

“Rand Formula”

**Ford Motor Company of Canada Limited and The International Union
United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.C.I.O.).**

Arbitration award of Mr. Justice Rand, Ottawa, January 29, 1946.

Arbitration-Award on issue of union security - Union shop disallowed - Compulsory check-off for all employees - Penalties for "wildcat" strikes - Administrative points.

Interesting Background Information

The architect of compulsory union dues in Canada was judge Mr. Justice Ivan C. Rand who was appointed as arbitrator to settle a strike. The dispute was between the Ford Motor Co. in Windsor, Ontario and the United Auto Workers Union. He handed down his decision on January 29, 1946, a decision, that made union dues compulsory. The Liberal Cabinet Minister of National Health and Welfare who helped “bring about his appointment” was Paul Martin Sr., who wrote in his memoirs, *A Very Public Life*, Volume 1, pages 395-396:

“Although I knew that Rand’s views on the rights of labour were encompassed within a progressive social outlook, I wondered whether I could convince the cabinet to appoint him...Privately, I knew that the workers were getting fed up and might revolt against the strike leaders if a settlement was not found soon. This I wanted to avoid, for it would set the cause of unionism in Canada back ten years. On 14 December, local 200 offered to support the appointment of an arbitrator, whose decision would be rendered within five days of the completion of his hearings on all those matters not agreed to by the two parties. The Ford management went along with this, and I learned with relief that, subject to a vote (almost certainly approving his decision), the workers would return to the assembly lines. I encouraged Pat Conroy and George Addes [see Note below] to urge the mass meeting on 14 December to vote for a new ballot. Conroy knew, because I had told him confidentially, that Mr. Justice Rand would be the arbitrator. Finally, six days later, the strikers voted by a three-to-one majority to return to work. (emphasis added)

At the end of January 1946, Mr. Justice Rand announced his decision... The underlying principle of Mr. Justice Rand’s report was that the “unions should be made stronger but at the same time they must become responsible and more democratic.””

There are several pages in this book about this very important even in Canadian labour history that are well worth reading.

Note: Pat Conroy, labour leader (b at Baillieston, Scot 1900; d at Ottawa 8 Apr 1988). Conroy began to work as a miner at 13 and joined the British Mineworkers' Federation. In 1919 he immigrated to Canada, settling in Drumheller, Alta. He worked in the coal mines and joined the United Mine Workers of America. After a tour of the US, he returned to Alberta and from 1922 held several union positions until he became vice-president of the Western Canadian District 18. In 1940 when the Canadian Congress of Labour (CCL) was founded, he became its vice-president and the next year its full-time secretary-treasurer. In 1949 he helped found the International Confederation of Free Trade Unions.

George F. Addes (August 26, 1911 – June 19, 1990) was a founder of the United Automobile Workers union and its secretary-treasurer from 1936 until 1947. Addes and Richard Frankenstein led a major faction of the Union, supporting piecework and incentive pay in auto plants.

In the article written by David Moulton that is included in the book “On Strike” (edited by Irving Abella), Paul Martin Sr. is quoted as saying (page 147):

“...Martin, who knew Rand personally, recalls, ‘I talked with him [Rand] about these problems...I knew his views...he was a man who knew the evolution that was taking place in social thinking... he had been thinking about these questions for a long time...and it just happened I was in a position to help bring about his appointment’”

And the union leaders are quoted on page 146 of On Strike as saying:

*“Whatever their difficulties with the NFSC (National Ford Strike Committee), the union leadership eventually accepted the negotiation-arbitration proposal. ... Conroy came up and gave us to understand that the government would pick a **strictly impartial person sympathetic enough** (emphasis added) ... they almost told us they would give us some kind of union security...we couldn’t tell the workers that... Paul Martin, even though he promised to work for the appointment of Mr. Justice Ivan Rand (“someone who I believe reflected progressive ideas”), maintains that no prior understanding or deal was assumed to have been made at the government level.”*

(Note: Pat Conroy was Secretary/Treasurer of the Canadian Congress of Labour at this time.)

A strike of employees of the Ford Motor Company at Windsor, Ont., which commenced Sept. 12, 1945, was terminated the following December when the union accepted the joint plan of settlement of the Dominion and Ontario governments, the principal provisions of which called for arbitration by a judge of the Supreme Court of Canada of points which could not be settled by collective bargaining negotiations.

1) Mr. Justice I. C. Rand was named arbitrator. His award denies union shop, which has been asked by the union, but provides for a new form of union security and the compulsory check-off of union dues from the wages of all workers under the agreement whether union members or not. The award also provides for penalties against individuals in the case of "wildcat" strikes and against the union in the case of a strike called without a secret ballot of all employees.

Award on the Issue of Union Security

3) **RAND, J:** The parties to this controversy have agreed to be bound on all points in dispute by the decision of an arbitrator. Ordinarily, the matter of arbitration is a claim for redress or an assertion of a right in respect of a contract or some other legal relation. In such a case the issue is clearly defined; it arises in an accepted legal setting and is to be decided on well recognized rules and considerations.

4) The task here has no such basis or simplicity. There is no legal right claimed to be violated and there is no specification or acceptance of the considerations on which a decision is to be founded. There is instead a contest of extra-legal relations and interests which in general must for the present at least be resolved by the force of ethical and economic factors resting ultimately on the exercise of economic power. As I conceive it, from the social and economic structure in which we live I must select considerations which have attained acceptance in the public opinion of this country and which as principles are relevant to controversies of the nature of that before me; and having done that, I must apply them to the specific matters in hand. Such an inquiry involves an examination of so wide and general a field of social doctrine, that at the risk of appearing pedantic, and in what may seem a jargon-like vocabulary. I must deal briefly with what I think will be agreed upon as fundamental lessons of experience, in an orientation which now holds the stage in the economic drama.

Basis of Problem

5) Any modification of relations between the parties here concerned must be made within the framework of a society whose economic life has private enterprise as its dynamic. And it is the accommodation of that principle of action with evolving notions of social justice in the area of industrial mass, production that becomes the problem for decision. Certain declarations of policy of both Dominion and Provincial legislatures furnish me with the premises from which I must proceed. In most of the Provinces and by dominion war legislation, the social desirability of the organization of workers and of collective bargaining where employees seek them has been-written-into laws. That desideratum the Ford Company accepts. The corollary from it is that labour unions should become strong in order to carry on the functions for which they are intended. This is machinery devised to adjust, toward an increasing harmony, the interests of capital, labour and public in the production of goods and services which our philosophy accepts as part of the good life; it is to secure industrial civilization within a framework of a labour-employer constitutional law based on a rational economic and social doctrine. Its necessity arises from the actual implication of large scale industry in the life of labour and community and the mass of human relations thus created. Industry is seen to be integrated with the economic and social establishment and any disturbance in its scope or tempo sends out repercussions affecting interests which have been built up on the assumption of its continuance. The economic

life and fortunes of men become hostages to that continuance, which in turn takes its place as part of the general security.

6) Now that security is here, in a democratic order which I think is government through the form of predominant individual opinion, but which assumes the presence of diverse opinion that may at any time become predominant and which at all times respects minority interests. The preservation of the individual as a centre of thought and action and its reconciliation with the general security is the end of that government. But unguarded power cannot be trusted and the maintenance of social balance demands that the use or exercise of power be subject to controls. Politically this resides in alert public opinion and the secret ballot.

7) In the economic sphere there is the same necessity for counterchecks. We have the institution of private property. This may be conceived in terms of natural right adhering to a free will, an absolutist concept; or in social terms, in which control of use is permitted to the individual until the general interest requires its modification. In the former sense, property becomes more or less identified with personality and its invasion tends to arouse a primitive savagery.

8) In industry, capital must in the long run be looked upon as occupying a dominant position. It is in some respects a greater risk than labour; but as industry becomes established, these risks change inversely. Certainly the predominance of capital against individual labour is unquestionable; and in mass relations, hunger is more imperious than passed dividends.

9) Against the consequence of that, as the history of the past century has demonstrated, the power of organized labour, the necessary co-partner of capital, must be available to redress the balance of what is called social justice: the just protection of all interests in an activity which the social order approves and encourages. But organized labour itself develops and depends upon power, which in turn must be met in balancing controls in relation to the individual members or workers over whom it may be exercised, as well as to industry and public. To avoid misapprehension, I should add that I do not believe in any special deposit of virtue in any group. One difference between people in this respect is that some are aware of the persistence of an original taint.

10) That we cannot draw back and try to reverse the whole progress of the last 100 years in labour-employer relations, that we must go through to a higher evolution of them must, I think, be accepted as axiomatic. On that assumption there are two fundamental views to be taken on the mode of bringing that progress about: either to leave it as the issue of economic war in all its ferocity and waste or as the gradual rationalization of an area where interests are both common and conflicting. That we must have some sort of law or convention regarding these relations is inescapable: whenever human beings are drawn together socially or economically, a rule of that nature by whatever name we call it becomes imperative, and the stronger the conflict of interest the more insistent the demand for settled understandings. But we preserve the conquests of these understandings as we do of human rights generally, and they are taken on by new groups as of course.

11) Is there any doubt at this time in serious minds of the right of labour to organize? In fact, our law now declares that right. The question is whether the remaining controversies are to be settled in the mode of war or reason. Considering the immense stage in which these relations now appear, it would be a sad commentary on what we call Christian civilization if every foot of that field would have to show the waste of conquest by economic struggle. There is still and may always be a residue of this area which it will be beyond the powers of man to conquer by the force of his intellectual or spiritual faculties and a similar residue may remain in

economic relations. But the measure of our civilization will be the degree to which that residue is diminished in scope.

12) From the foregoing I draw the following conclusions. The organization of labour must in a civilized manner be elaborated and strengthened for its essential function in an economy of private enterprise. For this there must be enlightened leadership at the top and democratic control at the bottom. Similarly as to capital. The absolutist notion of property like national sovereignty must be modified and the social involvement of industry must be the setting in which reconciliation with the interests of labour and public takes place. This means the rationalization of the individual industrial organism. Where rational considerations meet in an apparent impasse, a new factor must be taken into account, the issue of ultimate economic conflict. Apart from the question of wages, to men of good will who will recognize their obligation to the social order which makes possible and safeguards the very activity whose rights they defend, it ought not to be necessary that the inevitable loss to every interest should be actually suffered in labour strike; at the lowest, an intelligent appreciation of relative strengths including the public conviction by which these relations must ultimately be decided would obviate that loss; and I would not accept the view that the development of such judgment is beyond human powers. Hitherto the tendency has been to treat labour as making demands quite unwarranted on any basis of democratic freedom in relation to property and business and the ordinary mode of settling labour disputes, a piecemeal concession in appeasement. I cannot see much effort to place conciliation on principle and although at once I disclaim any hope of doing more than to suggest principle through a slightly altered approach, I must at least make that attempt.

The Particular Problem

13) From these general considerations I pass to the particular problem. It would, I think, be futile to try to fix detailed responsibility for the past unsatisfactory relations between the Ford Company and its employees.

14) The primary and essential error lay, in my opinion, in what I have called an absolutist concept of property; the plant and business belonged to the Company; the Company was buying labour as a commodity; and labour had no more direct interest in the conduct of any part of the business than the seller of any other commodity.

15) Whatever of fairness or reasonableness was to supplement high wages lay exclusively in the wiser judgment of management. It was an arm's length relation. This attitude could do only one thing: engender a like attitude on the part of employees; and deterioration into tension and hostility was inevitable. Particularly was that inevitable when the nature of the operations is considered. Here is a highly congested and articulated undertaking; the work generally is the repetition of limited operations; the psychological effects, or in another aspect, the employee psychology, under the best conditions would require a sympathetic handling; in a hostile atmosphere they could be deplorable. Critically, the failure is not so much ethical or economic as intellectual; with such a set of assumptions even a wholly mechanical administration could be accompanied by the conviction of -rightness. What astonishes me is the anomaly of a magnificent engineering plant, machines and functions co-existing with a human engineering with so many apparent strains and frictions. But the negotiations throughout were carried on by both sides with frankness and good manners; both were desirous of avoiding futile recriminations and of setting themselves to the work of providing for the future protection of the best interests of the industry as a whole. It would therefore be a poor service to them to dwell further on these features. I can only trust that their real mutuality of interest in this enterprise is finally being sensed.

16) Certain actions which took place during the strike appeared to the public mind as extraordinary and I shall make a brief observation on them. Beyond doubt picketing was carried on in an illegal manner. The resistance to the preservation of plant property was from the standpoint of the strikes a supreme stupidity. The filing of the street alongside the plant with vehicles and the interference with innocent members of the public was an insolent flouting of civil order. But beyond doubt too, there was exasperation and provocation, and these actions seem to indicate the intensity of conviction on the part of the men that fair demands were being met only by stolid negativism. No one attempts to justify these actions, but a strike is not a tea party and when passions are deeply aroused civilized restraint go by the board unless the powers of order are summoned to vindicate them. Illegal action is for the civil authority to deal with. That authority must take the risk of temporizing with lawlessness. If broken heads are the only alternative to protection of members of the public, I do not understand that public safety must be abandoned.

17) These matters are indeed relevant to the question of union responsibility. There must be growth in these organizations as in all other groups as well as individuals and only experience can bring maturity of judgment and of conduct. An irresponsible labour organization has no claim to be clothed with authority over persons or interests. But I am dealing with a body recognized as the bargaining agent for approximately 9,500 employees, and while their abuse of striking power cannot be excused, much less justified, we cannot disregard the complex of hostile attitudes and resulting exasperations from which that abuse in fact arose. The protection which the law in general now affords against an irresponsible organization as a bargaining agent is the power in the employees to choose a new agent.

18) I have had the opportunity of sizing up the leadership of this union so far as it is represented by the Committee of Negotiation. The members are all of English speaking origin and British citizenship. They have impressed me as being men of the stuff of which ordinary Canadians are made. With the exception of Messrs. Burt and MacLean who are on leave of absence from General Motors at Oshawa as international representatives of the union, they are men with seniority in the Ford Plant ranging from 10 to 18 years. They conducted themselves in negotiation with intelligence and reasonableness. I have no doubt their dominating interest is the job of those they represent in that industry and that their object is to attain for those employees and their families a secure and self-respecting living, which seems to be the object of most Canadians. That aim is legitimate, whether or not attainment is possible.

19) It has been suggested that the union officers, as other labour leaders, are primarily concerned with the maintenance of their positions and power and no doubt some of them have experienced stirrings of that nature. But union organization is admittedly necessary in the present set-up of our society and we cannot expect these men who have gifts of leadership - and it is by such leaders that movements against wrongs are initiated - to be quite free of those human frailties from which only few saints escape. The only effective remedy for abuse of this nature is a greater democratization of the union.

20) It is intimated also that they are merely the instruments of a communistic group which seeks not the realization of private enterprise but its subversion. There may be such a group among the automobile workers in and about Windsor. There may be some degree of organization and leadership. But the employees who would be susceptible to one-sided teachings of that sort would not in general have the remotest understanding of communist ideology and would grasp at its promise as an escape from what is vaguely felt to be a dictatorship of capital. I should say on principle that a leadership which is opposed to communistic ends and methods, as I think this is, should be supported in a democratic economy; it is the failure of that leadership that furnishes the opportunity for strengthening the position of its opponents. I have no doubt that in the situation of Windsor to-day a city so immediately exposed to the pressure of labour action in the United States, an unreasoning denial of some effective form of union security would throw the controversy into a

cauldron of deepening animosities ruinous to the interests of men, industry and public. Nor is it sufficient to say that these men must recognize their responsibilities. Responsibilities are the correlatives of rights and where the latter are unreasonably denied it is somewhat of mockery to be told that you must discipline yourself to injustice in order to demonstrate your title to justice. I am aware of the difficulty of defining justice, but in this particular field we have come within sight of general standards according to which what the judgment of fair minded Canadians would call -rough justice can be approximated.

Union Security

21) Let me now apply these considerations to the case before me in relation to the claim to union security; other points of difference have arisen, but they are minor, they concern plant administration matters, and I will deal with them in a separate memorandum.

22) Union security is simply security in the maintenance of the strength and integrity of the union. Disruptive forces may come from the Company or from other competing labour organizations or simply from the lack of centripetal force within the employee body. But the first is now forbidden by law and the second is not in fact present: the negotiating union is unchallenged in the organization of workers of automobile and affiliated industries.

23) What is asked for is a union shop with a check-off. A union shop permits the employer to engage employees at large, but requires that within a stated time after engagement they join the union or be dismissed if they do not. This is to be distinguished from what is known as a "closed shop" in which only a member of the union can be originally employed, which in turn means that the union becomes the source from which labour is obtained.

24) The "check-off" is simply the act by the employer of deducting from wages the amount of union dues payable by an employee member. It may be revocable or irrevocable for a stated time and may or may not fix the amount of deduction. Where there is a closed or union shop, the check-off becomes less significant because of the fact that expulsion from the union requires dismissal from employment.

25) In addition to the foregoing of which there may be many modifications, there is what is known as "maintenance of membership" which is a requirement that an employee member of a union maintain that membership as a condition to his continuing employment for a stated time, generally the life of an agreement. In this also there can be many modifications.

Factors in the Decision

26) Basing my judgment on principles which I think the large majority of Canadians accept, I am unable in the circumstances to award a union shop. It would subject the Company's interest in individual employees and their tenure of service to strife within the union and between them and the union which, with extraordinary consequences, in one instance has proved a serious matter for the Company concerned: and it would deny the individual Canadian the right to seek work and to work independently of personal association with any organized group. It would also expose him even in a generally disciplined organization to the danger of arbitrary action of individuals and place his economic life at the mercy of the threat as well as the action of power in an uncontrolled and here an unmatured group. It may be said that that is the danger to the individual in society, but while we must run the risk of the latter, certainly in some situations it is desirable to withhold the same power from smaller units. This points to a field within labour organization affecting the interest of

the individual, the employer, and the public, which perhaps must be left for legislation. At least a code of these relations cannot be made a conditional annex to the determination of a limited point of dispute as I have it here.

27) I should point out that the employer can by his consent subject his employees to the full force of the organized power of unionism, and in many groups in trades and employments in Canada that has taken place, e.g., printing trades including that work in many newspapers, longshoremen, theatrical and moving picture operators, hotel and restaurant employees, building workers, pulp and paper mill workers, miners, milk and dairy employees, seamen, and others. Some of these trades are organized as exclusive crafts, but their power is recognized and strengthened whenever in a plant permanent or temporary employees are taken from their ranks. In these cases, the employer's interest in his personnel, except as to competency, is surrendered and the individual's right against the organization, except as a member of it, is destroyed. It may be of some interest that the Ford Motor Company in the United States with over 100,000 employees affected has accepted the union shop and check-off in all of its production and assembly plants and units in that country.

28) On the other hand, the employees as a whole become the beneficiaries of Union action, and I doubt if any circumstance provokes more resentment in a plant than this sharing of the fruits of unionist work and courage by the non-members. It is irrelevant to try to measure benefits in a particular case; the protection of organized labour is premised as a necessary security to the body of employees. But the Company in this case admits that substantial benefits for the employees have been obtained by the union, some in negotiation and some over the opposition of the Company. It would not then as a general proposition be inequitable to require of all employees a contribution towards the expense of maintaining the administration of employee interests, of administering the law of their employment.

29) What I am dealing with is employment in a mass production industry. The employees are co-ordinated with mechanical functions which in large measure require only semi-skilled operators. No long apprenticeship is necessary to acquire those skills; some operations can be taken on at once, and there is a general rise in complexity. But it is essentially the utilization of concentrated manpower in a framework of machines in which the initiative and artistry of the individual is either nonexistent or becomes stereotyped,. The large body of employees from their stature and their average skills are inescapably of a class that must be governed more or less in the mass and by mass techniques and one chief object of the plant law is to diffuse authority among the labour representatives to make administration as flexible as possible. But in such a body we cannot look for that generalized individuality in understanding and appreciation of the necessity for employee organization which craftsmen have tended to evolve. Their objectives and their conception of union function are much too simplified for that. With the aggravation of an annual lay-off, the result is that the union is subject to a periodic disorganizing tendency. Then too, the union has little to offer the men except their plant law: there is less individual appeal of or opportunity for social activities or union benefit provisions than in other classes of labour. In these conditions, it is, in my opinion, essential to the larger concern of the industry that there be mass treatment in the relation of employees to that organization that is necessary to the primary protection of their interests.

30) I consider it entirely equitable then that all employees should be required to shoulder their portion of the burden of expense for administering the law of their employment, the union contract; that they must take the burden along with the benefit.

31) The obligation to pay dues should tend to induce membership, and this in turn to promote that wider interest and control within the union which is the condition of progressive responsibility. If that should prove to be the case, the device employed will have justified itself. The union on its part will always have the spur to

justify itself to the majority of the employees in the power of the latter to change their bargaining representatives.

32) It may be argued that it is unjust to compel non-members of a union to contribute to funds over the expenditure of which they have no direct voice; and even that it is dangerous to place such money power in the control of an unregistered union. But the dues are only those which members are satisfied to pay for substantially the same benefits, and as any employee can join the union and still retain his independence in employment, I see no serious objection in this circumstance. The argument is really one for a weak union. Much more important to the employee will be the right which is being secured to him in the conditions to be attached to the check-off, to have a voice in that of which he is now a victim, the decision to strike. Whether the constitution of the union is sufficiently democratic in securing the powers of the members or such money power is dangerous are matters which concern the members and the public. The remedy lies essentially in the greater effectiveness of control in the members; but outside interference with that internal management is obviously a matter of policy for the legislature. Apart from the strengthening of the union on which I have made observations in these reasons, I see no special interest of the employer as such in these possible dangers and in the present state of things, those who control capital are scarcely in a position to complain of the power of money in the hands of labour.

33) The Company's suggestion was that in relation to the union shop the union should be left to its own resources until such time as legislation was passed placing controls and requirements on the constitution of unions, their accountability to members and the public and other features of their internal organization. But this assumes the exhaustion of the resources of private negotiation which I think unwarranted and in the actual circumstances and for the reasons I have given it would perpetuate a ruinous hostility in labour relations; and Mr. Aylesworth conceded that the scheme I am about to make effective went "quite" a way to meet his objections to a union shop.

Terms of Award

34) My award is a check-off compulsory upon all employees who come within the unit to which the agreement applies. It shall continue during the period of the contract. The amount to be deducted shall be such sum as may from time to time be assessed by the union on its members according to its constitution, for general union purposes; it shall not extend to a special assessment or to an increment in an assessment which relates to special union benefits such as for instance union insurance, in which the nonmember employee as such would not participate or the benefit of which he would not enjoy. The deduction shall be made only in the conditions and circumstances laid down by the constitution and by-laws of the Union, but it shall not include any entrance fee. At the end of each calendar month and prior to the 10th of the following month the Company shall remit by cheque the total of the deductions to the local union.

35) This mechanism, from the orthodox standpoint, preserves the basic liberties of Company and employee which I have mentioned. The assessment affects only the employees; the employer is concerned only in the expense of the check-off and the strength which it may give to the union. But the expense can properly be taken as the employer's contribution toward making the union through its greater independence more effective in its disciplinary pressure even upon employees who are not members, an end which the Company admits to be desirable. I should perhaps add that I do not for a moment suggest that this is a device of general applicability. Its object is primarily to enable the union to function properly. In other cases it might defeat that object by lessening the necessity for self-development. In dealing with each labour situation we must pay regard to its special features and circumstances.

36) In addition to all other provisions in the agreement and subject to but except so far only as it or they may from time to time be affected by any law or any regulation having the force of law, which, from time to time, shall be read with these provisions, this obligatory check-off shall be subject to the following conditions:

1. No strike, general or partial, shall be called by the union before a vote by secret ballot supervised by an officer of the Department of Labour for Ontario appointed by the Minister of Labour for that province shall have been taken of all employees to whom the agreement applies and a majority voting have authorized the calling of a strike within two months from the balloting.

2. The union by one of its international officers or by two officers of the local, including the President, shall repudiate any strike or other concerted cessation of work whatsoever by any group or number of employees that has not been called by the union after being so authorized; and shall declare that any picket line set up in connection therewith is illegal and not binding on members of the union. The repudiation and declaration shall be communicated to the Company in writing within 72 hours after the cessation of work by the employees, or the forming of the picket line respectively.

3. In addition to any other action which the Company may hereunder or otherwise lawfully take, any employee participating in an unauthorized strike or other concerted cessation of work not called by the union shall be liable to a fine of \$3.00 a day for every day's absence from work and to loss of one year's seniority for every continuous absence for a calendar week or part thereof.

4. Should the union violate this provision for union security either by declaring a strike otherwise than with the authorization by ballot of the employees or by failing to repudiate or to declare as herein provided, it shall be liable to the penalty of a suspension of the check-off, in the case of any unauthorized strike by the union or an unauthorized general strike or concerted cessation of work by employees which it does not repudiate or of a picket line in connection therewith in respect of which it does not so declare, for not less than two and not exceeding six monthly deductions; and in the case of an unauthorized partial strike or cessation of work by employees, for failure to repudiate or declare, not less than one and not more than four monthly deductions; the suspension to be in the former case, next following the return to work of the striking employees, and in the latter case, next following the violation. The penalty above the minimum shall be in the discretion of the Company, but the Company shall have regard to the seriousness and the flagrancy of the violation; the reasonableness of that discretion shall be a matter for the grievance procedure and shall be submitted direct to the umpire. The suspension shall be absolute in its effect on dues for each of the months of the suspension period, subject however, to the decision of the umpire on any appeal under this paragraph.

5. At any time after the expiration of ten months from the date of the agreement and from time to time thereafter but with not less than one year between ballotings, not less than 25 per cent of all employees to whom it applies may on application to the Minister of Labour for Ontario obtain a secret ballot to be supervised by an officer of the Department of Labour for Ontario designated by the Minister for the selection of a bargaining agent, but the union shall continue to be the bargaining agent of the employees until a new bargaining agent has been so selected by a majority of the employees.

6. The deduction on the records of the Company shall constitute the sums so dedicated as money held by the Company in trust for the Local.

7. This provision for union security shall be enforced by the Company against each employee to whom the agreement applies as a condition of his continuance in or entrance into the Company's service.

8. Any employee shall have the right to become a member of the union by paying the entrance fee and complying with the constitution and by-laws of the union.

9. Except as otherwise specifically provided or dealt with, any dispute as to a violation of any condition or provision of this section shall be matter for the grievance procedure and shall be submitted direct to the umpire.

10. The Company, the Union, and the Local shall do all such acts and things as may be requisite or necessary to the observance and carrying out of this provision for union security according to the true intent and meaning hereof.

(The paragraph numbers refer to the clauses of the Collective Agreement)

25. (a) If management's decision is not satisfactory to the employee concerned, written notice of appeal signed by the employee may be served on the Personnel Manager within four regular working days of the delivery of the decision, appealing here from to an impartial umpire to be selected by the parties to the grievance or if such parties fail to select an umpire within five regular working days of the receipt by the Personnel Manager of the notice of appeal, then to an impartial umpire designated by the Minister of Labour for Ontario. The umpire so designated shall be a jurist of repute in that province. Each party shall have the right to object to one name proposed by the Minister. Except as herein otherwise expressly provided, the decision of the umpire shall be final and binding on the parties to the appeal.

(b) Except as otherwise expressly provided herein, the umpire shall not have jurisdiction to modify in any manner any discipline imposed on an employee or the Union in accordance with the terms of this agreement or the published rules and regulations of the Company; but the Union may at any time suggest to the Company that the penalty provided; by any such rule or regulation is unreasonable; and if agreement cannot be reached thereon, the matter shall be a grievance hereunder and shall be submitted direct to the umpire; but the decision of the umpire shall not be binding on the Company. This shall not affect the determination by the umpire of the fact, of such violation or any question of the interpretation of this agreement or of the said rules and regulations. But if it is specifically alleged that the penalty has not been imposed in good faith but has been influenced by improper or ulterior motives or by reasons other than the proper administration of discipline within the plant, the umpire shall hear the evidence offered in support; and if he finds the allegation to be true, he shall have jurisdiction, notwithstanding anything herein contained, to modify the penalty accordingly.

The expenses of the umpire, if any, shall be borne in equal shares by the Company and the Union, and the shares shall be paid direct to the umpire by each.

50. Notwithstanding their seniority status, stewards, in the event of a lay-off, shall be continued at work when not less than ten employees are working in their respective jurisdictions. In the case of overtime or extra work, stewards shall be continued at work when work of their classification is available in their jurisdiction respectively which they are able and willing to do; and, in the case of overtime or extra work, in any event, when not less than 15 per cent of the employees within their respective jurisdictions are at work, with a minimum number in all cases of ten and a maximum percentage requirement of twenty-five.

51. Notwithstanding their seniority status, plant committee men and negotiating committee men who are employees of the Company shall be continued at work as long as work of their classification is available in the plant in which they are employed and which they are able and willing to do.

52. A person who has been a member of the armed forces of Canada including the Merchant Marine at any time since September 1, 1939, upon entering the service of the Company and subject to the conditions of the probationary period, shall be given an

immediate seniority equal to the length of time he served in the forces and this constructive seniority shall be taken into account in his application for work; but this shall not entitle him on such entrance to displace a person then in the Company's employ, except where the former was at the time of his becoming a member of the forces a resident of Essex County, Ontario, and the latter was immediately before his employment by the Company a non-resident of that county. To obtain the benefit of this clause, the person applying shall do so within one year from his discharge from the forces and shall at such time present his discharge papers. There shall be attached to such papers a certificate by the Company showing the date when he was taken into the Company's service.

56. The president and the Financial Secretary-Treasurer of the Local and any international officer of the Union having jurisdiction exclusively in Canada, being employees of the Company, so long as offices held by them are full-time positions, shall be granted leave of absence by the Company and while on such leave of absence shall accumulate seniority.

57. If an employee be transferred from one department to another, he shall incur no loss of seniority; provided that an employee transferred at other than his own request, unless such transfer is the result of his failure satisfactorily to perform the work required of him, shall be the junior employee in the occupational group or department, as the case may be, who is able satisfactorily to perform the work required of him in the new department, and he shall be notified of an opening occurring in his immediate former department within a period of six months from the date of his transfer and within 24 hours of such notification may elect to be retransferred to his immediate former department, subject to his being able satisfactorily to perform the work required of him. If the employee on being so notified does not elect to be so retransferred, he shall thereafter have no claim on his immediate former department.

77. (a) Subject to any provision of law or any regulation having the force of law, this agreement shall continue until March 31, 1947, and thereafter unless and until terminated as herein provided. The termination may be effected on March 31, 1947, or on September 30, 1947, or on such days in any year hereafter, in the following manner: Either party may give to the other two calendar months' notice of negotiation, setting forth all matters in respect of which it desires to amend this agreement. The parties will thereupon negotiate on such matters. If they do not agree thereon, the party giving the notice may, not later than the last week of the said period, give to the other a further notice of termination to take effect at the end of the month next following the period of negotiation, and on the expiration of that month this agreement shall come to an end. If no such further notice is given, this agreement shall continue in effect as if no notice of negotiation had been given, subject to any amendment the parties may have agreed to incorporate herein; upon the election at any time or from time to time by the employees of a new bargaining agent, that agent shall be deemed to be substituted for the Union or other representative of the employees, as the case may be, as a party hereto as fully and to all intents and purposes as if it had been originally a party hereto.

79. The parties declare the desirability of a group medical, hospital and life insurance scheme for the benefit of the employees. If within six months from the date hereof the

Company and the Local have not been able to agree upon such a scheme, the Local may at its own expense make provision for such benefits by an arrangement with an indemnity insurance company approved by the Minister of Labour for Ontario. The monthly premiums payable by the employees shall, upon the written authority of every such employee, be deducted each month from the payroll of the Company at its expense and the total sum in accordance with the direction of the Local remitted to the indemnity company with which the Local has contracted. The authorization to deduct shall make provision for cases in which the money payable to the employee in any month is not sufficient to enable the Company to make the necessary deduction.

80. Subject to any law or any regulation having the force of law, scales of wages and classifications may be the subject of a supplementary agreement, and unless otherwise provided therein the umpire hereunder shall have no jurisdiction in relation to such scales and classifications; but this shall not affect his jurisdiction over the matter of the application of such classifications as may from time to time be in effect to any employee.