed the Wagner Act in the United States.

There are various possibilities of legally supporting collective bargaining, depending on the three conditions that have to be fulfilled for this method of external job regulation to exist as a viable institution. First, the parties must attain a sufficient degree of organization.[2] Second, they must be ready to enter into agreements with each other—a condition known as 'mutual recognition'. Third, their agreements must generally be observed by those to whom they apply. Sanctions are required to uphold each of these conditions. Consequently,

[1] For examples of these safeguards see the provisions of Section 3 of the Wages Council Act, 1959.

[2] The organization of employees is an indispensable condition. Whether employers need to be organized is a condition contingent on the structure of the industry and on the viability of plant agreements.

where private sanctions are lacking or not strong enough for the purpose, the state can promote the growth of collective bargaining by making legal sanctions available to replace or to re-enforce them.

One need not go outside the British Commonwealth to find examples of countries where one or more of these conditions have been enforced by law.[1] British law, by comparison, occupies a position of neutrality on the first and second of the conditions. In the legal sense neither union membership nor union recognition are compulsory in any circumstances. The standing of collective agreements is a more complicated question. In general they are assumed to have no force in law, though rejection of legal support for their observance has not been treated as a matter of principle. Occasionally it has been made available under special legislation, when the parties wanted it and their case was strong enough.[2] Furthermore, we now retain compulsory arbitration under permanent legislation to make some of the terms of voluntary agreements binding on employers who were not a party to them, but only in a selective and temporary fashion.[3]

Our deep-seated reluctance to turn to the law for aid in maintaining an institution rated so highly as to be looked upon virtually as a social necessity is only explicable in terms of fear or dislike of other possible consequences. To some extent at least, legal regulation of collective bargaining is an inescapable outcome of its legal support. Once collective agreements, for example, obtain the force of law, disputes over their application or interpretation acquire a legal character and can be referred to the Courts. Hence the special institution of Labour Courts in many countries where they have this standing. Moreover,

[1] In New Zealand union membership is legally enforced and in Canada union recognition by employers. In Ceylon and in other countries collective agreements are given the force of law.

[2] The Coal Mines (Minimum Wage) Act, 1912 and the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934 were examples of legislation permitting the legal enforcement of substantive wage agreements. On one occasion, under the Railways Act, 1921, a procedural agreement was given statutory effect until it was replaced by revised voluntary arrangements in 1935.

[3] Under the 'claims' procedure in Section 8 of the Terms and Conditions of Employment Act, 1959.

once the state has permanently accepted the responsibility for upholding any of the above conditions, it is difficult to resist its intervention to safeguard any public interest that the bargaining parties are thought to be infringing. Their autonomy is that much less secure. Thus the normative principle which underpins the broad policy of legal non-intervention is really a preference for autonomy in collective bargaining, a principle best formulated by introducing a distinction between the two types of procedural rules that may govern its working.

The procedure of collective bargaining may, in fact, be regulated either by the rules which the parties make themselves or by rules that they are forced to observe by the state under statute or common law. The terms conventionally used to describe this distinction are 'voluntary' and 'compulsory'.[1] We distinguish between voluntary and compulsory arbitration, for example, according to whether the use of this method in settling a dispute lies wholly within the joint discretion of the parties or may be decided by the government, possibly at the request of one of the parties, but in any case without their mutual consent. *The British system of industrial relations has traditionally accorded a priority to voluntary over compulsory procedural rules for collective bargaining.*

This principle, which the main Whitley Report euphemistically described as 'industrial self-government', has also been referred to, more critically, as 'collective *laissez-faire*'. It is firmly rooted not only in the law relating to the government's powers in settling disputes, but also in the daily administration of the Ministry of Labour. It has as its corollary the minimization of third-party intervention—of any kind—in the conduct of collective bargaining. In the words of the Ministry's *Industrial Relations Handbook*:

'It has been continuous policy for many years to encourage the two sides of industry to make agreements and to settle their differences for themselves, and no action . . . is normally taken by the Minister or his officials unless any negotiating

[1] Strictly there are no voluntary rules if by that is meant that an individual is free to disregard them with impunity. All rules need to be upheld by sanctions or they cease to be rules. Voluntary here means the absence of legal compulsion, though the parties may have powerful sanctions of their own to enforce their autonomous rules.

machinery suitable for dealing with disputes has been fully used and has failed to effect a settlement. The overriding principle is that where there is a procedure drawn up by an industry for dealing with disputes, that procedure should be followed. Even where there is no agreed procedure of this kind it is desirable that the parties themselves should make an endeavour to reach a settlement. In either case some evidence of the use of procedure or of an attempt to reach agreement must generally be forthcoming before the Ministry will accede to a formal request for its assistance.'[1]

Every country has in the last resort to protect its economy against large-scale disruption. It could be argued, then, that the absence for so long of more than minor legal restrictions on the right to strike and to lock-out[2]—other than during the years when temporary wartime orders were in force—has only been socially tolerable because the voluntary restrictions were reasonably effective. There is, of course, a certain amount of law appertaining to the actual conduct of industrial warfare, on picketing and intimidation, but no legal limits have been set to the extent of aggressive action on both sides. Nor are there in Britain, as in some countries, any enforced 'cooling off' periods. The harmful effects of settling industrial disputes by a trial of strength have been kept within acceptable bounds because written or unwritten procedural rules made adequate provision for their peaceful settlement and were generally observed.

This takes us to the third leading principle of the British system which, though equally unique, is not as easily recognized as the second. Again it can be formulated by stating a priority in the choice of rules. *The parties to collective bargaining in this country have generally preferred to build their relations more on their procedural than on their substantive rules.*

'Compare the way collective bargaining is organized in a large section of the British economy with the methods used elsewhere. Here all the emphasis is on institutions such as joint ndustrial councils and the like, on the machinery, its consti-

[1] 1961 ed., pp. 134–5.

[2] In certain circumstances striking *in breach of contract* is a criminal offence for merchant seamen; for employees in the public utility industries of gas, water and electricity; and for any workers whose action causes danger to life or valuable property.

tution, above all its procedure. The substantive rules about wages, hours and other conditions are not, as they are in many foreign countries, built up as a series of systematically arranged written contracts between employers and unions. They appear as occasional decisions emanating from permanent boards on which both sides are represented and sometimes they are informal understandings, 'trade practices' never reduced to writing. A very firm procedural framework for a very flexible corpus of substantive rules, rather than a code laid down for a fixed time—such is the institutional aspect of much collective bargaining in this country.'[1]

At the risk of over-simplification, collective bargaining can be said to have two contrasting national modes of evolution, depending upon how the crucial condition of mutual recognition between the parties is fulfilled. Recognition may be based in the first instance on nothing more than participation in an agreed procedure for settling certain disputes between them and those whom they represent. When they begin to charter their relations in this way some substantive rules regulating wages and other conditions of employment are likely to be observed already; perhaps as custom, perhaps unilaterally determined by unions or employers. When disputes arise these rules may need to be revised or amplified and to be made the subject of formal written agreements. The alternative is to base recognition from the start on a specific code of substantive rules. But this has to be interpreted, enforced and from time to time altered, so it becomes expedient to regulate these processes by some kind of procedural agreement. As mature collective bargaining requires the making of both procedural and substantive rules, it might not seem to matter whether the first or the second mode of evolution was followed. Nevertheless the difference in emphasis is quite decisive. It reveals a preference that persists and has far-reaching consequences for the conduct of collective bargaining.

The reason for this is obvious enough when one considers the difference in the function of procedural and substantive rules. Procedural rules are intended to regulate conflict between the parties to collective bargaining. When their importance is

[1] O. Kahn-Freund, 'Labour Law' in *Law and Opinion in England in the 20th Century*, Stevens, 1959, pp. 262–3.

emphasized a premium is being placed on industrial peace and less regard is being paid to the terms on which it may be obtained. Substantive rules settle the rights and obligations attached to jobs. Stressing their importance suggests that the main object is to achieve a precise regulation of employment contracts so as to avoid discrimination or uncertainty, even at the cost of increasing the risks of conflict. A comparison of the histories of collective bargaining in Great Britain and the United States, which illustrate the two different modes of its evolution, brings out the social influences which have caused the parties broadly to adopt different preferences in these countries.

Many features of collective bargaining in the British system are causally related to this third principle. The prevalence of 'open-ended' agreements, which run for no stated period and are only revised when either side presses for a revision, is one example.[1] The readiness to leave undisturbed a wide range of accepted but uncodified working practices is another. Most important, perhaps, is our lack of concern for the distinction between conflicts of interest and conflicts of right,[2] which is fundamental in European labour law, or between negotiation and grievance procedure as in the United States. So long as the agreed disputes procedure is followed through its various stages, we are not particularly interested in whether new substantive rules are being made or old ones applied; the main thing is to find an acceptable and, if possible, a durable compromise by means of direct negotiation between representatives of the two sides.

[1] In recent years the spread of long-term (three or two years) agreements has modified this earlier practice.

[2] Conflicts of interest are disputes over *changes* in the existing provisions of collective agreements, while conflicts of right are about the application, interpretation or observance of these provisions. The latter become justiciable disputes when collective agreements are made legally binding; a reason for clearly separating them from the former.

Chapter 4

ITS STRUCTURE AND VALUES

The three normative principles of our traditional system have been stated. Together, for the best part of a century, they have made a particular type of collective bargaining—one that is subject to little legal intervention and tends to lean heavily on its procedural rules—the centrepiece and most characteristic feature of the system. But the principles alone have endured. In many other respects, of course, the system has been far from static. Apart from the increasing area of employment covered by collective bargaining and the extension of its subject matter, there have been important changes in structure. Foremost among these has been the displacement of district by national or industry-wide negotiations, a trend already existing but greatly accelerated by the First World War and taken further by the Second. One would have to delve deeply into history for an exhaustive examination of the causes of this structural trend, but it can be shown that the principles of the system favoured it.

In the first place it should be noted that the creation of national procedures for the settlement of disputes almost invariably preceded the conclusion of national agreements on substantive matters such as wages. The former, however, were welcomed by the parties in order to preserve their bargaining autonomy and to minimize outside intervention in their disputes. At the same time lack of legal support for their agreements forced them to rely on mutual accommodation and assistance to prevent their own extremists from wrecking their joint institutions. When the only sanctions available to ensure the observance of collective agreements were those that trade

unions and employers' associations could bring to bear on their members, each side acquired a vested interest in the comprehensiveness and strength of the other's organization.

Thus a condition best described as *industrial autonomy* has been the practical outcome of the system's evolution. Power to negotiate passed progressively from the branches and districts to the national headquarters of trade unions or their industrial federations, with national employers' associations gaining a corresponding authority. This placed both sides in a stronger position to prevent their freedom being impaired either by the state or by their own central organizations, the Trades Union Congress and the British Employers' Confederation. Central to the argument of this essay, however, is the thesis that the principles of any national system of industrial relations—and therefore their institutional consequences—are derived from the values by which the nation judges and legitimizes the system's working and results. The main values supporting the principles of our traditional system have been those of economic freedom and industrial peace.

The moral defence of the voluntary character of our system has always been conducted in the name of freedom. In spite of some mutual inconsistencies, its basic elements of freedom of contract, freedom of association, freedom to strike (and to lock out) and, above all, *free* collective bargaining, have been the ultimate rationale for rejecting outside, notably government, intervention in industrial relations. Trade unions may only have flourished at the expense of extreme versions of *laissez faire*, but they sought for workers a collective freedom that was not at variance with the prevailing ethos. If individuals should be free to pursue their own economic interests as they thought best, it followed that they should also be free to combine when they thought that combination would best advance their interests. Employers in responding to union pressures claimed the same freedom, and together they joined forces in preserving their autonomy from encroachment. But in this they were not swimming against the general tide of political and social opinion. Governments were extremely reluctant—in times of peace—to accept any responsibility for fixing wages, and the public did not urge them to.

Freedom alone, however, could lead to a battle of interests

that might threaten the stability of the system. The second value that justified its results was peace, which was taken to be the measure of good industrial relations. The general public asked little more of the relations between unions and employers than that they should be unobtrusive; that the machinery of collective bargaining, like any other machinery, should function with a minimum of friction. What the machinery turned out by way of end product—the actual contents of collective agreements—was of no concern to anyone but the actual negotiators and their constituents. Consequently the government's role was largely confined to that of peacemaker, which naturally included the fostering of voluntary arrangements. That it should also act as pacemaker was categorically rejected on all sides. Its job was to hold the ring, to see that the rules of the contest were respected, but otherwise to leave the contestants to fight, or rather to argue, it out.

In the one really prolonged period of severe strife in British industrial relations from 1910 to 1926—though it was interrupted by the special circumstances of the war years—criticism of the system did develop to the point of producing a great ferment of new ideas for its reconstruction. By then, however, its institutional freedoms were sufficiently well-entrenched to withstand being seriously called into question. Even so, it is arguable that radical changes might not have been avoided but for the aftermath of the 1926 national strike, when for several decades the working days that we lost on stoppages were among the lowest for any free industrial country in the world.

There is no doubt that from the standpoint of industrial peace, our traditional system could claim to have outstanding merits. Compared with many other national systems it yielded two great practical advantages that endeared it as much to the unions and the employers as to the general public. They may be described as the advantages of flexibility and responsibility. As the rules regulating their relations, whether procedural or substantive, had not to be drawn up with the rigour and exactitude of legislation, the parties could leave themselves much greater freedom to adjust the application of the rules to the circumstances of individual cases, guided by the spirit of their intentions rather than by the letter of their agreements. Equally, since they both made and enforced the rules with

little or no outside intervention, the responsibility for the outcome was clearly theirs, and theirs alone. By permitting flexibility and encouraging responsibility the system favoured the peaceful settlement of industrial disputes. It induced a greater readiness to compromise and to stand by whatever compromise was reached.

Peace, it is true, though the main aim that the system was expected to serve, was not the only one. Society acknowledged some obligations to prevent the worst forms of exploitation of labour. Increasingly, as a more generous view was taken of what a nation owed to all its citizens, the state intruded more into industrial relations. Protective labour legislation was progressively improved. The Trade Boards, later to become Wages Councils, fixed a statutory floor to the wages of a growing number of workers. But this setting of legal minimum standards always remained marginal to the system as a whole. The state held back from forcing the pace in voluntary negotiations and from doing anything that would prejudice their autonomy. It merely made good deficiencies left by the uneven spread of collective bargaining.

Why are we less certain today, then, than we were in the immediate post-war years about the virtues of this system? What has happened to make us change our minds that it had no serious faults, at least none that would not be corrected in the course of time? For one thing, it no longer seems to work as smoothly; friction is much more apparent. Although the number of working days lost on stoppages remains remarkably low,[1] over recent years there has been a mounting wave of what used to be known as 'industrial unrest'. Politicians blame rival parties for the malaise, and unions and employers accuse each other of failing to move with the times. But these are symptoms rather than causes, and the present tensions in industrial relations have deeper causes than is commonly supposed. The very principles of the system are being challenged, not out of a passing perversity, but because new values are current in our society. They upset our established priorities

[1] Over the two post-war decades 1944–53 and 1954–63 the annual averages were respectively 2·2 and 3·9 million working days lost. (*Ministry of Labour Gazette*, April 1964, p. 145.) Even the higher figure only amounts to 1⅓ working hours a year per employed person.

yet meet with resistance from the structural inertia of existing institutions. Other standards as well as economic freedom and industrial peace are being applied, but no consensus has been reached on them or on the institutional changes they require.

Even the growing controversy and confusion over the legal framework of industrial relations following the House of Lords judgements on *Rookes* v. *Barnard* and *Stratford Ltd.* v. *Lindley* are at bottom no more than a further symptom of other and more profound challenges to our traditional system. To their analysis we now must turn. Briefly, the system has been challenged from above and from below: from above by governments acting in response to practical economic difficulties and strong public pressures; and from below in the workplace by the rise of shop stewards and an upsurge of bargaining outside the scope of national regulation. In both respects something of the order that once prevailed has been disturbed by a growing chaos.

Chapter 5

CHALLENGES FROM ABOVE AND BELOW

The departure of post-war governments, Labour and Conservative alike, from the confines of their earlier role in our industrial relations system has been largely associated with their efforts to restrain the pace of the upward movement of wages. Long before the need for a national incomes policy was fully and openly acknowledged—from Stafford Cripps' experiment with voluntary restraint to Selwyn Lloyd's pay pause—successive Chancellors have tried to influence the outcome of collective bargaining in ways previously regarded as taboo.[1] This record of nearly two decades of unprecedented government intervention in wage determination is, however, a sorry story of one temporary and temporizing expedient succeeding another. Some measures proved wholly abortive; others had a passing success in slowing down wage increases but only at the cost of indiscriminate damage either to the national economy or to industrial relations. Above all, what has been lacking is any continuity in the development of policy and its means of execution.

Two questions may be asked about this post-war challenge from above to the accepted principles of our system. What has produced it? Why has it taken so long to induce a constructive response? To answer both it is necessary to say something more about the nature of the challenge itself.

It is still sometimes viewed in simple terms of how to avoid inflation in conditions of full employment. Governments have

[1] Apart from the short period from 1917 to 1919 when wages were virtually subject to state regulation.

been forced to act, so it is said, because they owe it to the consumer to keep prices down. If this were indeed the only aim and justification for a national wages or incomes policy there would be little point in pursuing the notion any further. Although Britain may still be searching for the substance—as opposed to the pretence—of such a policy, other countries in Europe, notably Holland and Sweden, have had one; and it has not enabled them to prevent prices from rising for any length of time. Prices and wages may not have risen quite as fast in countries with some permanent national controls over incomes as in those without them, but price stability has not been achieved. It could hardly be otherwise. Individual countries are in no position to stabilize their own wage and price levels regardless of movements elsewhere, even if they thought it wise to do so. Nothing short of an unattainable international system of price and wage control could combine full employment and price stability in perpetuity.

We come nearer to the truth of the matter and cut through the layers of cant under which it is submerged, once we recognize that impending balance-of-payments difficulties have been the principal factor in pushing governments into action over wages. Whatever theoretical arguments may be advanced on behalf of a national incomes policy, the practical considerations that have forced it into the foreground of public attention have usually sprung from this source. Labour costs in export industries—rather than earnings in general or still less wage rates as such—have been the nub of the problem, and the main objective of government intervention has been to keep them competitive in relation to costs and prices abroad.

Alternative measures to an incomes policy which would not infringe the autonomy of the parties to collective bargaining were always available, of course, to cope with crises in the balance of payments. Both devaluation and import controls have been used to secure relief, but these at best are short-term remedies and invite retaliatory action by other governments which negates their effect. For a period the deflation of internal demand was strongly advocated on the grounds that, among other things, it would stiffen employers' resistance to wage demands and, by producing a 'little more' unemployment, diminish the unions' zeal in pressing them. This remedy

was tried in 1956–58 and again in 1961–62, only to be rejected as being 'worse than the disease'.[1] Economic growth, which it hampered, was seen to be a major aim of economic policy. When added to the earlier trinity of full employment, price stability and free collective bargaining, it further complicated their reconciliation.

Painfully and slowly, by trial and an abundance of error, we are learning to accept the necessity of a national incomes policy. This implies no more, however, than a realization that wages and other incomes must be brought within the scope of central control and national planning. It leaves open what should be the ends and means of policy and therefore such questions as which decisions have to be taken centrally and which can best be left as before to negotiation industry by industry. Yet as soon as the level of incomes is acknowledged to be an appropriate subject for government planning—as much, say, as the level of employment—governments can no longer, as they have in the past, throw off the responsibility for many questions relating to them.

Since wages cannot fairly be dealt with in isolation from other incomes, a national wages policy naturally broadens out into a national incomes policy; comparisons between the movements of all incomes are placed on the public agenda. Similarly, the general movement of wages cannot be controlled without questions of wage structure being raised on a national scale, if only because the control can be destroyed by pressures generated by unfair discrimination and indefensible relationships among the various rates. Nor can the relationship of earnings to rates be ignored or, for that matter, the relationship of earnings to labour costs. The logic of 'in for a penny, in for a pound' has an inescapable relevance once any decisions about wages are transferred from the market place or the negotiating table to the sphere of public policy.[2] Anticipation

[1] In the words of the Fourth (and final) Report of the Council on Prices, Productivity and Incomes (July 1961), p. 3.

[2] 'Inequalities and other anomalies are tolerated so long as they are the result of private arrangement. But Governments, rather optimistically, are expected to be consistent, and to base their administrative action on generally accepted social or moral principles.' (Henry Clay, *The Problem of Industrial Relations*, Macmillan, 1929, p. 67.)

of this consequence has been responsible for much of the prolonged resistance to a national incomes policy.

Thus the challenge from above is, at bottom, rooted in a reluctantly acknowledged yet proven social need for national planning. This is not to deny that full employment has been the precipitating factor in creating it. By enhancing the bargaining power not only of trade unions but also of work groups within the firm, and by making it easier for employers to pass on rising costs to the consumer, it inaugurated the wage-price spiral. But it has been the effect of the spiral, especially on the balance of payments, which has invalidated the earlier assumptions on which the government's limited role in industrial relations was based. The balance of payments happens to be an aspect of the nation's economy where failure to plan has serious and unpalatable results for everyone. Difficulties in its adjustment could not be brushed aside by governments, whether their political ideology favoured the planning of the growth and distribution of incomes or not. The dogma boldly proclaimed as late as 1948, in the White Paper *Statement on Personal Incomes, Costs and Prices*, that it is 'not desirable for the Government to interfere directly with the income of individuals otherwise than by taxation' has now worn very thin indeed.

The formation of the National Economic Development Council was the first sensible move in the right direction because it located the new role of government towards incomes in its proper setting. For no incomes policy can be viable unless it is agreed among the three main parties concerned with its terms and execution. It cannot be imposed by a government alone, or by a government supported only by the employers or only by the unions. Nor can it be reasonably designed or find acceptance unless it is related to the whole of economic planning, since none of the parties can be expected to restrict the free pursuit of their own interests in ignorance of how the benefits will be shared. The change in terminology from 'wage restraint' to the 'planned growth of wages' which made it possible for a majority of trade unions to lend their support to a resolution favouring an incomes policy at the 1963 Labour Party Conference was no mere juggling with words; it shifted the emphasis away from a negative and discriminatory policy

which the unions had good reasons to oppose. And now at last, with the signing of the *Joint Statement of Intent on Productivity, Prices and Incomes*, the foundations of tripartite agreement have been laid on which a stable structure of policy can be erected.

The proposition that the challenge from above has been an imperfect expression of a social need for national planning in a field where collective *laissez faire* was previously the rule, takes us well on the way to answering the two questions raised regarding it. The challenge has asserted itself with increasing force over the post-war years as the need for planning has become more and more apparent. In the last few years, with an awakened awareness of Britain's economic stagnation, we have also begun to grasp that government initiative in industrial relations is required on a much wider front than wages. The Contracts of Employment Act may have been only a small breach with tradition, but it was an important breach none the less. In it, however inadequately, the government implicitly acknowledged a planning responsibility to facilitate changes in the pattern of employment by reducing the insecurity which causes them to be opposed. The setting up of the Manpower Research Unit by the Ministry of Labour and the provisions of the Industrial Training Act, pointed in the same direction. With these cautious and tentative steps, the old policy of leaving the two sides of industry to work out their own solutions to every problem, which often meant no solution at all, was gradually being abandoned.

One has only to contemplate the prospect opened up by automation and the introduction of other forms of advanced technology to realize how drastically the government's role in industrial relations will have eventually to be recast. Application of foresight being the essence of planning, the more disruptive of settled relationships technical innovation becomes, the more important it is to predict its social consequences in order to counter the less desirable. This cannot be done without some central direction to provide information and to settle priorities. Moreover, it is not only a question of anticipating the social consequences of rapid technological change; but also of making it possible by minimizing social resistances to it. Nor should it be forgotten that a major contribution to a high rate of economic growth could come from diminishing our

present, massive under-utilization of labour, which is a product of a range of employment practices in urgent need of reform. Voluntary action by unions and employers to deal with these problems may be preferable to sweeping legislative or administrative intervention by the state, but the time has passed when this preference will serve as an excuse for doing nothing, or too little and too late.

If, then, the challenge from above is no passing aberration but something firmly embedded in the circumstances of the second half of the twentieth century, why is it taking so long to arouse a constructive response? The short answer is that the values upon which our whole system of industrial relations has been erected obstruct such a response.[1] The challenge calls for general agreement on a transformed role of government which would qualify the autonomy of the parties to collective bargaining; and their absolute freedom has been treated as sacred. As long as this continued, government, employers and unions were each at liberty to protest their innocence and place the blame on the others for the lack of a national incomes policy and for the other shortcomings in industrial relations, because the basis for an agreed sharing of responsibility had not been found. 'Passing the buck' was a game that all could play because the system favoured it. This has been the most noticeable and regrettable contrast between Britain and a country like Sweden, where democratic planning may be far from perfect but has steadily, if pragmatically, advanced over several decades.

Before we go on to consider more precisely what kind of changes in our system are required to meet the challenge from above, we must look at the other great post-war challenge which has surged up from below with the growth of workplace bargaining. There is, of course, nothing new about collective bargaining in the workplace between management and shop stewards or other workers' representatives. Apart from its eruption into prominence in two world wars, a certain amount has always gone on, particularly over piecework prices and

[1] In the concluding words of the Fourth Report of the Council on Prices, Productivity and Incomes, *op. cit.*, p. 29: 'The sources of opposition are . . . a strong attachment to principles learned the hard way in a world very different from the one we live in . . . At the heart of the problem of inflation under full employment is a frame of mind.'

working conditions. But our system worked on the assumption that it was subsidiary to the bargaining conducted between full-time union officials and employers, whether on a local or a national basis. The assumption owed much to two decades of mass unemployment between the wars, which greatly weakened organization in the workplace and forced trade unionists to concentrate their attention on holding the common defence line provided by a 'national rate'. This response to a particular set of circumstances came to be seen as a permanent and necessary feature of the system, to which trade unions and employers alike adapted themselves and their thinking. What stands out about the workplace bargaining of recent years is first that it has developed on a much greater scale than ever before, except under the special conditions of war. But it has also been a spontaneous development with its own independent momentum, so that it lies largely outside the control of trade unions and employers' associations. Far from being subservient to the system of external job regulation, it appears rather to threaten its stability. In other words it has assumed a form which is not so much an extension of the system as a challenge to it.

In this connection it is worth recalling that for some time after the war joint consultation, not collective bargaining, was expected to be the principal form for the future organization of workplace relations. Even today there are firms where a consultative committee supplies the only recognized, official machinery for them. Many procedural agreements, too, formally provide only for the taking up of individual grievances and complaints within the firm; that they may have a group or collective character is disregarded. Such facts may be cited as evidence of a lack of realistic anticipation of the challenge from below. When we turn to its most visible, statistical manifestations, these are principally unofficial strikes and earnings drift. Both reveal a weakening of the regulative effect of industry agreements. Both reflect what is fundamental to the challenge from below, the transference of authority that has occurred in the unions from full-time officials to lay workplace representatives.

Literally, unofficial strikes are strikes which trade unions have not officially sanctioned and which they therefore need not support. Usually it would be compromising for the unions

to sanction them, however, because they are unconstitutional in the sense that they violate the industry's agreed procedural rules. That is why they represent, if numerous, a challenge to the procedure, a sign of its inadequacy, a weakening of its regulative effect. But we know that unofficial strikes are extremely uneven in their incidence as between industries and within the same industry. Despite the notorious trouble spots, in many firms the rise of the challenge from below has not been accompanied by strikes.

Earnings drift is therefore a better indication of how widespread that challenge is. Drift is measured by comparing the percentage changes in average earnings and in official wage rates. So, to be exact, it is earnings gap—the resultant difference between the two—that measures the relative significance of workplace as opposed to industry bargaining in settling the contents of the workers' pay packets. Rough estimates have been made of the gap between nationally negotiated rates and earnings (excluding overtime payments) in manufacturing industries, and it rose from 19 per cent in 1948 to 26 per cent in 1959.[1] Over the same period average weekly overtime worked by men increased from about 2 to 4 hours, and by 1963 it was more than 5.[2] Together these figures give a measure of the extent of the growing failure in the arrangements for *regulating* actual wages *and* actual hours at industry level.

Admittedly, many national agreements are only intended to fix minimum rather than standard rates and it can be argued that the normal working week was always subject to overtime. But compared with before the war, when minimum were often near to maximum rates and average did not markedly diverge from normal working hours, the quantitative significance of independent workplace bargaining is now of an entirely different order and has completely changed the role of shop stewards or their equivalent. Where they had a part to play in our traditional type of collective bargaining, it was largely one

[1] 'The Wages Structure and Some Implications for Incomes Policy', *National Institute Economic Review*, November 1962, p. 42.

[2] In industries covered by the Ministry of Labour's earnings and hours inquiries. See, E. G. Whybrew, 'Overtime and the Reduction of the Working Week: A Comparison of British and Dutch Experience', *British Journal of Industrial Relations*, July 1964, p. 153.

of watchdog whose function was to see that union rules, collective agreements and customary practices were observed. Today they are negotiators in their own right and a substantial part of the workers' pay packets depends on their collective efforts and leadership. Moreover, in such matters as overtime, it is they who uphold the principle of 'fair shares' and are involved in the detailed administration of its allocation. Their greater authority over union members is derived from their representing the members' interests on important issues which full-time officials have little or no say in settling.

Not that earnings drift is the only foundation of the stewards' authority. One has only to study some of the issues that have led to (mainly unofficial) strikes to see that workplace disputes are not always about money. Referring to the Ministry of Labour's long-standing classification of reported disputes according to the stated issues in dispute, Professor Turner has remarked:

'In the twenty years of high employment from 1940 the proportion of strikes about "wage-questions *other than* demands for increases", and (particularly) about "working arrangements, rules and discipline" rose remarkably: from one-third of all stoppages to three-quarters. Now a close look at disputes so classified suggests that their increase mainly involves three types of demand. First, for what some have called an "Effort Bargain"—that is, for the amount of work to be done for a given wage to be as explicitly negotiable as is the wage itself. Secondly, for changes in working arrangements, methods, and the use of labour to be also subject to agreement—or to agreed rules. And thirdly, they concern the treatment of individuals or groups by managers and supervisors. One *could* say that these disputes all involve attempts to submit managerial discretion and authority to agreed—or failing that, customary—rules: alternatively, that they reflect an implicit pressure for more democracy and individual rights in industry. But on this trend, the last two or three years have superimposed another: a sharp rise in the frequency of unofficial strikes against dismissals and—at last—for wage increases. So far, in effect, from reducing the frequency of unofficial disputes, recent unemployment and economic stagnation have increased it by outraging *now*-established expectations—expectations of security

and an automatic annual increase in income, such as salaried employees commonly enjoy.'[1]

These interesting observations are suggestive of the more fundamental causes of the challenge from below. Here again, as with the challenge from above, one must guard against the error of thinking that full or high employment is more than the starting point of an explanation. True, it was the change in the state of the labour market which helped to produce, or at least greatly to increase, earnings drift. Shortage of labour, we know, has caused employers to compete for it by paying wages higher than the national rates in many and devious ways, or by offering other pecuniary inducements such as fringe benefits that are not provided for in such agreements. Nevertheless, research undertaken on earnings drift in this and other countries suggests that it is not explicable simply as a market phenomenon. Its causes are far more complex.

It is certainly related, however, to another consequence of full employment: the transformation of power relations within the workplace. On the one hand, management finds that the negative sanctions which it had customarily employed to uphold its authority are weakened; the strength of the ultimate penalty of the sack has diminished to the extent that workers can more easily find alternative employment. Management is much more dependent now on consent and voluntary co-operation, which entails the use of stronger positive sanctions or rewards. On the other hand, shop stewards have less fear of victimization, and work groups can assert their collective will on a management which is decidedly more vulnerable to pressure when order books are full. One of the notable features of workplace relations in recent years, not revealed by strike figures, has been the increasing use of 'cut price' industrial action such as overtime bans, working to rule or going slow.

Clearly the challenge from below did not and could not develop against the earlier background of mass unemployment. But that is not to say that it can be attributed wholly to the direct and indirect effects of labour shortage. As Turner points out, up to a certain point an increase in unemployment, instead of reducing the challenge, may augment it; because it is based in the last resort on a rising level of expectations

[1] H. A. Turner, *The Trend of Strikes*, Leeds U.P., 1963, pp. 18–19.

among workers as to what industry owes them and they are entitled to obtain. These are partly expectations in regard to income including stability of earnings: they look forward to a continually rising standard of living and have entered into various commitments as a result. But equally they have new expectations as producers about the conditions of their working life. They are no longer willing, for example, to suffer individual or collective dismissal at the discretion of management or to accept its orders in a spirit of blind obedience. In many ways they are claiming a greater influence on managerial decisions, particularly in matters that affect their own welfare and status.

These changes in expectations reflect changes in the workers' opportunities to demand from management greater consideration for their interests, but together expectations and opportunities add up to a growth of democracy in the workplace. Democracy has many definitions but, in so far as it implies management by consent rather than by coercion, the challenge from below is a demand for it on the shop floor. This does not mean that every demand the workers care to make is reasonable and should be satisfied. There are other interests to be weighed in the balance and, in any case, conflicts of interest to be resolved among the workers themselves. The task of co-ordinating all the various demands that are made upon a business enterprise necessarily falls upon management. This is a responsibility which it cannot abrogate.[1]

[1] For a statement of this view of management see Neil W. Chamberlain, *Labor*, McGraw-Hill, 1958, pp. 223–33. The author's thesis is that 'the coordination of the bargains of all who compose the business . . . is the unique function of management. It is an inescapable function within an enterprise, since the various terms demanded by the various component parts of the firm do not somehow coordinate or arrange themselves. It is an isolable function, exercised separately from those who make demands on each other'. (p. 228.) A similar conception of the managerial function is presented by Norman Ross, *The Democratic Firm*, Fabian Research Series 242, 1964, p. 9: 'Because the firm cannot remain static, since it is subject to varying internal pressures and to other pressures generated by its ever-changing external environment, adjustment of group aims must be a continuous process and the firm can, therefore, be considered to be a system of dynamic equilibrium between the vested interests involved in its productive activities . . . In other words, the role of management in the system of relationships involves responsibility for continuous adjustment of interests within the firm so that it remains at all times an effective going concern.'

From the foregoing analysis of the challenge from below, it follows that, like the challenge from above, it will persist until it has been duly provided for by our system of industrial relations. But what does this imply? The crux of the problem again is one of agreement and the sharing of responsibility. In general, management and stewards have not yet come to terms with each other on the same durable basis that has been found for employer-union relations at higher levels, where the rights and obligations of the parties are reasonably well defined and respected, and where this full mutual acceptance is accompanied by subtle understandings of relative bargaining strengths and bargaining needs. New skills have to be learned in the workplace, just as they had to be learned for collective bargaining at the national level. Not having found this *modus vivendi*, the parties frequently engage in constant guerrilla warfare, each stealing what advantages their immediate position warrants. Bargaining and conflict can no more be avoided here than at any other level of industrial relations. They can, however, be contained within the bounds of agreed institutions which facilitate more rational settlements, provided always that the necessary skills are acquired for operating them.

Chapter 6

THE SHAPE OF THE FUTURE

What then is wrong with our present system of industrial relations? Plainly it mirrors too much of the past and too little of the future, but having examined the two major challenges it now faces we can be more explicit than that. The system has to be reconstructed to accommodate more planning from above and more democracy from below. The silent revolution initiated by the transition from mass unemployment to full employment has forced us to consider new values for judging the system's methods and results. These in turn have placed new demands at both ends of the scale upon the organizations and institutions that comprise the system. As yet, however, no consensus has been reached on its future shape. Until this is settled in principle, neither the will nor the opportunity to get to grips with the manifold, detailed problems of reconstruction will be forthcoming.

One of the great difficulties in finding such a consensus is that of reconciling planning and democracy. Industrial relations are caught up in the same dilemma that confronts so many aspects of our economic, political and social life; the dilemma that is endemic to modern society. Only the extremists on either side deny that a reconciliation of the two is possible, but how is it to be accomplished? The freedoms that belong to democracy present themselves as obstacles to successful planning. The rationality implicit in planning appears to be an enemy of the sectional pressures unleashed by democracy. Many of the proposals advanced for reforming our system have failed to keep the dialectic character of the overriding problem in view.

When reconstruction of the system is approached mainly from the standpoint of national planning, it is taken to be axiomatic that trade unions and employers' associations must reassert control over their members' behaviour in the workplace. How can a national incomes policy work—it is asked—with a substantial amount of earnings drift? If the gap between earnings and rates continues to widen, it will undermine any agreement that may be reached on the general movement of wages, not least because some workers gain more from drift than others. This line of argument points to the proposal that industry agreements should be made more comprehensive in the subjects that they cover and more specific and stringent in their regulative content. As the dangers of evasion might then be greater, trade unions and employers' associations would need to arm themselves with stronger sanctions to discipline their members into compliance. The fact that members are unlikely to yield them such powers voluntarily leads further to the suggestion that the agreements should be made legally binding to ensure their strict observance.

Proposals based on such a theme have many variations, but they are all directed towards achieving greater centralization of control in the system to restore order and to advance economic planning. Their Achilles heel is that they disregard the bargaining power that now exists on the shop floor. There may be a strong case for trade unions to exert more influence over their stewards' behaviour or for employers' associations to take more responsibility for the actions of their affiliated firms. It is quite unrealistic, however, to believe that independent workplace bargaining can be eliminated by external regulation. Even totalitarian systems have had to tolerate a certain amount,[1] while in the United States the prevalence of remarkably comprehensive and legally enforceable plant agreements has not prevented the growth of 'fractional bargaining' between

[1] See, Emily Clark Brown, 'Interests and Rights of Soviet Industrial Workers and the Resolution of Conflict', *Industrial and Labor Relations Review*, January 1963. 'The "collective" in any Soviet enterprise, manual and non-manual workers alike, find their conditions controlled in great detail by central decisions. Yet considerable scope remains for local decisions.' (p. 264.) 'Soviet informants often talked of how workers when dissatisfied can and do "call meetings and make a fuss" until their complaints are met.' (p. 271.)

management and stewards, whose results are often at variance with the terms of those agreements.[1]

From the opposite point of view it has also been proposed that the whole apparatus of industry bargaining is now outmoded and should be dismantled or greatly reduced in its significance. Workplace bargaining is said to be in closer touch with the economic realities of the situation. It more accurately reflects the state of the local labour market and also permits the linking of increases in earnings with increases in productivity and so is conducive to reducing labour costs. Moreover, once attention is directed away from national negotiations—so the argument continues—there will be a better chance of codifying workplace relations in written agreements signed with the unions. Instead of dishonest evasions of standard rates and conditions, which have to be masked by the cloak of informality, we would then have clearly defined rights and obligations. In this event not only would order be restored; the whole system would become much more democratic. The rank-and-file union member would have a real say in determining the terms of the agreement under which he worked, compared with the present remoteness of formal union negotiations from the shop floor.

The advocates of a radical decentralization of collective bargaining have a strong case when it is argued solely from the standpoint of industrial democracy, but once the need for national planning is considered their position becomes untenable. They defend it by claiming that the 'cost-push' element in inflation would disappear, or at least cease to be a source of anxiety, if wages were regulated solely by works or local agreements. The experience of the United States in periods of low unemployment does not support them. There, in spite of the predominance of plant bargaining, 'key bargains' have set the pace of wage movements throughout industries by comparisons which have been described as 'coercive'.[2] Nor does the experience of our own engineering industry, in

[1] As is shown by James W. Kuhn in *Bargaining in Grievance Settlement* (Columbia U.P., 1961).

[2] It was an American, A. M. Ross in *Trade Union Wage Policy* (California U.P., 1953), who first drew attention to the 'coercive comparisons' which 'play a large and often dominant role . . . in the determination of wages under collective bargaining.'

which industry agreements are among the weakest in their regulation of earnings, suggest that unrestrained plant bargaining is an answer to inflation. It does not curb the force of comparisons in generating uncontrollable pressures for wage increases. On the contrary, they are afforded greater play than in industries with better ordered wage structures. The truth is that the dismantling of industry agreements would make an unacceptable degree of state control the only alternative to the abandonment of any attempt at planning the growth of incomes.

Nothing less than a fully developed three-tier system of industrial relations promises to meet the challenges from above and below. We need a top tier of central or truly national negotiations above industry level and another bottom tier below for supplementary and compatible workplace negotiations. This is the first and most fundamental thing to be said about the shape of the future. In elaborating the point, what was said ten years ago about collective bargaining in the country still applies:

'As a method of wage determination the present weakness of collective bargaining lies mainly in its competitive, sectional character, in the difficulty the parties have in taking a broad enough view of the consequences of their bargains. As a method for introducing the rule of law and democratic participation into industrial relations its present weakness is due rather to its being conducted on too large a scale. Are we then faced with an irreconcilable conflict of purposes? There is a way out of this dilemma providing the voluntary system can escape from some of its present institutional rigidities. It has, in fact, to become more flexible so that agreements are concluded with a coverage appropriate to their contents. One of the clues to the future of collective bargaining is surely to be found in making a clear distinction among the appropriate levels of its regulative influence. In this as in many other aspects of economic organization, we have to decide what is the concern of society as a whole, what should be settled on an industrial scale, and what is the affair of the employees in a single enterprise or a smaller group within it.'[1]

It would be throwing out the baby with the bath water to

[1] The concluding words of my contribution on 'Collective Bargaining' in *The System of Industrial Relations in Great Britain*, edited by Flanders and Clegg, Blackwell, 1954.

reject our present structure of industry agreements because they fail to offer a complete answer to the demands of our time. Apart from the fact that trade unions and employers' associations would not contemplate abandoning them and only an all-powerful state could prevent their being negotiated, they still have many useful functions to fulfil. The question is how those functions are to be combined with both more centralization and more decentralization of the rule-making processes of industrial relations. How can two further tiers be added to what has officially become largely a one-tier system?

Naturally this depends on changes in the organization on both sides of industry. The central bodies have to gain more authority and influence, and at the same time the relations between their affiliates and their members at the place of work need to be strengthened. The integration of the system has largely to proceed through this structure of representative organizations. But organizational change must be preceded by clarification of the purposes it is meant to serve. As a nation we are unlikely to advance in the right direction until we have a clearer idea about the future shape of national planning on the one hand and of workplace relations on the other.

At present we stand only on the threshold of economic and social planning in the field of industrial relations. The main impetus for embarking on it has come, generally, from a recognition of the importance of steady economic growth, and, specifically, from the work of the National Economic Development Council in setting targets in a growth programme. Thus economic rather than social objectives have been placed in the foreground, but they are so interdependent that we shall have to advance on both fronts or there will be no advance at all. Similarly the two main subjects which have planning implications for industrial relations, incomes and manpower, are so closely connected that they have to be considered together. The crucial questions at this stage all turn on the type of planning which is feasible for this country in the near future, both as a technical and as a political proposition.

In the first place it should be realized that the breakthrough into planning hinges less on the government being granted extended powers than on its using existing powers more purposively. There has been no lack of government

intervention in industrial relations in recent years, but it has failed by being erratic and short-sighted. It has expressed 'not neutrality but incompetence' because there has not been enough 'looking ahead' and the use of powers with some 'sense of design'.[1] Insufficient knowledge partly accounts for these defects. The methods of forecasting economic trends have to be improved and supplemented by much more intensive research into the significant areas of change. Forecasting, however, is not simply an intellectual exercise; it must rest on policy assumptions. Agreement on policy which has a reasonable chance of being put into effect and therefore creates a climate of certainty and confidence is the ultimate *sine qua non* of successful planning.

This is not just a matter of the government having a mandate or a substantial body of public support for engaging in incomes and manpower planning. It has always been self-evident that any planning affecting industrial relations would not work unless it evoked the active co-operation of the overwhelming majority of trade unions and employers' associations. No government can hope to go it alone for long against the concerted opposition of either side of industry. Nor is there any prospect of a central planning authority, however it may be constituted, compelling individual unions and employers to fall into line with its decisions. Even when it includes responsible representatives of their central bodies, these possess no powers to force affiliated organizations to obey their instructions, and it would be unrealistic to anticipate their formal powers being substantially increased.

In these circumstances industrial relations planning must perforce be 'indicative', in the sense that it must rely on guidance rather than on direction. Guidance, however, can mean many things. In its 'soft' form of vague and pious exhortation with no sanctions to support it, it is little more than a face-saving gesture. Appeals for an undefined restraint we have had in plenty and their futility demands no further demonstration. An incomes policy to be effective in its application to wages and salaries must offer 'hard' guidance by being made explicit in rules formulated in a master agreement to which the govern-

[1] Robert Neild, 'New functions: new men?', *The Listener*, 27th August, 1964, p. 303.

ment and the representatives of unions and employers subscribe. Much of the actual content of these rules cannot be prejudged in advance, but of necessity they will have to include two features. Some formula has to be agreed to regulate the general movement of wages over a stipulated period and some provision must be made to regulate permitted deviations from it. The first is required to bring wage increases under central control and to relate them to the movement of other incomes, the second to avoid the untenable assumption that all wage claims can be treated exactly alike.[1]

The attainment of tripartite agreement on national policy that offers specific guidance of this kind presupposes, however, that it has to be bargained as well as discussed. Compromise is the essence of agreement at this level as much as in ordinary collective bargaining. While the representatives of unions and employers can be expected to take the facts and the consequences of the country's economic situation into account when they are fully and impartially presented, it is unreasonable to demand of them that they cease to act as advocates of the sectional interests of their constituents. The idea, for example, that economic arithmetic can yield some 'objective' formula for increases in wages or other incomes, thereby placing the content of policy beyond the bounds of argument, is a fiction that deceives no one who does not want to be deceived. Conflicts of interests over the division of the national product are inescapable; and in national, no less than industrial, negotiations union and employer representatives will naturally seek to

[1] Of course a host of questions can be raised in regard to the general movement formula and the criteria for judging exceptions. Is the formula to be stated as an absolute or percentage increase or some combination of the two? Is it to set an average or a maximum? Is it to be applied to rates or to anticipated average earnings? Should there be, as in Sweden, not a uniform figure but a 'broken line' differentiating among broad categories of workers or industries? Are deviations from the formula to be sanctioned on grounds of labour shortage or to facilitate a better utilization of labour? Should they, perhaps, be confined to the correcting of anomalies and inequities in wage structures? One could continue in this vein to illustrate the sheer complexity of the choices that have to be made. It would be folly to believe that satisfactory answers to any of these questions are readily available. They will be found only after a great deal of informed debate and practical experiment. The same is true of the technicalities of manpower planning which is as much in its infancy as incomes planning.

get the best bargain they can for their own side. Moreover, as has previously been argued, even if it were possible to calculate the amount of a non-inflationary wage increase, domestic price stability cannot be the sole or even the overriding aim in incomes and manpower planning; there are several others with which it has to be reconciled including that of industrial peace.

The foremost aim, in fact, must be to reach agreement on guiding national rules which stand a good chance of being observed throughout industry because they are accepted as a fair and reasonable compromise for the time being. Probably some breaches will not be avoided. Provided they are not too serious or too extensive they are unlikely to undermine general observance. For it is not the case that these national rules will have no sanctions to support them. Once there is genuine agreement at the centre among all the three principal parties to industrial relations, they share a common commitment and responsibility for upholding the provisions of the policy to which they have agreed. This brings powerful social sanctions into play to uphold the rules; sanctions that are lacking in the absence of such agreement. In a system of industrial relations which has managed to depend so largely and for so long on social, rather than legal, sanctions for the observance of its rules, there is no reason to conclude that they will be less effective in the future than the past, or less applicable at national than industrial level. Besides, it is open to the government to use the range of economic sanctions at its command to support an agreed policy,[1] apart from the pressure which it may put on prices to prevent undue increases in conflict with the policy. Finally, the central organizations on both sides of industry, though lacking powers of direction, have authority and influence over their members' behaviour which the very development of planning cannot but help to strengthen.[2]

It appears that the aroused national awareness of the

[1] Practical suggestions have been made by John Corina who proposes various tax sanctions in his contribution on 'Incomes Policy' in *Labour's New Frontiers* (ed. Peter Hall), Deutsch, 1964, pp. 56–7.

[2] The recent affiliation of the National and Local Government Officers Association to the T.U.C. and the moves to create a single National Industrial Organization on the employers' side improve the prospects of planning, though both sides will probably need to develop machinery to co-ordinate and guide the collective bargaining activities of their members.

importance of achieving a steady and high rate of economic growth can most easily lay the foundations for this type of planning. By itself, however, acceptance of this aim will not suffice to settle all the policy questions arising. Speaking as the U.K. employers' delegate at the 1964 International Labour Conference, Sir George Pollock said:

'In origin, organizations of both employers and workers in the industrialized countries tended to be defensive. The unions were defending their members against social injustice and the employers were thinking in terms of defending their position against the growing power of the unions. Today I believe that both are adopting a much less defensive and much more progressive and forward looking attitude. It is this new spirit of seeking *what we should do* in the light of *what we can do* which . . . ought to condition our thinking in the I.L.O. for the years to come.'[1]

This view of the future can only be understood as a plea for planning, since it stresses the deliberate determination of priorities. These involve choices on which economic growth is an inadequate guide.

As far as incomes policy is concerned, planning has to encompass more than the growth of wages. A choice has to be made among the alternative benefits that can be distributed among employees as the result of a particular rate of growth. It calls for decisions on what should be done in the light of what can be done. Are they to take the form of higher wages, or a shorter working week, or longer holidays, or better fringe benefits? A uniform national answer may not be desirable or practical, but central guidance on emphasis and trend cannot be avoided. Hours and holiday movements in particular tend to become fairly universal.

A similar problem arises in connection with wage differentials. To be acceptable, a national wages policy has to be considered fair, not only in relation to the movement of other incomes, but also as regards rates and earnings comparisons. No one seriously expects a precise measure of abstract justice, or that the results of history can be wiped out overnight. Nevertheless such comparisons are continually being made and all the evidence points to their being the strongest force for

[1] *Bulletin*, British Employers' Confederation, 1st July, 1964, p. 1.

instability in collective wage determination. In some, notably public, industries it has been found that within broad limits agreement can be found on standards of 'fair comparison' and that with their help wage differentials can be ordered. The refining and greater application of these processes, together with the settling of overall priorities in comparative wage movements among major groups, is a necessary part of incomes planning.

Enough, perhaps, has been said about the future shape of national planning to show in general how its grafting on to our existing system of industrial relations would be likely to affect industry-wide bargaining and other relations between employers and unions at this level. Planning would certainly not reduce their significance; if anything it would enhance it. The practical autonomy of the parties would not remain unqualified it is true, whatever might be their position in law, otherwise planning would be an empty pretence. In making and revising their own agreements and in co-operating in other ways, they would be committed to the master agreements reached centrally on incomes and manpower policy; and they would be subject to various social and economic pressures to respect them. But as these agreements can only establish broad principles and priorities, as well as quantitative guidance on movements of wages and labour, their translation into appropriate and acceptable decisions industry by industry would still be indispensable. Collective bargaining would continue at this level, only it would be conducted within stated limits and with a knowledge of its national consequences. It would, so to speak, become more responsible and rational.

Planning, however, is very much more than the imposition of restraints. One of the main effects of an incomes policy on industry-wide bargaining is that it would give the parties more scope to address themselves to the long-term and constructive aspects of their relationships. Preoccupation with the amount of the next wage claim as soon as one settlement has been made, often following prolonged negotiations, has frequently crowded out attempts to deal with any other questions. Moreover, uncertainty about the future has inhibited agreement on them because of fears as to the balance of gains and losses in a few years time.

But what of the future shape of workplace relations? How

far should they retain their autonomy? And can that be made compatible with a superstructure of national planning and industry agreements? To answer these questions we must look at industrial relations at the place of work from their procedural and substantive angles.

The actual procedure followed in the settlement of disputes within individual firms or establishments is subject to little effective external regulation in this country. There is most of it in public industries, where employer and industry are one and national agreements produce more standardization than in private industry. Otherwise the principal effect of an industry's procedural rules is to impose a peace obligation on the parties to workplace relations until the external procedure for conciliation, and possibly arbitration, has been exhausted. Though some industry agreements, as in engineering, mention the steps to be followed in internal disputes procedure, the parties are usually free to vary them according to their own preferences. So in practice we have a wide variety of different procedures, most of which are largely informal and the product of circumstances rather than of deliberate design.

There is much to be said in favour of this high degree of procedural autonomy in workplace relations. One of the most important tests of a good disputes procedure is whether it works to the mutual satisfaction of the parties; and they alone are the best judges of that. When so many factors peculiar to each firm or establishment, including personality factors, influence relations at this level, attempts to impose a standard pattern throughout an industry are bound to be artificial and cramping. The source of the malady lies elsewhere: too little thought has been given by managements to the *realistic* design of their relations with workers' representatives. This has been due in part to a mistaken belief, inherited from the past, that it is possible to find external solutions to internal problems. We see this illustrated in the frequent appeals made to unions to discipline their stewards when they are causing trouble. The assumption is made that the existing external agreements with the unions supply an adequate code of agreed rules for the regulation of internal relations, and that all would be well if only the unions would insist on their members observing them, especially the peace obligation.

The fallacy in this belief is immediately apparent once it is recognized that the experience to which stewards and union members are reacting in the workplace is shaped, not by the unions, but by managements, by their decisions or lack of them. Management is apt to advance no proposals of its own for improving wages and working conditions, but merely to react to union pressures. It concedes nothing of substance until coerced by threats or a show of force, and then capitulates. When the lesson is made so clear that only coercion pays off, it becomes the very height of absurdity to ask the unions to prevent their members from acting on it. Unions cannot relieve managements of the responsibility for avoiding stoppages by providing alternative and more attractive methods of settling conflict at the place of work.

We must return, however, to our diagnosis of the challenge from below in order to appreciate the true contemporary dimensions of this responsibility. The challenge was traced back to a growth of democracy in the workplace. Managements have now to contend with demands from the shop floor for a say in matters which they have considered it to be their unfettered prerogative to decide. Ostrich-like they may, and often do, continue to proclaim their 'right to manage', meaning by this that their authority must not be questioned or opposed. For a time they may succeed in deceiving themselves into thinking that this right is unimpaired. In reality a situation prevails which R. H. Tawney once tellingly described as 'autocracy tempered by insurgence'. They dare not act in certain ways for fear of the resistance that would be aroused. What is worse, they probably have little or no knowledge of what they can or cannot do without incurring intractable opposition. So long as they avoid change however, or change that seriously impinges on the workers' welfare, the web of fiction in which they have ensnared themselves can be given the semblance of truth. For it is change that highlights the need for consent, and consent means a sharing of authority expressed in the compromises necessary for operative decisions.

Managements cannot be prevented by law or collective agreements from indulging in self-deception. But the responsibility does fall squarely on them to see that workplace relations are governed by agreed procedural rules to facilitate the peace-

ful resolution of conflict. Many firms, no doubt, would claim that they have such rules, even where they have not been set down on paper. One has to inquire into actual relations on the shop floor to test the validity of this claim; to see how far two sets of procedural rules—the formal rules of management and the informal rules of shop stewards and work groups—diverge from each other. This is not apparent to the casual observer. A works or consultative committee, in which the unions participate, appears to be functioning with some success, and he takes it for granted that this is a joint institution. Yet it may be an institution imposed by management which stewards find it expedient to use as a platform, while following their own, officially unrecognized, courses of action to get results on issues of greatest moment to their members. The acid test of genuine procedural agreement is the extent to which the rights and obligations of the parties are known and accepted by all concerned, a condition that is not incompatible with avoiding the rigidities of excessive formality.

Internal workplace relations are no different in this respect from external employer-union relations. Uncertainty and insecurity of status are the enemies of stability and co-operation in both. In other respects, however, there are significant differences. Officials of trade unions and employers' associations meet occasionally, perhaps at regular intervals, to confer and to negotiate. Members of management and stewards have to live with each other from day to day as participants in the same working community. Their collective relationships are at once more continuous, more intimate and more intricate. Moreover, while for most purposes it is possible to view labour markets as having only two sides—buyers and sellers—this over-simplification is inapplicable to relations at the place of work which are always many-sided. They involve a multiplicity of work groups, each with its differentiated interests even when they belong to a single union. Inside the plant, management—whether it admits this or not—is constantly engaged in a *multilateral* bargaining process.

Here the analytical theory of industrial relations comes to our aid in grasping the full scope of the problem. Systems of internal job regulation, it was suggested, have been developed to meet different purposes from those of external job regulation.

While the latter have been principally concerned with regulating labour markets, the former have been directed towards regulating the work behaviour of employees. But systems of internal regulation comprise both the formal and informal organization of the enterprise, the one corresponding with managerial and the other with human relations as these terms have been defined.[1] Because they serve distinct and sometimes conflicting ends these two types of organization can never be fused into one, but they can become more closely integrated to the extent that their separate ends are made to overlap and complement each other.

In the past the typical state of the two types of organization has been one of 'conjunction' rather than of 'co-operation'. They have existed side by side with their separate rules and, as it were, their separated spheres of interest. This is the situation, for instance, where workers uphold entrenched working practices of their own which management dislikes but does not challenge, whilst management insists on the observance of disciplinary rules which the workers do not approve but know they must obey to retain their employment. Peace may be maintained by both sides observing an undeclared non-aggression pact, but war soon breaks out when they trespass too far on each other's territory. No natural or social law makes a prolongation of this state of 'conjunction' inevitable. The possibility of 'co-operation' follows from the factual interdependence between the aims of a business enterprise, which management *qua* management has to advance, and the aims of its employees as persons. As Neil Chamberlain has pointed out: 'each party is dependent on the other, and can—as a matter of fact—achieve its objectives more effectively if it wins the support of the other.This means that when one party is seeking a change the better to secure some objective, it is more likely to succeed in its design if it anticipates what objections may be raised by the other party, *on whose co-operation in the matter depends the degree of its own success.* For such objections raise issues of divergent interest, and unless these are resolved it will prove impossible to define an area of common interest in which co-operation can be established. In order to win that co-operation, the initiating party may have to make concessions

[1] See pages 13–14.

—greater perhaps than it considers "fair" or "just" and despite the fact that such concession may be unnecessary as a matter of formal authority. They are made simply because, on their granting, co-operation is forthcoming which produces a greater advantage to the initiating party than would have been possible without them.'[1]

The key to the future of workplace relations in their procedural aspect lies in finding a realistic basis for co-operation on these lines. This entails more than formal agreement on an internal disputes procedure, more indeed than any code of rules can by itself provide. It presupposes a change of attitudes. For the 'real barrier to an agreement on divergent interests which would make co-operation possible . . . is a fear of co-operation itself'.[2] Managements fear loss of their authority; unions fear a lessening of their function and appeal; and employees fear increased insecurity resulting from improved efficiency. Given good will, none of these fears need to materialize but only the force of successful example is likely to overcome them. 'Co-operation will spread, if at all, by voluntary adoption being pioneered by those unions and firms that see in it a means of benefiting themselves. The vital factor here will be the willingness to take risks for potential gain by members of management, unions and employees who have confidence in their own powers of dealing with others, coupled with an intelligence and skill in inventing administrative machinery.'[3]

The substantive aspect of the future of workplace relations has its counterpart to the procedural. Earnings drift is not something that we can ever hope to eliminate; nor is it to be condemned out of hand. Bargaining between managements and stewards is more likely to increase than to diminish. Progressive firms are devoting much more attention, for example, to devising better factory wage structures, and rightly so. These have to be based on other considerations than are appropriate to the settling of national rates for the purpose of regulating labour markets. And wages apart, there are many issues of divergent interest leading to conflict in the workplace that are quite unsuited for uniform treatment throughout an

[1] Neil W. Chamberlain, *Collective Bargaining*, McGraw-Hill, 1951, p. 450.
[2] *Ibid.*, p. 451.
[3] *Ibid.*, p. 455.

industry. Indeed many of the 'new' subjects for collective bargaining, such as dismissals, discipline and promotion, are precisely those that are often best decided according to local circumstances and preferences.

The distinction between the purposes of external and internal job regulation is the clue to resolving the apparent dilemma arising out of the rival claims of planning and democracy. In some respects earnings drift is patently a threat to the success of incomes and manpower planning and the industrial regulation of labour markets. When employers engage in competitive bids for labour by offering veiled wage increases and fictitious overtime, they are undeniably undermining the purposes of external regulation. Yet they need the freedom to relate remuneration to changes in effort and in working practices if they are to raise labour productivity. It is not possible to obtain consent for change and agreement on the substantive rules regulating work behaviour unless inducements are offered. Only in the workplace can the regulation of work and of wages be made the subject of mutual adjustments to produce a 'productivity bargain',[1] which is the substantive equivalent of the procedural type of union-management co-operation already described.

An answer is offered once this distinction is grasped. Put in the simplest possible terms there is 'bad' and 'good' earnings drift. The first has little economic and no social justification: the second has both in good measure. Quite aside from the requirements of national planning, it is understandable that trade unions and employers' associations cannot regard with equanimity workplace bargaining that is subject virtually to no external control. Yet they should not and indeed cannot try to force it into a strait-jacket. Fortunately the choice is not between complete control and none; there is a golden mean in the form of permissive and enabling agreements at industry level.[2] These, while permitting wages to diverge from national rates, would stipulate the conditions under which this would be sanctioned.

We can begin to discern, at least in outline, the shape of a

[1] For further discussion of the concept of 'productivity bargaining', see Allan Flanders, *The Fawley Productivity Agreements*, Faber, 1964, pp. 238–48.

[2] See *op. cit.*, p. 250.

three-tier system of industrial relations which would meet the post-war challenges from above and below. In essence the whole of the problem of reconstruction can be reduced to two basic imperatives. The first is the need to find the possible terms of agreement among the interested parties at each level; national, industrial and workplace. Agreement cannot be imposed on them; it has to be bargained. At national and works level institutions have to be evolved which will reproduce the same kind of conflict-resolving co-operation and sharing in responsibility that has been built up steadily in the past at industry level. The second requirement is a clarification of the appropriate functions of job regulation at these three levels. We have to agree on a differentiation between those rules that are a necessary adjunct of national planning, those that should apply at the industry level and those which are best left to be settled at the workplace; according to the purposes for which regulation is required in each case.

No one can prescribe exactly how the existing institutions should be adapted in the light of these imperatives. What is wanted more than anything else at this stage is a general sense of direction in which to travel, rather than a detailed route. But the view of the future presented here does preclude the false trails and misleading short cuts that are being suggested. Many of these turn on changes in the law. The growing disorder in our present system and the conservative attitudes of unions and employers have not unnaturally stirred up an interest in legislation as a means of speedy and drastic reform. Those who think trade unions are too powerful want to place legal restrictions on the right to strike or to ban 'restrictive practices'. Those who think them too weak would like to see the law assisting them in increasing their membership and in securing recognition from employers. Other proposals advanced include the legal enforcement of collective agreements and compulsory works councils.

The point is missed that it is not the so-called voluntary character of the British system which is the source of its present malaise. Rather does this remain its strength. Certainly we are not compelled to abandon our long-standing preference for avoiding the rigidities and complications of legal solutions to industrial problems. Neither the challenge from above nor

the challenge from below calls for such an answer. On the contrary we can be sure that changes in the law will not produce the kind of co-operation and consensus that the reconstruction of the system demands. That is not to say that the law can remain as neutral or as marginal an influence as in the past. The positive planning role that the government and the central organizations on both sides of industry have now to fill has its legislative consequences. This raises many questions that cannot properly be examined here, but these consequences are most likely to be found in the setting of new national minimum standards to ensure that the pace of voluntary action is both forced and underpinned.[1]

One final observation must be added. Nothing has been said here about the changes required in the organization and activities of trade unions and employers' associations, although clearly the reconstruction of our system of industrial relations cannot be accomplished without them. This omission has two defences. The first rests on the essay's leading thesis. The necessary changes will only be brought about when the new values implicit in the demands for national planning and workplace democracy are fully worked out and accepted as a basis for the system's reconstruction. Structural inertia has been overcome before, but not until the necessity for change and the direction it must take have been perceived with clarity and conviction. The second defence is also one of the most important practical conclusions to be derived from the diagnosis of the challenges to our system. The primary responsibility for changing it rests on the government and on managements. Only the government can create a viable system of national planning. Only managements can introduce well-ordered and co-operative systems of workplace relations. Trade unions and employers' associations are most likely to put their own houses in order when they have to respond to bold but enlightened initiatives from above and below.

[1] The Webbs' idea, that by legal enactment a universal labour code would guarantee every worker certain fundamental rights as to income, leisure and treatment in industry, may have been false prophecy for the first half of the twentieth century; it is not to be dismissed for the second. We are already moving in that direction.