

*Industrial Relations Act*

poses a question: Should it continue to have that right? The commission is satisfied that it must be answered only in one way. The institution of run-throughs should be a matter for negotiation. To treat it as an unfettered management prerogative will only promote unrest, undermine morale, and drive the parties farther and farther apart. In that direction lies disorder and danger. By placing run-throughs, on the other hand, within the realm of negotiation a long step will be taken towards the goal of industrial peace. More than that. Such a course will help to provide safeguards against the undue dislocation and hardship that often result from technological change.

Then, at page 93 of his report:

Run-throughs should be negotiated. It is worth noting that in the United States they are negotiated. That conditions in the United States are not parallel with those on Canadian National may well be the case. The fact remains, however, that American railways are quite able to function under a system in which, voluntarily or otherwise, they negotiate the issue of interdivisional runs. No doubt they would prefer to have unlimited freedom to establish such runs at their own discretion, since no manager welcomes with enthusiasm any restriction upon his sphere of action. The point of significance is, however, that they manage to carry on despite the necessity of negotiation—which suggests that fears conjured up by management about the dire consequences that would result from any interference with its unilateral right to institute run-throughs are largely groundless.

At page 94 the report states:

Non-reviewable discretion to establish interdivisional service is essentially what Canadian National now has, and what it should not have.

Then, at pages 95 and 96 of the report:

In advocating the negotiation of run-throughs the commission has in mind something more than mere discussion. At Nakina and Wainwright the scope of permissible discussion was very much restricted, as the commission has already found. What is required, if the men are not to feel that they are victims of a plan instead of participants in it, is negotiation on a basis of parity. Mr. N. J. MacMillan in the course of his testimony said that negotiation necessarily carries with it a right of veto. The commission has little doubt that Mr. MacMillan was here sounding a warning or alarm. Duly warned though it is, the commission is not greatly alarmed by the prospect of run-throughs being made a subject of negotiation. A power of veto is not necessarily and inherently a vicious thing. It is the irresponsible abuse of that power which is vicious and should be condemned. The term "veto" may have a sinister connotation in an international setting dominated by a cold war. But after all, is it not something which is encountered every day whenever two contracting parties sit down to arrive at an acceptable meeting of minds?

Then, at page 96:

A second reason for taking the risk of negotiation derives from considerations of self-interest. It is surely important to the brotherhoods that the railway undertaking if which they are a part should be viable and progressive. In its economic well-being they have a personal stake. Enlightened

[Mr. Fawcett.]

self-interest accordingly demands that they should not stand in the way of its development and progress.

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There is yet another reason why the commission recommends the taking of the risk. The alternative is worse. If run-throughs are allowed to remain as a managerial prerogative the men will simply continue to feel that they are victims of technology, inert instruments in a process beyond their control. Such a situation is fraught with danger. A mood of rebellion already confronted in Nakina and Wainwright, may arise again. No one wants to see the law flouted. Wildcat strikes are at once a defiance of law and a threat to industrial peace. As such they are to be condemned, and the commission does condemn them. But how is their recurrence to be avoided? Surely not by turning one's back on something which has proved to be a contributing factor in their development and pretending it does not exist.

A change from unilateral control to negotiation would bring it advantages of a positive kind. It would lessen the possibility that the benefits from a run-through program would fall largely on one side and its disadvantages largely on the other.

● (5:20 p.m.)

It would strengthen the operation aspects of the run-through actually put into effect, since the men who are daily concerned with the running of trains would be able, through their representatives, to contribute ideas and suggestions to the common pool. And it would improve the climate of labour-management relations and boost morale by the mere process of acknowledging the dignity of the individual worker and according to him a voice in decisions affecting the conditions under which he is to work.

At page 100 Mr. Justice Freedman continues as follows:

Here then is the commission's recommendation in the matter. Run-throughs, as already stated, should be negotiated. But in the course of those negotiations either party should have the right to refer to an arbitrator the question whether the proposed run-through falls in the former class or the latter. If the arbitrator should conclude that it is in the latter class—that is to say, that its effect is so relatively slight that it cannot fairly be described as causing a material change in working conditions—the company would at once be entitled to put its run-through plan into effect.

If, on the other hand, the arbitrator should decide that the impact of the suggested run-through would indeed cause a material change in working conditions, the company would be obliged (unless it could secure brotherhood consent) to withdraw its plan until the next open period. At that open period negotiation could proceed subject to the legally available sanction of the strike and lockout. Incidentally, a run-through plan which is being established in periodic instalments would have to be assessed on the basis of its total effect rather than in terms of its individual stages considered separately.

In conclusion, Mr. Speaker, I should like to make this point very emphatically. The Freedman inquiry was very comprehensive in its extent. It was costly and time consuming.