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Book Review

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With the recent establishment of the research-oriented Industrial Relations Centre in Toronto, a number of distinguished experts in the various phases of this wide field were invited to address the founding Conference. Their presentations were published in this book.

The first part centres the keynote address by Mr. Morse, Director-General, International Labour Office, Geneva, Switzerland, dealing with the future of collective bargaining in this age of automation. Recent developments in mechanization have brought collective bargaining to a cross-roads and the whole future of union development hinges on the question of which of the alternate routes this institution will choose to follow. Will the unions become the great reactionary bulwarks in the struggle against the inevitability of automation, or will they be willing to advance, take on new dimensions, new responsibilities at a national level?

The challenges facing union development are clear: they must organize the white collar worker, their aims and policies must be modified. Rather than fighting to preserve the status quo, they should turn their energies towards the solution of such problems as facilitating the mobilization of labour and the retraining of the displaced and finding new jobs for them. Only if such challenges are met, will the trade unions blossom rather than diminish in stature in the future.

Part II of this book is entitled "Collective Bargaining in an Age of Change." The first paper here deals with the question of automation and wage determination. Professor Bright of the Harvard Graduate School of Business Administration reminds us that there are two theories concerning the effect of automation on such factors as skill and wage differentials. Research has shown that physical and mental requirements tend to increase at first but as mechanism approaches perfection these requirements, as a rule, tend to decrease except for a very small group of the most highly skilled workers. The end result is both an upgrading and a downgrading of labour, depending on the job, system or industry. These effects are badly mixed and this poses a major problem in wage determination. Professor Bright goes on to discuss some of the inroads collective bargaining has made towards solving these problems, and predicts that automation will ultimately push us towards a salaried industrial society.

Professor Harbisan, Director of the Industrial Relations section of Princeton, in his paper "Collective Bargaining in Perspective" analyses the major functions of collective bargaining. Briefly, these are the following: To provide a partial means of resolving conflicting
economic interests of management and labour; to enhance the rights, dignity and worth of workers as industrial citizens; and finally, to provide one of the more important bulwarks of the private-enterprise system by absorbing the energies and interests of socialist-minded labour leaders and by providing a drainage channel for the dissatisfaction and frustration of workers on the job. In concluding, Professor Harbisan points out that although the beneficial effect of collective bargaining on the economy as a whole may be suspect, there is no doubt that the sum total of organized labour's contribution to society has been positive.

The next essay deals with the impact of automation on the character of collective bargaining. Professor Weber (Graduate School of Business, University of Chicago) notes: the shrinking proportion of blue-collar workers in the labour force, the fact that the strike has become an obsolete bargaining weapon in many industries, and concludes that there has been a significant alteration in the power relations and bargaining tactics in industry due to automation. On the balance, the bargaining power of management has been substantially enhanced. To increase or, at least, preserve their wavering strength, unions will have to go all out in attempting to organize the white-collar workers and perhaps merge into industry wide or nation-wide units to fortify this bargaining power. Automation has also brought about changes in bargaining procedure. The joint study committee is a clear example of this. To soften the impact of automation, various programs of adjustment have been devised by collective bargaining seeking some acceptable basis for distributing the costs and benefits of automation among those directly affected.

Professor Arthurs', (of Osgoode Hall Law School) presentation deals with the "Challenges and Responses in the Law of Labour Relations". After pointing out the inevitability of a cultural lag between legal and social values, Professor Arthurs goes on to enumerate the main deficiencies in the existing law. Many problems are created by the indiscriminate use of injunctions, judicial notice and reliance on precedent, especially reliance on old tort doctrines in fields where they were never intended to apply. Complicating the situation still further is technological change striking at the very foundation of collective bargaining by its demoralizing effect on seniority rights, wage and classification structure. The balance of power has shifted significantly in favour of management. To regain some of the lost ground labour will have to change their tactics, and this will necessitate some reforms in the law of labour relations. To minimize the gap between legal and social values in industrial relations Professor Arthurs suggests the establishment of a labour law commission composed of unionists, businessmen, lawmakers and academics who could study
the problems and make decisions to which both labour and manage-
ment would be compelled to adhere.

Part III in this collection of essays is entitled “On the Frontiers of Industrial Relations”. “The Individual in an Organization Society” by Dr. Moore (Russel Sage Foundation) is a sociological analysis of modern society. The author observes the many paradoxes characteriz-
ing our society. We are becoming more specialized and differentiated in our ways of making a living and in our life styles and more homo-
geneous in our basic consumer standards and participation in the national culture. Social indices point to a very high degree of disor-
 ganization, while on the other hand, there exist extreme pressures to organize into both interest-oriented and expressive groups. Not to join is to become a social isolate. Dr. Moore goes on to discuss the many defects of this “untidy” society, and the evident trends for the future concluding that if this pluralistic, organizational society is to survive we must identify and understand the problems facing it. Only then will our problem solving mechanisms of adjudication and legislation become sufficiently effective.

The final two papers by the Hon. Maurice Sauvé, the Minister of Forestry, and Mr. Tom Cosgrove, Executive Secretary of the Labour Advisory Council in Washington, deal with the war on poverty in Canada and in the United States respectively. The many problems encountered are enumerated and possible solutions are suggested. It is clear that government subsidies to the poor, although necessary, are not the long-range solution to this problem. A new process imple-
mented in the U.S. has offered a new hope for the future. This process is called the Community Action Program and its essential element is “the participation of the poor people themselves in the provision of services in ways which will encourage initiative, self-help and mutual help”. Mr. Sauvé feels that this may be the only way to develop successful anti-poverty programs and urges our government to lend such a program its full understanding and support.

With no pretentions of being an exhaustive study in depth, this book catalogues the problems facing collective bargaining. The experts point out the deficiencies and suggest some solutions, thus laying down the guidelines for future research by the Centre into this vastly complex field. Despite the clarity with which the many shortcomings in this area are set out, the reader is left with a feeling of optimism for the future of collective bargaining. Research centres such as the one set up in Toronto are essential but perhaps even more basic to the solution of these problems is, in the words of Mr. Morse: “the need to aim at an educated society of responsible men and women capable of looking beyond their own immediate interests to those of the community, and indeed, to those of the world at large. To achieve such a
society will call for courage, imagination, new thinking, ability, ingenuity from the leadership of both sides of industry. The challenge therefore to leaders of industry and labour in the years which lie ahead will be to their statemanship and to their vision — both important elements in the development of the democratic world."

ROMAN A. MAKSYMIW*


This casebook has the distinction of being the first hard-covered Canadian criminal law casebook. Outside of the annotations to the Criminal Code there has not been any similar casebook produced in Canada to date. (This is in marked contrast to the United States where 25 casebooks have been produced since 1850.) The purpose of the work was, according to the author, to act as a teaching aid. Thus, the question becomes whether or not a casebook on criminal law is essential or even necessary.

The teaching of law has been, and still is, an area of turmoil. Some feel that the student taught by the pure case method never really understands the basic principles due to the clouding effect of the diversity of the judgments in any one decision. On the other hand, the introduction of the casebook containing extracts from decisions may remove the cloudiness but the use of the casebook is then attacked because it is too one-sided; that is, the extracts represent the personal choice of the author. The opponents of the case method, who have little time for casebooks, see the end product of this method as somewhat of a legal technician in that the student eventually knows the rules and knows what the important decisions say but does not fully understand why. These people, the propounders of the socratic method which will hopefully produce people who can think, advocate only a limited need for a casebook. Thus, any critical analysis of Schmeiser's work must be made with a view to one or other of these two methods.

Before offering any criticism of the work a brief description of its contents is necessary. The introductory eighty-seven pages cover in a summary fashion criminal procedure, evidence, territorial jurisdiction and relations between concurrent criminal and civil proceedings. At page one of the casebook, the scope of criminal law is discussed in an extract from R. v. Whiteford.

A criminal offence is not an offence against an individual but is an offence against society as a whole. The King is recognised as having no partiality to any individual but as representing impartially society as a whole.

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