# Collective Bargaining and Industrial Disputes in Ireland

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This paper falls into three main sections. The first section contains a general description of the legislative and institutional framework of the industrial relations system. The second section concerns collective bargaining between employers and trade unions, conciliation procedures and the incidence of industrial conflict in recent years. In the final section a number of different aspects of industrial relations are discussed including wage bargaining techniques, incomes policy and dispute situations which can be related to the existing institutional arrangements. Where appropriate references are made to practices and procedures in industrial relations in other countries.

## I

### THE LEGAL FRAMEWORK

In a free society the right of workers and employers to organise implies the right to exercise the power that collective action carries within the scope of a liberal legal framework. The right of workers and employers to form voluntary associations was guaranteed by the Constitution of the Irish Free State (Saorstat Eireann) Act, 1922 and the legitimacy of industrial conflict was recognised by the new state maintaining in force enactments introduced by the British Parliament between 1871 and 1906. These British enactments gave legal recognition to organisations of workers and employers and removed any taint of conspiracy from their activities. They defined the position of these organisations in relation to industrial disputes, they permitted trade unions to engage in peaceful picketing as a method of giving publicity to disputes and they accorded a privileged position to officials of trade unions when they acted in contemplation or furtherance of disputes between employers and workers or workers and workers. The conscious acceptance of this body of legislation gave recognition to the proposition that trade unions should not only be free to bargain about wages and conditions of employment but also free to enter into disputes with employers when they could not arrive at agreements which were satisfactory to them. The inherent risk of friction occurring between different interest groups as a result of free collective bargaining was accepted and it was tacitly assumed that economic conflicts would

be resolved through the interaction of social forces and not through legal sanctions.

The basic principle that voluntary organisations of workers and employers should be independent of the state in a democratic society was confirmed after a period of sixteen years of self-government, in the 1937 Constitution of Ireland[1] which maintained the 1922 constitutional guarantee that citizens were free to form associations and unions subject only to public order and morality and any laws which might be enacted by the Oireachtas for the regulation and control of this right in the public interest. Laws which applied prior to the coming into force of the 1937 Constitution were to remain effective (provided they were not found by the courts to be inconsistent with the terms of the Constitution) until they were either repealed or amended by the Oireachtas.[2] This meant in effect that laws regulating employer and worker organisations which had been enacted by the British Parliament up to 1922 continued to apply after 1937. There was only one minor statute, concerning the ownership of land by trade unions, introduced in Ireland between 1922 and 1937.

Two important enactments by the Oireachtas after 1937 modified the position which had evolved out of British legislation. The Trade Union Act, 1941 made provision for the establishment of a trade union tribunal with power to restrict the right of unions to organise workers in certain circumstances. This tribunal had authority to confer upon a trade union exclusive organising and recruiting rights for certain classes of workers. This procedure, however, was held to be repugnant to the Constitution by the Supreme Court in 1947.[3] The decision of the Court prevented the State from influencing the structure of trade union organisation by legislative action. The 1941 Act also made provision for the licensing of both trade union and employer bodies engaged in the collective negotiation of wages and conditions of employment. It thus became unlawful for any organisation of employers or workers, not being exempted bodies,[4] to conduct negotiations about wages and conditions of employment unless they held a negotiating licence. The statutory provisions which had to be met before a licence could be obtained were not very stringent and a licence could not be withheld from organisations which were able to meet the requirements laid down by the Act. Accordingly, this licensing procedure had little effect on the number of trade unions and employer bodies engaged in in collective negotiations although it may have prevented a further proliferation of negotiating agencies. The second important enactment was the Industrial Relations Act, 1946 which established the Labour Court. The functions of the Court in relation to industrial disputes will be dealt with in the next section.

In addition to these two statutes there have been a number of decisions by Irish courts of law which have modified the legal position in Ireland relative to Britain. One of the more important changes was decided in 1961 when the Supreme Court established the principle that the constitutional right of a person to join a trade union implied the correlative right of not joining a union and thus it became unlawful for trade unions to engage in picketing with a view to coercing persons to join associations

or unions.[5] This decision held potentially profound implications for trade unions endeavouring to increase their membership.

It may be said that the State has consciously pursued a policy of fostering free negotiations between voluntary organisations of employers and workers. It has done this by ratifying conventions of the International Labour Organisation concerning the right of workers and employers to associate and organise for collective bargaining and by accepting the obligations of the European Social Charter promoted by the Council of Europe. It has also facilitated the setting-up of voluntary joint negotiating machinery in industry for the collective determination of wages and conditions of employment and the peaceful resolution of disputes. Where a danger existed that workers might be exploited because they were inadequately organised and lacked effective bargaining power legislation has made provision for the establishment of tripartite bodies with power to set legally enforceable minimum rates of pay. Basic standards of employment on such matters as working hours and annual leave for both adult and juvenile workers have been established by legislation.[7] Compulsory arbitration as a method of resolving industrial disputes has not been promulgated. In all matters concerning industrial relations the fundamental objective of the State has been to bring employers and trade unions together at the bargaining table to talk about their problems and to provide them with the opportunity of making voluntary agreements.

## II

## COLLECTIVE BARGAINING

In Ireland, as in many democratic countries, collective bargaining is the predominant way of determining wages and conditions of employment. Bargaining aims at securing agreement on terms which the parties concerned will feel committed to and which they voluntarily agree will regulate their relations in the future. The term collective bargaining may be applied to both negotiations between a trade union and an individual employer and to negotiations between trade unions and an organisation of employers. It is important to note that the influence of collectively bargained rates of pay and conditions of employment may extend beyond the area of jurisdiction of the negotiating parties. In employments where wages and conditions are management-administered because workers are unorganised the terms of collective agreements may virtually determine the terms of employment offered by management. In addition, collective agreements may be registered at the Labour Court. When an agreement is registered at the Court all employers in the industry or trade covered by the agreement are legally obliged to grant to their workers wages and conditions not less favourable than those contained in the registered agreement irrespective of whether or not they are signatory parties to the agreement.[8]

The areas covered by the typical collective bargain differ widely. Industry-wide and regional bargaining predominates in older established industries and trades, company bargaining in single-firm industries, state-sponsored enterprises and many of the more recently established industrial

and commercial concerns in the private sector of the economy. Agreements made at industrial or regional level covering more than one employment are frequently supplemented by subsidiary agreements negotiated directly between an employer and union at the level of the enterprise. The precise form which collective bargaining now takes is the result of a pragmatic approach by both sides of industry and the evolution of representative organisations of workers and employers. Where there are a number of employers in the same industry or trade industrial or regional bargaining sometimes meets the needs of both employers and unions. By negotiating on an industry-wide scale unions can establish the same rates of pay and conditions of employment for the same work and therefore not only be in a position to reply effectively to an employer who contends in good faith that he could not meet a union claim unless all firms competing with him have to pay it but also give practical recognition to the concept of worker solidarity. Employers who are sensitive to price competition see in this form of collective bargaining an advantage in having a floor put to labour costs in a whole industry or trade. The individual employer can also appreciate the reduced risk of being strike bound in isolation. Company bargaining on the other hand provides trade unions with the opportunity of concentrating pressure on a limited area and supporting a strike against an individual employer, with a view to getting him to set a headline, with funds subscribed by union members at work in other employments who will gain by the terms which eventually settle the dispute. Where an employer has a choice between negotiating as part of a group or independently the decisive factor is probably the personality of the employer. If he dislikes the obligation of having to accept policies determined by a majority of employers in a negotiating group he will probably choose to deal directly with the union. Two other forms of collective bargaining have also been features of the industrial relations scene for some time. First, the existence of a number of craft trade unions has resulted in the practice of negotiating rates for particular classes of craft workers on a nation-wide basis. These rates are applied to the classes of craft workers concerned irrespective of the industry in which they are employed. Second, in the last twenty years the main employer organisations and the central trade union authority have on four occasions negotiated nation-wide recommendations which have set guide posts for local negotiations on wage and salary claims. These central recommendations established norms which limited the bargaining area in negotiations which were subsequently held at industrial, district and plant levels. Although the form which collective bargaining takes varies considerably the outcome of bargaining at any particular time, particularly on claims for higher wages, is less divergent than might be expected due to the dominant influence of comparability in a relatively small country.

The terms of collective agreements which employers and unions negotiate generally fall into two parts. The so-called substantive clauses contain the terms which the parties have agreed to accept on such matters as wages, working hours, holidays and other major conditions of employment; the procedural clauses set out the rules which may be applied for

resolving disputes which could arise in the future between the negotiating parties on proposed changes to an agreement and the machinery for handling workers' grievances in the employments which are covered by an agreement. There are a number of important aspects of collective agreements in this country which it is important to mention as they affect the functioning of the industrial relations system and indicate the flexible way in which the parties operate. First, these agreements are primarily designed to produce order in employer–worker relations and maintain industrial harmony by encouraging the use of conciliation procedures for resolving differences. Second, they are generally rather simple documents which deal only with major aspects of employment conditions. They do not contain detailed provisions regarding conditions at the workplace or interfere with practices and customs which develop in the course of time as a result of discussions between managements and workers' representatives on the shop floor. Company-bargained agreements, and agreements which apply to workers in the public sector, are usually more comprehensive and more rigorously applied than agreements which are negotiated on an industrial or district basis and which cover more than one employer. Third, the parties do not normally intend to be legally bound by the collective agreements they make.[9] They do not regard them as legally enforceable contracts. Threats of industrial sanctions are largely relied on to secure compliance. Fourth, most agreements are open-ended which means that they are not necessarily re-negotiated at a particular point of time and most issues which arise can normally be submitted for discussion and negotiation through the procedural machinery. Fifth, differences between the parties concerning either the method of applying agreements or the correct meaning to be placed on clauses in agreements are not generally referred to a third party for a final and binding decision but are dealt with through the ordinary conciliation procedures and accordingly they can give rise to open conflicts. Sixth, very few agreements negotiated in recent years provide for automatic adjustments in wage rates consequent on changes in the level of consumer prices. It may be said that in a number of countries collective agreements have greater significance and standing than agreements in Ireland.

## TRADE UNION ORGANISATION

The way in which employers and workers organise themselves for collective bargaining influences both the form and content of collective agreements and the types of industrial disputes which occur. The trade union structure in Ireland is one of considerable complexity. There are 97 trade unions operating in the Republic (27 have their head office in Britain) with a total membership approaching 364,000. These unions represent over 50 per cent of the employee labour force. Union organisation is not evenly spread over different industrial groups and different occupations and the largest concentration of trade unionists are to be found in the more industrialised zones and in such industries as electricity, gas, water, transport, communications and manufacturing industry. It has been estimated that between 50 per cent and 70 per cent of the employee

labour force in these branches of economic activity are organised by trade unions. Eighteen unions have a membership of over 4,000 and they account for 80 per cent of all trade unionists. As the movement of workers into trade unions did not follow a standard principle of organisation the existing pattern is the outcome of expediency and historical factors. Table 1 classifies trade unions by type and size. It can be seen that 6 general unions catering largely for unskilled and semi-skilled manual workers and a growing number of white-collar workers account for over half all trade union members in the country. The large number of relatively small craft and white-collar unions emphasises the occupational as distinct from the industrial basis of much trade unionism in Ireland. This factor alone precludes in the majority of cases the negotiation of comprehensive collective agreements covering all organised workers in a particular industry, trade or employment. It also means that unless these autonomous unions share a common idea about the appropriateness of differences in pay and conditions between various grades of workers an unstable situation will exist. The development of a consensus on pay relativities is particularly difficult to achieve when worker organisation is on an occupational basis as each union has to strive to raise not only the absolute level of their members' rates of pay but their relative position in the labour force. The spread of trade unionism and collective bargaining to white-collar workers has inevitably weakened the traditional equalitarian outlook of unions and made it virtually impossible for them to seek a practical solution to income problems through a levelling process.

TABLE 1

A. TRADE UNION ORGANISATION*

| Type of Union | Number of Unions | Number of Members |
|---|---|---|
| General Unions ... ... ... | 6 | 203,900 |
| Unions of Manual Workers ... | 19 | 46,200 |
| Craft Unions ... ... ... | 26 | 30,300 |
| Civil Service Organisation† ... | 19 | 19,200 |
| White Collar Unions ... ... | 27 | 64,300 |
| Total ... ... ... ... | 97 | 363,900 |

The statistics shown are taken from Trade Union Information, Feb.-Mar. issue 1967 published by the Irish Congress of Trade Unions.

Civil Service Organisations which form the Civil Service Alliance have been counted as one organisation.

B. SIZE OF TRADE UNIONS

| Size of Union | Number of Unions | Number of Members |
|---|---|---|
| 1,000 members or less ... ... | 15 | 14,600 |
| 1,001 to 4,000 members ... | 18 | 56,100 |
| 4,001 to 7,000 members ... | 11 | 60,000 |
| 7,001 to 15,000 members ... | 3 | 32,100 |
| 15,001 and over ... ... ... | 4 | 201,100 |
| Total ... ... ... ... | 97 | 363,900 |

Since 1959 the central organisation of trade unions has been the Irish Congress of Trade Unions. There are 77 individual unions with members in the Republic and 24 trade councils (representing branches of national unions in different geographical areas) affiliated to the I.C.T.U. The affiliated unions represent about 94 per cent of the total trade union membership in the Republic. Unions which organise workers and represent their interests in collective bargaining in either the Republic or in Northern Ireland or in both areas may seek affiliation to the I.C.T.U. Congress is charged with representing the collective will of trade unions in labour relations and in legislative and administrative matters. It may when requested by affiliated unions enter into discussions with employer organisations and make joint nation-wide recommendations with the employer organisations on principles relating to the negotiation of wage increases and conditions of employment. The authority which the I.C.T.U. has over affiliated unions is limited. Each affiliated union retains a large measure of autonomy and financial independence and the only sanctions which the I.C.T.U. may invoke when an affiliated union fails to observe its regulations and policies are suspension and expulsion. The total annual income of trade unions from members' contributions approaches £1·2 million and their general funds £3·0 million. In 1964 they paid out about £100,000 in strike pay.[10]

## EMPLOYER ORGANISATIONS

There are 22 employer organisations which hold negotiating licences under the 1941 Trade Union Act but not all of them are exclusively concerned with collective bargaining. In fact the majority of them also engage in matters of an industrial, commercial and technical character on behalf of their member companies. The number of employers in membership of these 22 organisations is around 13,000. The aggregate annual subscription income of the bodies is around £120,000. The Federated Union of Employers is the most important of the employer organisations whose activities are confined to the field of industrial relations. It roughly equals all the other 21 organisations taken together in staff size and the number of workers employed by member firms. The majority of the 1,609 companies in membership of the F.U.E. are organised into industrial, trade and regional branches for collective bargaining purposes. Member companies which are not affiliated to a negotaiting group within the Federation because they may form single-firm industries may use the Federation for advice, information and representational assistance when conducting negotiations with trade unions. Membership of the Federation is open to employers in all branches of economic activity. There is no organisation on the employers' side similar in scope or standing to the I.C.T.U. but since 1962 a committee consisting of representatives of the F.U.E. and other employer bodies concerned with collective bargaining has been in existence.[11] This committee was set up in order to facilitate an exchange of information and views between the representative organisations on problems of industrial relations with a view to achieving greater uniformity among employers on matters of general policy. The committee may, when authorised by their

parent bodies, enter into negotiations with the I.C.T.U. on matters which are of general concern to employers. The committee has no standing rules, officers or funds and the secretarial services are provided by the F.U.E.

So far this paper has been concerned with sketching the general shape of the industrial relations system. Attention will now be given to the effectiveness of the conciliation machinery established by the State for settling disputes and to the incidence of strikes and lock-outs during the period 1956–65.

## CONCILIATION PROCEDURES

It is usual for employers and unions when they are unable to reconcile differences by direct negotiation to refer issues in dispute to the Labour Court. Normally this will only occur after direct discussions have taken place between the parties at local level. A considerable number of collective agreements make provision for disputes to be referred to the Court before any stoppage of work is threatened but even in cases where this provision is not specifically included in an agreement employers and unions normally ask the Court to intervene when they realise that they are not likely to reach agreement without the assistance of a third party.

The Court was established under the Industrial Relations Act, 1946, and Part VI of the Act sets out the position of the Court in relation to disputes. The Court may under the Act take the initiative and intervene in disputes between employers and unions when it is of the opinion that a stoppage of work may occur or it may intervene at the request of any party involved in a dispute. When the Court intervenes in a dispute it will normally, in the first instance, appoint a conciliation officer who is permanently attached to the Court to act as mediator in the dispute with a view to effecting a permanent settlement. If the conciliation officer cannot through persuasion and argument coax the parties into making a settlement at a conference under his chairmanship he may use the occasion to effect a temporary arrangement which will ensure that no stoppage of work will occur pending a full investigation by the Court. In some cases he may be able to do no more than try to ascertain as many of the relevant facts regarding the dispute as possible and report to the Court. When the conciliation procedure fails to produce a settlement the Court will usually investigate the dispute at a public hearing. The Court's terms of reference when investigating a dispute are . . . '*To make a recommendation setting forth its opinion on the merits of the dispute and the terms on which, in the public interest, and with a view to promoting industrial peace, it should be settled, due regard being had to the fairness of the said terms to the parties concerned and the prospect of the said terms being acceptable to them* . . .'. The recommendations of the Court are not legally binding on any of the parties involved in a dispute. [12] A settlement will follow a Court investigation only when the parties concerned accept a recommendation or agree to re-open conciliation negotiations with a view to finding an alternative basis for resolving the issues in dispute. There is no higher standing authority than the Court to which the parties

involved in an industrial dispute may have recourse if one or other or both reject a recommendation. It is clear, therefore, that the usefulness of the Labour Cort as a body for settling disputes depends almost entirely on its own competence in finding acceptable solutions to problems and gaining the respect and support of both sides of industry.

Investigations by the Court may involve consideration of any aspect of labour–management relations. The definition of a dispute given in the Industrial Relations Act, 1946 is '. . . *any dispute or difference between employers and workers or between workers and workers connected with the employment or non-employment, or the terms of employment or the conditions of employment of any person* . . .'. The definition of a dispute is so all-embracing that the Court may investigate any issue which is a cause of friction between employers and trade unions and an examination of over two thousand recommendations issued by the Court since 1947 shows that almost all kinds of disputes have come within the purview of the Court during the last twenty years.

It is difficult to classify Labour Court investigations according to the subject matter of disputes since many recommendations deal with more than one issue. It would appear, however, from an examination of recommendations made in the period 1956–65 that about 60 per cent were concerned with disputes over wages, salaries, differential payments, money allowances, working hours and annual leave. Approximately 10 per cent of Labour Court recommendations dealt with disputes over the dismissal of workers either through redundancy—raising problems concerning the application of the principle of seniority of service on the discharge of workers—or allegations of misconduct or poor work performance by individual workers.

The Labour Court dealt with 3,052 disputes in the period 1956–65. Intervention by the Court led to the settlement of 85 per cent of these disputes. Employers rejected 50 recommendations (4%), trade unions 260 (27%). Fuller details regarding Court intervention in disputes are set out in Table 2. Under Section 70 of the Industrial Relations Act, 1946, the Court may with the consent of all parties concerned refer a dispute to arbitration by one or more persons or it may arbitrate upon it itself. It is indicative of the climate of industrial relations that limited use was made of this procedure during the period 1956–65. The Court itself acted as arbitrator in 3 disputes and arranged for arbitration by other persons in 20 disputes. There is obviously a general unwillingness on the part of employers and trade unions, and particularly trade unions, to agree to a dispute procedure which demands a commitment in advance to accept the decision of a third party.

A study of the activities of the Court over the last ten years shows that it has had relatively little influence over the timing and level of general increases in rates of pay. Disputes over pay claims in key industries have at times been submitted to the Court for investigation in anticipation of recommendations which would give an indication of the level at which general pay claims should, in the opinion of the Court, be settled. When

TABLE 2

LABOUR COURT INTERVENTION IN DISPUTES, 1956–65

| Item | Number of Disputes |
|---|---|
| Total number of disputes dealt with by the Court ... | 3,052 |
| Disputes in which Conciliation Conferences were held ... | 2,664 |
| Disputes settled by Conciliation Conferences ... ... | 1,792 |
| Number of recommendations made ... ... ... | 1,160 |
| Number of recommendations accepted by employers ... | 1,110 |
| Number of recommendations accepted by workers ... | 850 |
| Number of recommendations accepted by both parties ... | 803 |
| Arbitrations by the Court ... ... ... ... ... | 3 |
| Arbitrations by persons appointed by the Court ... ... | 19 |
| Other arbitrations ... ... ... ... ... ... | 1 |

these situations arose at the commencement of national wage rounds in 1959 and 1961 the Court issued recommendations which were rejected by the trade unions, strike action followed and settlements were eventually made for amounts greater than those recommended by the Court.[13] It may be contended in answer to this kind of criticism that the primary function of the Court is to find an acceptable solution to a particular dispute and not to establish norms for general increases in rates of pay. In practice, however, it is difficult for the Court to act as if it were unaware of the wider consequences of its recommendations since trend-setting plays an important role in collective bargaining.

## STRIKES AND LOCK-OUTS

Statistics of industrial disputes which involve stoppages of work have been collected in Ireland and many other countries for a number of years.[14] These statistics do not present a complete picture of the extent of industrial conflict since such manifestations of industrial unrest as bans on overtime working, token strikes, 'go-slows' and 'work to rule' practices are necessarily excluded. Despite these limitations statistics of work stoppages give a reasonable indication of the extent to which employers and workers engage in coercive actions and provide some guidance as to the adequacy of the conciliation machinery and the procedural rules which have developed for assisting employers and unions in settling disputes.

In Ireland in the ten years 1956–65 672 disputes involving work stoppages took place. It is not possible to estimate how many of these stoppages were strikes by workers and how many were lock-outs by employers but experience suggests that only a very small number were lock-outs. These 672 stoppages involved about 150,000 workers and resulted in the loss of 2¼ million working days. About 80 per cent of work stoppages lasted for less than 3 weeks.[15] Stoppages which might loosely be described as occurring over issues of economic interest such as wages, salaries, working hours and holidays with pay, accounted for about 40 per cent of work stoppages, 68 per cent of all the workers involved in stoppages

and 73 per cent of all the time lost because of them. The next most significant feature of the industrial relations scene revealed by the statistics is the number of work stoppages which occurred over disputes concerning the engagement and dismissal of workers. Disputes over these issues accounted for 30 per cent of all work stoppages but involved only 17 per cent of workers and 10 per cent of the time lost due to all stoppages which occurred.

Some of the major work stoppages which occurred in each year in the period 1956–65 are given in Table 3. This shows that (*a*) a relatively small number of stoppages were responsible for a significant proportion of the total time lost through disputes in each year between 1956–65, (*b*) undertakings in the public sector have been as strike prone as those in the private sector and (*c*) major stoppages have generally occurred in employments with a high male labour content.

Considerable concern has been expressed at the long duration of a number of major stoppages of work in recent years.[16] The strike in the building industry in 1964 lasted 12 weeks; the strike in the printing industry in 1965 14 weeks; the dispute in the commercial banks in 1966

TABLE 3

MAJOR STOPPAGES OF WORK, 1956–66

| Year | Industrial Group | Number of Concerns Involved | Working Days Lost | Percentage of Total Working Days Lost |
|---|---|---|---|---|
| 1956 | Coal Mining; Manufacture of Matches ... ... | 3 | 17,500 | 36 |
| 1957 | Fertilisers ... ... ... | 4 | 47,914 | 52 |
| 1958 | Coal Mining; Public Works; Dock Labour ... ... | 7 | 62,548 | 50 |
| 1959 | Coal Mining; Radio Manufacture; Oil Distribution... | 9 | 55,800 | 45 |
| 1960 | Turf Production; Newspapers; Food Processing... | 6 | 43,010 | 54 |
| 1961 | Electricity; Road Passenger Transport; Textiles; Cement ... ... ... | 64 | 230,720 | 61 |
| 1962 | Road Passenger and Freight Transport; Chemicals; Engineering ... ... | 3 | 44,045 | 42 |
| 1963 | Road Passenger Transport; Dock Labour ... ... | 32 | 170,536 | 73 |
| 1964 | Building and Construction; Builders' Providers ... | 229 | 463,000 | 85 |
| 1965 | Food, Drink, Tobacco; Printing; Road Passenger Transport; Bakery Trade ... | 53 | 451,630 | 81 |
| 1966 | Sugar, Confectionery; Paper Milling; Banking ... | 38 | 588,000 | 75 |

13 weeks and the strike in the paper mills in the same year 18 weeks. Issues which the parties considered involved matters of principle were at stake in these stoppages. In the building industry dispute the employers held that the January 1964 12 per cent nation-wide recommendation on wage and salary increases precluded the submission of general claims for shorter working hours and major improvements in other conditions of employment, but this interpretation of the recommendation was not accepted by the trade unions and the interpretation issue was not put to arbitration. The stoppage of work in the printing industry was the result of a claim by a group of workers for an increase of 30 per cent in wage rates during the period of the above-mentioned recommendation. The stoppage of work in the banks arose over a refusal by the bank officials' union to limit their demands to those being made by other organised groups in the community at that time. It is worth noting that the National Industrial Economic Council has proposed a system of impartial inquiries into major disputes *after they have ended* in order to discover the ultimate reasons why they arose and why they lasted so long. The responsibility for making arrangements for such inquiries rests with the Department of Labour. It is significant that some of the recent major industrial disputes concerned the meaning of clauses in agreements which the parties themselves had negotiated. Such difficulties are always likely to arise when agreements are drafted under pressure and strike deadlines and it would seem a sensible procedure to refer such disputes to arbitration. The long duration of some disputes in Ireland might be explained by the fact that they were restricted to a relatively small area. It has not been the practice of employers to try to spread a dispute even in cases where employer organisations considered the interest of employers generally were being challenged. This meant that unions were able to hold out until the employers directly involved were pressed into making concessions. In some other countries disputes over matters of concern to the majority of employers would result in substantial financial assistance being given to those employers under attack. A supporting lock-out may even be organised. Such tactics are based on the proposition that the bigger and more serious a dispute the sooner will the parties or the public authorities find a solution for settling it.

As a guide to forming an opinion on the comparative competence of the Irish industrial relations system to limit open conflicts between trade unions and employers statistics of work stoppages in other countries are of interest. Table 4 shows the average number of working days lost per 1,000 workers engaged in mining, manufacturing, construction and transport in eighteen countries for the period 1956–65.

The incidence of industrial disputes in different countries is influenced by such factors as economic trends, the extent to which workers are organised into trade unions, the methods used for settling disputes, legal limitations placed on the use of sanctions and the historical background to employer–worker relations. The figures of working days lost through industrial disputes are not strictly comparable because of different methods of compilation but nevertheless they provide a useful

TABLE 4

WORKING DAYS LOST PER 1,000 WORKERS ENGAGED (Mining, Manufacturing, Construction, Transport) 1956-65

| | | | |
|---|---|---|---|
| Australia | 359 | Italy | 885 |
| Belgium | 437 | Japan | 389 |
| Canada | 581 | Netherlands | 49 |
| Denmark | 549 | New Zealand | 113 |
| France | 301 | Norway | 259 |
| Finland | 289 | Sweden | 7 |
| Germany | 45 | Switzerland | 5 |
| India | 666 | United Kingdom | 288 |
| Ireland | 632 | United States | 1,020 |

general guide to the scope of industrial conflicts in different countries. In the period 1956–65 the amount of working time lost through industrial stoppages of work in Ireland was greater than in all but three of the eighteen countries listed in Table 4. Ireland's relative position deteriorated during this period. In the five years 1956–61 Ireland ranked thirteenth and in the five years 1961–65 she ranked second. In both 1964 and 1965 she headed the list. It seems clear from these statistics that the Irish industrial relations system has been considerably less successful in containing industrial conflict than the systems which apply in a number of other countries where wages and conditions of employment are largely determined by collective bargaining.

During the ten years 1956–65 the number of disputes handled by the Labour Court doubled and the time lost through strikes and lock-outs increased. It would be difficult to try to explain these trends with reference to the growth of industrial development and the extension of both trade unionism and the scope of collective bargaining. In the earlier part of this period the economy was stagnant but between 1958 and 1964 a substantial rate of economic growth was experienced and real gross national product per head increased by nearly 30 per cent—slightly more than in all O.E.C.D. countries combined. It was during the second part of this 10-year period that the main industrial conflicts occurred and this might lend substance to the general observation that '*increasing co-operation on the production side may open the way for more conflict on the side of the distribution of rewards—the percentage of return to the owners and workers is more flexible the greater the margin of profit and hence subject to more argument and more struggle*'.[17] It was very noticeable that from 1961 onwards there was growing dissatisfaction with prevailing wage and salary relativities. The National Industrial Economic Council has pointed out that post-war movements up to 1959 had resulted in a narrowing of differences between wage and salary earners as a result of the tapering of percentage increases and the application of flat-rate increases and a measure of wage drift between rounds in the pay of some manual workers.[18] After 1960 the differences between the earnings of manual workers and certain classes of clerical workers again tended to widen.

These developments found expression in the submission of claims for so called status increases which were designed to change existing wage and salary relativities. These claims, however, were made by groups of both manual workers and white-collar workers and thus from the point of view of altering traditional relativities they tended in some cases to be self-cancelling.

The main causes of work stoppages during the period 1956–65 which are shown in Table 5 clearly indicate that the main conflict area in industrial relations is represented by the struggles which take place over demands for changes in wages, salaries, working hours and other major terms of employment. Under any system of collective bargaining the danger of open conflicts cannot be eliminated but the form which bargaining takes and the restraints which are imposed on the use of economic sanctions influences the incidence of work stoppages and the ability of the industrial relations system to channel bargaining towards agreement.

TABLE 5

CAUSES OF INDUSTRIAL DISPUTES INVOLVING STOPPAGES OF WORK, 1956–65

| Cause | Number of Disputes | Number of Workers Involved | Number of Working Days Lost |
|---|---|---|---|
| 1. Wages ... ... ... ... | 223 | 70,640 | 1,046,045 |
| 2. Hours of Work ... ... ... | 38 | 32,743 | 619,686 |
| 3. Holidays with Pay ... ... | 4 | 203 | 3,236 |
| 4. Engagement and Dismissal of Workers ... ... ... ... | 202 | 26,485 | 229,432 |
| 5. Trade Union Questions and Refusal to conclude a Collective Agreement ... ... ... | 38 | 4,253 | 72,535 |
| 6. Sympathetic Disputes ... ... | 19 | 2,354 | 43,394 |
| 7. Other Matters ... ... ... | 145 | 26,703 | 273,513 |
| Total ... ... ... ... | 669 | 163,381 | 2,287,841 |

## III

### WAGE BARGAINING

The existence of easily identifiable national wage rounds has been a major phenomenon of collective wage bargaining. In the period 1956–65 two different techniques of bargaining were used for setting the general level of negotiated increases in rates of pay. In both 1957 and 1964 claims for wage increases were dealt with by centrally-negotiated recommendations between the main employer organisations and the central trade union authority and in the wage rounds of 1959 and 1961 a fairly uniform pattern of increases in wages and salaries emerged from sectional bargaining between employers and unions at industrial, regional and plant levels.

Between these wage rounds negotiating activity was mainly concerned with relative wages, working hours, incentive bonus schemes and a variety of other aspects of employment conditions.

The sectional wage bargaining which took place during the 1959 and 1961 wage rounds gave rise to a number of conflicts between employers and unions in the initial phase of negotiations when a pattern of wage increases was only beginning to emerge. In the 1959 wage round the trend-setting agreement was made following a stoppage of work in the petroleum distribution industry and in 1961 the effective precedent was established in the electricity supply industry, again following a stoppage of work. In both these disputes Labour Court recommendations were rejected by the unions and settlements were arrived at only after the intervention of government ministers. Ministerial intervention was designed to get a resumption of conciliation talks between the parties but when this did not prove sufficient in the 1961 electricity supply dispute legislation was introduced giving the government authority to set up a tribunal with power to make a legally binding award. In the event, a settlement was reached without recourse to this procedure.

The 1957 recommendation between the central organisations on both sides of industry provided for wage increases of 10/- per week. This recommendation was negotiated when the economy was in poor shape and anti-inflationary policies were in force. The recommendation appeared to limit the number of work stoppages which occurred over demands for wage increases as only 25 work stoppages over wage claims affecting 6,000 workers were recorded during the period when the recommendation was being implemented through local negotiations between employers and unions. The position in 1964 was rather different. A national recommendation for a 12 per cent increase in wages and salaries was negotiated following two years of economic expansion. The terms of the recommendation were intended to operate for 2½ years unless exceptional circumstances arose. In 1964, 7,000 workers were involved in 38 work stoppages over wage disputes and in 1965 25,000 workers were involved in 27 wage disputes which resulted in stoppages of work. During the period of the 1964 recommendation a number of serious disputes and stoppages of work occurred as a result of differences between employers and trade unions over the meaning to be placed on certain clauses in the recommendation. As already mentioned the trade unions maintained that the terms of the recommendation only obliged them to refrain from seeking increases in basic wages and salaries of more than 12 per cent while the employers held that the 12 per cent increase provided for in the recommendation was negotiated on the understanding that unions would not pursue other claims which would increase labour costs during the 2½ year period it was to remain in force.

The experience of centralised wage bargaining suggests that in Irish conditions disputes which occur during the period of national recommendations are particularly difficult to resolve by negotiation and compromise as the parties to the central recommendation believe that matters of principle are at stake. Sectional collective bargaining on the

other hand tends to give rise to dispute situations during the early stages of a wage round when both parties are trying to establish precedents which will influence the general level of increases in rates of pay. When the general level of wage and salary increases at a particular time has been set by either national recommendations or by the trend-setting approach of sectional bargaining conflict is mainly associated with disputes about relative wages and salaries and conditions of employment.

The institutional arrangements for collective bargaining in Ireland have not been developed with a view to facilitating the centralisition of wage negotiations between employer organisations and trade unions since neither side of industry has committed itself to a policy which favours centralised bargaining. Central recommendations setting guide-posts for increases in wages and salaries have been regarded by both sides of industry as rather exceptional measures or temporary expedients designed to deal with a joint problem at a particular time. Centralised bargaining was intended to supplement and not replace negotiations at industrial, regional and plant levels. Sharp increases in the cost of living which affect all union members, a desire to keep conflict to a minimum, and the need to strengthen the prospects of workers in weak bargaining positions securing increases have been the motivating influences on the unions' side to co-ordinate pay claims and deal with them by way of central recommendations. Consideration of power-relationships has also played its part in influencing the attitude of employer organisations to centralised bargaining. The advantages employers have seen in nation-wide recommendations involve a desire to protect industries and firms in strategically weak negotiating positions and to avoid leap-frogging tactics by unions. Reluctance to negotiate central recommendations has on certain occasions been caused by a realisation of the difficulties involved in securing all-round union compliance with the terms of a recommendation and the knowledge that a breakdown in the central negotiations following the presentation of proposals by employers for wage increases provides, in the present state of employer organisation, an inflated starting point for negotiations at industry and plant level.

## THE POSITION IN OTHER COUNTRIES

Central wage bargaining has been the normal method of negotiating contractual increases in pay in a number of countries where the institutional arrangements are different to those in this country. In Sweden centrally negotiated wage bargains establish a basis for the conclusion of fixed-term, legally enforceable, industry-wide wage contracts. The representative institutions on both sides of the labour market which negotiate the central framework agreement have a large measure of control over their members and affiliated bodies. The central organisation on the employers' side not only has financial resources available to give support to employers who find they have to deal with unions who do not willingly accept the terms of the central framework agreement but also authority to order lock-outs when the central negotiations collapse in disagreement.

When the last set of central negotiations took place in Sweden early in 1966 a position of deadlock was reached and the central trade union authority instructed members of affiliated unions to ban overtime working. The employers' organisation retaliated by instructing member companies and associations to give fourteen days' notice of intention to lock-out. The crisis resulted in intervention by the State and after mediation a 3 year central framework agreement was concluded. In Denmark strong central organisations of employers and unions negotiate fixed-term agreements at national level but when negotiations break down a mediator appointed by the State intervenes. The mediator has authority to submit recommendations to both parties and to insist that they be voted on in accordance with rules provided for in legislation. When the mediator's proposals are rejected by one or other of the parties they may be placed before Parliament and given the force of law. It should be mentioned that in contrast to the position in this country collective agreements in Denmark almost always contain stipulations as to their duration. The normal practice is to negotiate two year agreements ending on the 1st March and it is usually stated that these agreements can be terminated on this date with due notice. Normally the latest date for giving notice of intention to terminate an agreement is the 1st February prior to the 1st March in question, though proposals for amending the agreements must be submitted by the 1st November at the latest. If there are no stipulations regarding duration then it is assumed that agreements can be terminated at three months' notice. If they are not terminated they are considered to have been automatically extended for a further period. Under this kind of arrangement both absolute and relative wages are determined at one and the same time and the risk of disputes over relativity claims during the period of an agreement is reduced. This procedure is of particular interest since it leads to the co-ordination of wage negotiations in a situation where worker organisation has a marked craft basis.[19] In Norway where workers are organised in industrial unions there are strong national organisations of employers and trade unions and nation-wide agreements covering most sections of industry are negotiated at regular intervals. The terms of these framework agreements are subsequently incorporated into legally enforceable industrial agreements. On some occasions the State has intervened when major disputes threatened to disrupt the economy and has referred the issues in dispute to arbitration. In 1964, for instance, when the central organisations failed to reach agreement on the revisions to be made in industrial agreements the government introduced legislation setting up a wage board to determine the issues in question.

## INCOMES POLICY

Collective wage bargaining may be further considered in relation to the concept of a national incomes policy. Incomes policy in this and other countries has been concerned with the need to seek agreement between the principal interest groups on measures which could be taken to prevent a democratic people from giving itself larger increases in incomes than

correspond to production results without provoking major industrial conflicts. There has been a growing awareness that it is not sufficient that the outcome of collective bargaining should merely satisfy the parties immediately involved because these parties have no direct responsibility for the general level of prices, economic growth and the balance of payments. The first major move towards an incomes policy came with the publication of a White Paper on Incomes and Output in 1963. This drew attention to the gap which had emerged between wage earnings and productivity as a result of sectional collective wage bargaining in 1961–62 and it indicated the government's intention to restrict for a time further increases in wages and salaries in the public sector '*which would arouse expectations of similar increases in other employments*'. The publication of this White Paper was followed by the submission of proposals to the main employer organisations and the I.C.T.U. regarding a method of linking increases in wages and salaries to movements in national productivity. It was suggested that an impartial authority should be set up to make biennial reviews of the growth in national output. When the results of these reviews were available the representative organisations on both sides of the labour market should negotiate nation-wide agreements which would limit the total increase in wages and salaries during a two year period to an amount slightly below the growth in output which had taken place in the previous two years. It was also stated that legislation could be considered to give the force of law to such agreements. These proposals were not favourably received by either the trade unions or the employer organisations. The only idea contained in them which subsequently affected collective wage bargaining was the suggestion that increases in wages should be adjusted in accordance with the terms of national recommendations negotiated by the central organisations of employers and trade unions. This concept, which was not new, found expression in the 1964 12 per cent national recommendation.

Subsequent developments in the field of incomes policy were initiated by the National Industrial Economic Council. The Council issued a report in 1965 setting out the principles which should be applied to changes in both contractual and non-contractual incomes in the future so that a substantial and sustained rate of economic growth could more easily be achieved. The N.I.E.C. put forward the view that the application of the general principles of an incomes policy in so far as wages and salaries were concerned could be undertaken through the collective bargaining system though '*this would involve a modification of some existing attitudes to collective bargaining which could give rise to difficulties*'.

The strategy of trade unions has traditionally, and understandably, been dominated by short-term assessments of their position and they are unlikely to give up a limited but immediate advantage in any particular situation in favour of a long-term but presumably greater benefit. It is doubtful, therefore, whether the case for an incomes policy has yet been presented in a manner which would lead to many conversions among unions, And the same might be said about employers for '*surely there is no simple formula for resolving the complexities of the problem and assuring*

*the various objectives sought which, in addition to the national interest in preventing excessive wage increases, includes good management–labour relations, a minimum of industrial stife, appropriate incentives for efficiency and change and minimum restriction to economic freedom'.*[20]

## REGULATIONS AND PROCEDURES

It is necessary in a survey of bargaining procedures and industrial disputes in Ireland to refer to conflicts other than those which are mainly concerned with the outcome of collective wage bargaining. These tend to occur because the institutional system is inadequate in defining the rights of different interest groups and the State andrepresentative institutions have not been successful in devising a range of suitable regulations and procedures for resolving the kind of labour–management frictions which arise in an industrial society. Notwithstanding the fact that there are minor legal restrictions on the right to strike and lock-out and the conduct of industrial warfare there are no legal limits to the extent of aggressive actions. Mention will now be made of some of the dispute situations which arise in order to illustrate the inadequacy of some of the existing procedural arrangements.

The description given in an earlier section on trade union organisation showed that worker representation was complicated by the existence of unions of different types and sizes. It was also noted that worker organisation had developed horizontally rather than vertically with the result that union membership was not coterminous with the boundaries of industry. Problems associated with trade union recognition and work demarcation are features of this type of organisation.

Employers in Ireland are under no legal obligation to recognise and negotiate with trade unions though in practice the majority of them do negotiate with unions which are able to show that they are reasonably representative of the workers in a particular employment or in a particular grade. But sometimes difficulties occur which give rise to disputes about recognition and to disputes about the claims of different unions to organise workers in a particular employment or in a particular grade. Inter-union disputes concerning trade union organisation are usually dealt with by the Disputes Committee of the I.C.T.U. This Committee has performed a useful function in resolving differences between trade unions on questions relating to worker organisation but the position may be regarded as unsatisfactory in so far as decisions may be influenced as much by the standing of a particular union within the I.C.T.U. as by the requirements of workers and the smooth functioning of collective bargaining.[21] In contrast to the position in this country legislation regulates such questions in the United States. Under the law of that country workers are free to join any union they choose but any difficulties which arise when drives are made by one or more unions to organise workers may be handled by the National Labour Relations Board. The Board when it acts must first determine that the workers which a union claims to represent would form an appropriate unit for bargaining purposes. The Board decides in each

case whether the collective bargaining unit should cover all workers, those in a particular plant or those belonging to a particular craft. Having decided this the Board may then, in order to ensure that workers have the full benefit of their right to self-organisation, conduct an election in which all workers in the appropriate bargaining unit are eligible to cast secret ballots. The union which receives a majority of the votes cast is granted a certificate which shows it is the majority-representative of all employees in the bargaining unit. Certification carries special obligations and privileges for the union. The employer must recognise and negotiate with the majority-representative union and the union must represent all the workers within the bargaining unit.

### DEMARCATION DISPUTES

Work demarcation disputes also tend to be associated with trade unionism which has a predominant craft basis. The proliferation of small craft unions in Ireland has made demarcation a sensitive issue in management–labout relations in traditional industries and trades. These kind of disputes are normally dealt with in the first instance by the Demarcation Tribunal of the I.C.T.U. This tribunal has power under the terms of the I.C.T.U. Constitution to investigate and determine any dispute, or threat of a dispute, on its own initiative or on the request of a trade union. When a demarcation dispute is being investigated by the Demarcation Tribunal no withdrawal of labour with the object of determing the issue should take place. The decisions of the Demarcation Tribunal are normally applied by employers where they do not result in the inefficient allocation of work between different categories of employees. Where employers consider that a decision of the Demarcation Tribunal cannot be justified on economic grounds the matter may be pursued through the ordinary conciliation machinery including the Labour Court.

### DISMISSAL DISPUTES

The absence of suitable procedures can also be illustrated with reference to dismissals which caused no fewer than 30 per cent of all stoppages of work during the period 1956–65. These disputes concerned such questions as the employment of non-union labour, allegations of victimisation of workers by management, dismissals due to misconduct or indifferent work performance by individual workers and lay-offs due to redundancy. The regularity with which these disputes have occurred may be attributed to the fact that unions and workers have to accept a scarcity view of job opportunities in a country where the general level of unemployment has been around 5 per cent and where there are no agreed procedures in many employments which provide for the investigation and final determination of the issues involved. It is worth nothing that the Labour Court has commented in Annual Reports on the tendency of employers and workers to invoke the investigating procedure of the Court in disputes involving individual workers where matters of principle and other general considerations do not arise. The Court has expressed the vew that such disputes

should be dealt with by arbitration and this has been accepted in principle by the main employer organisations and the I.C.T.U.

Suitable procedures have been developed in a number of countries for resolving dismissal disputes in a peaceful manner. For example, in Italy the central organisations of employers and trade unions have made arrangements which give dismissed workers the right to appeal against the decision of management and demand an impartial investigation. The first phase of this procedure provides for conciliation discussions between the dismissed worker's union representative and the employer. When these discussions fail to result in a settlement the dispute can be referred to an arbitration panel. This panel has authority to order the reinstatement of the worker if the reasons advanced by the employer for dismissing the worker are found unacceptable but where the panel considers that the restoration of the employment relationship might lead to further friction between the parties it can order the employer to pay the worker compensation. In countries where collective agreements generally prohibit stoppages of work during the period of their currency procedures have been developed for handling dismissal disputes. These procedures usually distinguish between dismissals which result in a permanent reduction in the labour force and those which concern the suitability or behaviour of the worker. The right of management to engage or dismiss workers in these countries is circumscribed not so much by fear of strike action as by legal or voluntarily negotiated regulations and procedures. There are many precedents which could be adopted for reducing these kinds of disputes in Ireland.

## DECISION-MAKING PROCEDURES

Another matter which is unregulated in Ireland concerns the difficult and complex subject of decision-making in collective bargaining. This gives rise to a great deal of uncertainty. Decisions by employers on whether to accept or reject proposals which emanate from collective negotiations present relatively few problems. In most employer organisations formal voting procedures are rarely applied and decisions are normally arrived at by concensus. Moreover, acceptance of proposals by employer representatives engaged in negotiations with the trade unions is generally tantamount to final approval. The position on the trade union side is different largely because of the reluctance of workers to arm their representatives with final authority to make settlements or agreements. In negotiations involving only one union decisions are normally taken by a simple majority acceptance or rejection by the workers concerned who exercise their right to vote. Decisions may be taken by a secret ballot vote or by a show of hands at a general meeting. Generally there are no rules regarding a participation ratio, the individual worker retains the right to vote on projected wages and conditions of employment but is under no obligation to exercise that right and as a result vigorous minorities may, in the absence of indolent majorities, determine the issues involved. In multi-union negotiations the position is more complicated as each union places a high value on autonomy and independence. There are no standard rules

regulating decision-making in these circumstances. Where individual unions agree to act as a group they may arrange to take a decision by a majority acceptance or rejection of all the members of the unions directly concerned who exercise their right to vote. In other cases each union will make its own decision by whatever method it chooses and convey its decision to the employers. This procedure is fairly common where there is rivalry among the unions participating in the negotiations. Naturally, difficulties arise when this procedure is adopted and the unions concerned arrive at different decisions. In some multi-union negotiations it has been known for decisions to be taken on the basis of one union one vote in disregard of differences in the numerical strength of the unions concerned. The present *ad hoc* decision-taking procedure breeds uncertainty and suspicion and can lead to stoppages of work even where the majority of the workers concerned have not taken a decision in favour of strike action. There are few difficulties to surmount in devising an equitable and democratic method of arriving at decisions in single union negotiations but in multi-union negotiations which cover different grades of workers there are problems to be overcome in developing sound decision-making procedures which would at one and the same time be defensible on democratic grounds and yet not be irreconcilable with the legitimate rights of minority interests.[22]

## GENERAL

This review of some of the main conflict areas of industrial relations in Ireland reveals the existence of problems which concern the State and both sides of industry. Under any system of free collective bargaining the State has a role to play in guiding the parties towards agreement on issues which divide them but the view is widely held that the State should not usurp the traditional functions of employers and trade unions unless these interest groups are seen to be abusing their freedom at the expense of the community. When the harmful effects of settling disputes by trials of strength are kept within reasonable bounds there is little to encourage the State to get involved with emotionally explosive problems but the extent of industrial conflict in recent years has caused considerable disquiet and has led to a situation where collective bargaining as presently practised could be regarded as being on trial. The problem of containing conflict and the demands of both sides of industry is now being seen as one not only for the parties immediately concerned but for society as a whole. It is fairly clear from this survey that rules which adequately define the rights and responsibilities of the parties engaged in collective bargaining have not been provided and procedures for resolving problems which frequently give rise to open conflict have not been developed.

In a number of countries the problems which may give rise to industrial conflict have been dealt with by making a distinction between conflicts of rights and conflicts of interest. Conflicts of rights are said to arise when disputes concern the application, interpretation or observance of the terms of collective agreements which have been voluntarily negotiated by trade unions and employer organisations. These kinds of disputes are settled by a quasi-judicial process or by an agreed arbitration procedure. Open

conflicts between the parties on disputes about rights are prohibited. Conflicts of interest on the other hand are said to exist when there is no agreement which can be applied or when a new agreement on such matters as wages and conditions of employment is being negotiated. Thus conflicts of interest are regarded as economic disputes and when conciliation and mediation fails to produce a settlement the parties may resort to industrial action. The procedures which are applied for settling both conflicts of rights and conflicts of interest vary from one country to another but the system in Sweden may be taken to illustrate the distinction which may be made between the two types of disputes. The Swedish Labour Court is charged with taking up and passing judgment on questions relating to collective agreements and statutory regulations. Disputes between employers and trade unions over the validity and correct meaning of collective agreements must be investigated and ruled on by the Court as also must questions concerning prohibited offensive actions and practices which are alleged to be in conflict with agreements. The Court is empowered to award damages and, for failure to comply with its sentences, to impose fines and issue distraint orders. The Court has no function in relation to disputes of economic interest. These disputes are settled by voluntary agreement between the parties, with or without the assistance of officers in the State mediation service which is independent of the Labour Court. The parties when they cannot reach agreement by negotiation on such issues as wages and conditions of employment may resort to industrial action when the agreement expires.

In the United States collective agreements, four-fifths of which are plant agreements, usually contain provisions for final decisions to be made on disputes which occur during the lifetime of an agreement by an arbitration procedure. Private arbitration has become one of the main features of collective bargaining in the United States. The more serious industrial disputes arise when new agreements are being negotiated and not during the period of their currency. In this country arbitration is availed of to a very limited extent. The Labour Court may only arbitrate on a dispute with the prior agreement of the parties concerned, which is given very infrequently, or when asked by a court of law to interpret the provisions of a registered agreement.[24]

The kind of distinction which is made between conflicts of interest and conflicts of rights in other countries could be introduced in Ireland and result in a diminution in the number of issues which presently give rise to dispute situations without infringing the fundamental rights of employers and trade unions or seriously disturbing the voluntary character of the system. This change could be made by either granting a special legal status to collective agreements negotiated by employer organisations and trade unions and giving additional powers to the Labour Court or by means of a voluntary arrangement between employers and unions which would provide for disputes about rights to be dealt with through an agreed arbitration procedure. The second method might be more desirable at the present time as neither trade unions nor employer organisations are equipped to prepare a large number of agreements in a form which would

make them suitable instruments for legal interpretation and many employers might be unwilling in the prevailing industrial climate to risk the breach in relations with employees which might follow a more legalistic approach being taken to management–labour relations.

Employer organisations and trade unions cannot expect the state to refrain indefinitely from setting limits to the extent of aggressive actions and from participating more closely and positively in the collective bargaining process if they fail to identify the problems which are keeping them at variance with the prevailing ethos and refuse to take measures to alleviate them. The obstacles in the way of the parties introducing reform by voluntarily agreed measures are formidable. They have to overcome the restrictions imposed on their respective outlooks by inherited ideologies which have little meaning at the present time, and develop new institutional arrangements to replace those which evolved for protecting their autonomy and preventing their freedoms from being impaired.

Views expressed in this paper are, of course, personal to the writer and do not reflect the opinions of any representative organisation. The problems presented and the comments which have been expressed represent aspects of the situation as seen by but one practitioner in the field of industrial relations. No doubt it has become quite obvious that a lawyer, sociologist, economist and a psychologist would view the matters raised from different standpoints.

## DISCUSSION

*Dr. R. C. Geary:* I would like to join the first two speakers in congratulating Mr. McAuley on his excellent paper. I see here many experts in labour–management relations who necessarily accept as a fact of life the present situation of perpetual cold war between labour and management, liable to break into open conflict at the drop of a hat. Do we realise the absurdity of it all? Here we have a small country, with nearly everyone with responsibility on first name terms with one another, sharing the same philosophy, and yet we must have two ' sides '. Not only that, but we have had a bad record in terms of man-days lost, if not so bad, as Donal Nevin has indicated, in terms of men. When, oh, when, will we understand that, at the firm, industry and national level, we are all in the same boat and that, at the firm level, remuneration of workpeople and shareholders is so basically the same in source.

Management must get into the habit of taking workpeople more into their confidence and so involving them in the interests of the firm. I recognise that it will be a long siege before the citadel of the centuries of mutual distrust can be destroyed. Surely it is worth striving for, actively and always. My own small contribution is the devising of a simple and short statistical form which, with other facts about the firm's prospects, management could discuss with the employees with a view to narrowing the gap between the two sides in the matter of factor-sharing. So, gradually, inordinate demands (and inordinate refusals) would tend to disappear. Industry in all aspects but one, has made remarkable advances

over the years. Why should almost the most important element of all, industrial relations, be still as incompetent as it has ever been?

Recently I asked a friend who had been a negotiator on the employers' side in a long and troublesome dispute in a great industry if, during the several days of negotiation, anyone on either side had mentioned the common good. He answered ' No ', and seemed surprised that I should have asked.

*A. Marsh* (written contribution): My one serious complaint about an admirable lecture was that it contained nothing about something that it was not supposed to contain, but that he thought ought not to be overlooked in discussions of this kind: it made no reference to the ultimate objective—the desirable prupose of all income discussions. It told of bargaining between opposed parties, each of which was bent on getting the arrangement best suited to itself, while the Labour Court's function was to maintain industrial peace. Such peace was a good thing, but what was the best basis on which it could be made? His own view was that the general trend should be towards the equalisation of earned incomes. Complete equality would probably never be possible, or workable for long. We might lose more than we gained if people of exceptional ability in management were not encouraged by rewards, but in general the levelling up of earnings ought to give direction to those who bargained about wages. He thought the Irish Congress of Trade Unions had taken a remarkably fine step in that direction when it asked for an equal rise in pay for all the workers it represented, but some of the highly paid ones wanted more, in order to keep as much above the poorly paid as ever.

Unearned incomes were a different matter. They were very desirable and ought to be within everyone's reach much more than at present, but earnings alone were the concern of this meeting.

## REFERENCES

[1]The Constitution of Ireland 1937, Article 40.6.1° and 40.6.2°.

[2]For a fuller account of the legal framework see ' Trade Unionism and Trade Disputes in Ireland ' by Bernard Shillman, the Dublin Press, 1960; and ' Labour Relations and the Law ' by Otto Kahn-Freund, Stevens & Sons, 1965 (British Institute Studies in International and Comparative Law No. 2, pp. 46–47, 154–159).

[3]National Union of Railwaymen *v.* Sullivan and the Irish Transport and General Workers' Union.

[4]Exempted bodies under the 1941 Act include a civil service staff association recognised by the Minister for Finance, an organisation of teachers recognised by the Minister for Education, the Agricultural Wages Board, Joint Industrial Councils and Joint Labour Committees.

[5]The Educational Company of Ireland *v.* Fitzpatrick and others.

[6]The Agricultural Wages Board and various Joint Labour Committees. There are 19 Joint Labour Committees operating under the Industrial Relations Act, 1946. They cover 4,500 establishments and 35,000 workers.

[7]For example, the Conditions of Employment Act, 1936 & the Holidays(Employees) Act, 1961.

[8]Industrial Relations Act, 1946, Part III.

[9]This is not the case where the parties submit agreements to the Labour Court for registration.

[10]Report of the Registrar of Friendly Societies, 1964.

[11]This Committee is known as the Joint Consultative Committee of Employer Organisations.

[12]The Court may, under Part VI of the Industrial Relations Act, 1946, make a binding award, at its discretion, in disputes which have resulted in stoppages of work but which are not being promoted or assisted by a trade union of workers, i.e. a strike by unorganised workers.

[13]These observations are made on the basis of developments in 1959 in the petroleum distribution industry and in 1961 in the electricity supply industry.

[14]The published results are given in March issues of the Irish Statistical Bulletin.

[15]The following figures show the distribution of the length of work stoppages in the period 1956–65:

| | | | | | |
|---|---|---|---|---|---|
| 1– 2 days | ... | 25·2% | 21– 30 days | ... | 7·6% |
| 3– 5 days | ... | 19·5% | 31– 50 days | ... | 7·3% |
| 6–10 days | ... | 20·7% | 51–100 days | ... | 3·9% |
| 11–20 days | ... | 14·6% | Over 100 days | ... | 1·2% |

[16]Report No. 13 of the National Industrial Economic Council 'Comments on Department of Finance Review of Economic Progress in 1965 and Prospects for 1966'.

[17]Daniel Katz in 'Industrial Conflict', ed. A. Kornhauser.

[18]Report on Economic Situation, 1965—National Industrial Economic Council.

[19]For a more detailed account of the agreements system in Denmark see 'The Danish System of Industrial Relations' by Walter Galenson, Harvard University Press.

[20]The Problem of Rising Prices, O.E.C.D., 1961.

[21]There is an obligation on unions affiliated to the I.C.T.U. to give the I.C.T.U., or the local Trades Council, one week's notice of intention to serve one week's strike notice on an employer where members of other unions may be affected as a result of withdrawing labour or the placing of pickets.

[22]A complicated set of voting rules for trade unions has been established through egislation in Denmark.

[23]'Collective Bargaining in Sweden' by T. M. Johnston or 'The Trade Union Situation in Sweden'. Report of a mission from the International Labour Office, 1960.

[24]The Industrial Relations Act, 1946.