

The Determination of Standards in Wage Disputes

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[See table of contents](#)

Article abstract

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JURISPRUDENCE DU TRAVAIL

Griefs après l'expiration de la convention collective

*Un tribunal d'arbitrage a juridiction pour entendre un grief, même s'il naît après l'expiration de la convention collective.*¹

Avant de discuter des griefs, disposons d'abord de quelques objections de droit soulevées par la Compagnie.

Cette dernière prétend que le présent Conseil d'arbitrage n'a pas juridiction pour les raisons suivantes: les deux griefs en question ont pris naissance après le 30 mai 1959, soit après l'expiration de la convention collective de deux ans liant les parties, et en conséquence au lieu de procéder par les moyens ordinaires de conciliation et d'arbitrage, le Syndicat eut dû s'adresser à la Commission de Relations Ouvrières ou aux tribunaux ordinaires.

Sur cette question de droit soulevée par la Compagnie, les trois arbitres ont semblé d'accord, au cours d'une séance de délibéré tenue à Québec, le 25 avril dernier, pour affirmer que le tribunal d'arbitrage avait été légalement constitué, et par conséquent avait juridiction pour entendre les griefs soulevés.

Les trois arbitres ont reçu un mandat qu'ils étaient obligés de remplir, à moins de démissionner. Et si on voulait contester leur juridiction, il fallait procéder par voie d'injonction ou de prohibition. On ne nous a pas empêchés de siéger. Nous avons reçu mandat pour régler deux griefs. Pour remplir le mandat qui nous a été confié et qu'on ne nous a pas empêchés de remplir, il nous faut maintenant discuter des cas soumis.²

- (1) Différend entre Collin & Sons Veneer Limited, Montmagny et le Syndicat des Employés de l'Industrie du Bois Ouvré de Montmagny Inc. M.M. Jean-Paul Bérubé, Président; Ubald Brunet, Arbitre patronal; F.-X. Légaré, Arbitre syndical. Source: Rapport du Ministère du Travail, 2 juin 1960, no 1433.
- (2) Une décision analogue a été rendue, Quebec Mining Corporation et U.S.W. of A., Local 4451. — *Relations Industrielles*, Vol. 15, no 1, p. 126.

The Determination of Standards in Wage Disputes

*The domicile or nationality of the owners is not a factor in determining wages. The Board criticizes the choice of wage criteria by the Company and the Union.*¹

Perhaps the greatest and most complex difficulty is the problem of standards to be applied in determining what appears to be a reasonable basis of settlement of the wage question. These are examined below.

- (1) Excerpt from an award in a dispute between Quebec Iron and Titanium Co., Havre Saint-Pierre and U.S. of A., Local 4466. H.D. Woods, President; Jean Gérin-Lajoie, Union nominee; Me P.M. Laing, Company nominee, dissenting. Rapport du Ministère du Travail, 3 juin 1960, no 1438.

THE UNION'S CASE ON WAGES

The Union draws attention to the fact that the Company is wholly owned in the United States, that little information about the operations of the Company is made available to the public; and claims that the Company has failed to keep pace with other foreign and Canadian owned operations of a similar type.

It is difficult to see the relevance of the locale of ownership to the question of acceptable wage rates. If the rates are too low it makes no difference whether the Company is owned by Canadian nationals or any other group; they should be higher. It may be that the Union is prepared to make arrangements more favourable to Canadian than to U.S. employers of Canadian labour. They have not so informed this Board. Until there is some proof that the domicile or nationality of the owners should be a factor in determining wages, it would be wrong for the Board to recognize it. Indeed, a strong case could be made to show that this would introduce a very dangerous principle into labour market considerations.

A principal argument advanced by the Union is on a wage comparison basis. They presented tabular data showing wage rates for this company and other iron ore mines in Canada. These showed that the labour rate in Quebec Iron and Titanium stands at \$1.37½, whereas the nearest to it in the table is \$1.56 and this one we were advised, had been changed since the preparation of the table. Most of the companies shown were paying approximately 50¢ an hour more than Quebec Iron and Titanium. These figures were taken from union agreements.

The job class increment at Quebec Iron and Titanium is 49¢ per hour. On the table the other iron ore mines' increment was shown as 5.5¢ per hour.

Employees at Quebec Iron and Titanium are entitled to two weeks vacation with pay after five years service. The other companies' contracts are more generous to the employees.

The Quebec Iron and Titanium contract provides for six paid holidays whereas the least for the compared companies is seven.

On shift differentials, Quebec Iron and Titanium stands below the top but above the lowest. As in all the above data the source of this information is steel-worker agreements.

Wage comparison data using a classification of miscellaneous mines, excluding gold, shows that Quebec Iron and Titanium rates are lower for all except one mine in the group.

A further exhibit purported to show that from 1952 to the present Quebec Iron Titanium rates have increased by 45%; while increase at the other mines ranged from 53% to 95% in the same period.

All of these figures are impressive as they stand, but they present difficulties of meaning to the members of the Board. Perhaps the most serious question is whether or not, for example, iron mining in Canada is the most suitable criterion.

But in addition, there is the question of selection of companies for this or any other sample, of whether labour rates or average rates, or indeed hourly earnings or weekly or monthly or annual earnings should be used instead. The Company criticized the choice of criteria and set up their own which put them in a more favourable light.

THE COMPANY'S CASE ON WAGES

The Company's brief provides the Board with a description history of the Quebec Iron and Titanium Corporation in outline. The principal features emphasized are the developmental character of the operation, the large amount of capital invested, the unique technical metallurgical problems of extraction that had to be solved, the competitive market conditions, and the social aspects of the development in Havre St. Pierre.

The relevance to the wage issue of some of the Union's arguments has already been challenged in this report. This criticism can be levelled also at many of the preliminary statements of the Company. Since Boards of this type are frequently receiving such presentations, and sometimes criticized for ignoring what they consider to be irrelevant data, it may be in order to be more specific at least with one or two illustrations.

The Company tells us:

« The high melting point of the titanium-rich slag, the highly active nature of this slag towards refractory material, the withdrawal and cleaning and ultimate utilization of furnace gases, the desulphurization of the iron produced by the smelting process — all of these major problems together with a host of minor ones have to be overcome in order to make the venture practical and profitable.

Ilmenite is not a rare mineral but the economics involved have never justified large scale exploitation for smelting processes.

The first smelting furnace was started up at Sorel in September 1950, and has been in operation continuously since that date, with the exception of a shut down during the winter of 1958-1959 due to poor sales condition. Innumerable changes have been made to the operation procedure since that time. The first furnace plus the additional ones were operated as large experimental units rather than as production units in order to obtain the information necessary and to make the required design changes suggested by these new tests.

It may be said without fear of contradiction that Quebec Iron and Titanium Corporation represents a risk venture of a major type. »

This is very interesting information but the Company should not expect the Board to take it into account seriously when considering the wage issue. Surely

the investors of their management representatives in this risky venture are not trying to suggest that the cost of the risk should be borne partly by their workers; and particularly without any guarantee of advantage to themselves in return. From time to time we learn of unusual provisions in collective agreements in which the Union, on behalf of the workers, agrees to assume part of the burden of economic adversity in return for same guarantees about future rewards. In the present instance no such bargain is suggested by either side. The function of risk taking should rest with those who initiated the risk, the investors and their managers.

Much the same criticism can be made of the marketing argument. The Company has shown that when markets are unfavourable they will not hesitate to cut back on production and lay off employees. There is no reason to believe that if market conditions became worse the Company would not shut down entirely in the financial interests of the investors. This is the logic of enterprise. If, however, the parties wish to enter into an agreement on wages with a quid pro quo on employment, it is in order for them to do so. However, it would be improper for the Board so to recommend unless it had strong indications that both parties wanted such a recommendation. These we do not have. This is not meant to suggest that it would be strong for the Union to relate its wage demands to its evaluation of the market conditions confronting the company and the possible consequences for the employment and income of its members. Experience suggests that unions often do take account of such considerations. But it is not the Board's function to do it for them. Even to make an intelligent evaluation we would need to have a great deal more information than is now before us.

In addition to these general considerations the Company presented more specific data on earnings.

According to figures presented to the Board, average hourly earnings increased from \$1.13 in 1951 to \$1.79 in 1959. Average weekly earnings, by the same tabulation, increased from \$54.24 in 1951 to \$77.44 in 1959, and base labour rates from \$0.95 in 1951 to \$1.375 in 1959. The Company argues that because the base labour rate is not actually used, average rates should be used for wage comparisons.

A second table compares rates paid by Quebec Iron and Titanium with those found in an agreement between the Quebec North Shore Contractors and Employers Association and the Baie Comeau Building Trades Council. Eleven jobs are compared and in each the Quebec Iron and Titanium rate is higher.

Like the Union, the Company constructs a comparative table of seven jobs and rates for seven companies classed as « Comparable Industries ». As might be expected these show that the Quebec Iron and Titanium compares well with the sample group chosen. Leaving out the hiring rate, which class we had been told the Company does not use, the Quebec Iron and Titanium stands in third position from the top for general labour rates, third for machinist, fourth for truck driver, fifth for tractor operator and first for electrician.

Once again the figures are impressive testimony that the Company shows up tolerably well in comparison. But of course the awkward question « Incomparaison with that? » comes up again. The Union presented us with two somewhat similar comparative tables but the only name common to the Quebec Iron and Titanium and

the Union tables, aside from Quebec Iron and Titanium itself, is Dominion Wabana Ore of Belle Isle, Newfoundland. Furthermore, one Union's Table is exclusively iron ore mines, an other is exclusively iron mining also, whereas the Company's table includes mining of various metals. Another difference is that the Company table confines itself to Quebec and Newfoundland and leaves out the impressive Iron Ore Company of Canada rates, whereas the Union tabulations include Ontario mines as well, and exclude all but iron mining. The footnote explanation by the Company that the Iron Ore Company was left out because of its great size and the Spar Mica Corporation because it is so small is not at all convincing. Any attempt to apply the principle of size of company as a determinant of wage rates would lead to most extraordinary Alice in Wonderland economics.

This analysis of the two sets of tables reveals that there is no basic agreement between the parties on the criteria which should be used in determining wage rates. This is not unique to the present dispute. But it is perhaps sharpened in this instance by the non-competitive position of the labour force in Havre St. Pierre, by the broad interest of the Union in other mining ventures, by its competitive position with the Syndicat at the Company's operation at Sorel, and by its overall strategic considerations in unionized and non-unionized mines which almost certainly might be influenced by the Havre St. Pierre settlement.

In its turn the Company position is affected by broader interests than those of local management. Some of the considerations which induce the Union to seek substantial increases here encourage the Company in the opposite direction. Thus is not too difficult to surmise that the Company's selections for comparison include some operations that are high in union policy calculations.

Difficult as it may be, the members of the Board are of the opinion that it is in the interest of the parties that we should recommend a financial settlement. We have done so below although Mr. Laing, company nominee, has dissociated himself from the majority. The majority has tried to suggest terms that reflect the changing labour market conditions at present, and some anticipation over the next few years.

As mentioned earlier during the proceedings before the Board, there was some discussion of the term of the agreement to be signed. There were suggestions of a contract to cover 1959 and 1960, or one ignoring 1959 and covering 1960 and 1961. There was even some suggestion about a contract to run three years forward. It is the impression of the Board members that both parties are inclined towards an agreement of considerable duration. This we believe to be sound in the circumstances at Havre St. Pierre. There is wisdom in a settlement that procedures certainty in an otherwise unstable situation. The evidence indicates that there may be considerable disturbance in the labour market of eastern Quebec for a number of years. Our recommendation therefore is designed to stabilize the situation for Havre St. Pierre forward for three years and to suggest a settlement for the expired operating season of 1959 during which the mine was worked without a collective agreement.

RECOMMENDATION ON WAGES

Financial adjustment for the period from May 1, 1959 to April 30, 1960: 5 cents per hour. — For the period May 1, 1960 to April 30, 1961: 9 cents per hour. — For the period May 1, 1961 to April 30, 1962: 9 cents per hour. — For the period May 1, 1962 to April 30, 1963: 9 cents per hour. — The actual allocation of the annual increases as between classifications we leave to the parties to determine.

INFORMATIONS

Socialisation et personne humaine

Les Semaines sociales de France tenaient à Grenoble, du 12 au 17 juillet, leurs assises annuelles. Le thème choisi était SOCIALISATION ET PERSONNE HUMAINE. A cette occasion, le pape Jean XXIII, par l'entremise de la Secrétaire d'Etat, a fait parvenir au président et aux semainiers un message dans lequel sont exposés les principes de la doctrine sociale catholique sur ce sujet. Nous en reproduisons ici l'essentiel, de même qu'une partie des conclusions de la semaine.

MESSAGE DU PAPE

Vous allez traiter un sujet qui rentre dans le cadre d'une des préoccupations fondamentales des Semaines Sociales.

Déjà en 1937 elles considéraient « la personne humaine en péril », et dès la fin du second conflit mondial (1945) elles mettaient à l'étude « les transformations sociales et la libération de la personne ». Le rapprochement de ces titres montre que vous savez, quand l'opportunité s'en fait sentir, faire porter votre étude sur des problèmes analogues lorsqu'ils se présentent sous un jour nouveau.

Votre volonté d'assurer en toutes circonstances la dignité et le bien de la personne, et de concevoir les structures sociales en fonction d'elle, fait très heureusement écho à l'enseignement du Souverain Pontife Lui-même. « Les troubles qui ébranlent la paix intérieure des Nations, disait-Il dans Son dernier message de Noël, tirent principalement leur origine de ce que l'homme a été traité presque exclusivement comme un instrument, comme une marchandise, comme un pauvre rouage dans une grande machine, comme une simple unité de production. C'est seulement lorsqu'on prendra comme base d'appréciation de l'homme et de son activité sa dignité de personne, que l'on pourra apaiser les conflits sociaux et les divergences, souvent profondes, qui règnent, par exemple, entre les employeurs et les travailleurs ». (A.A.S. LII, 1960, p. 28.)