

CHAPTER V

CONCEPTS OF INDUSTRIAL DISCIPLINE

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I. Policy and People

The title of this paper was prefabricated before I undertook to write it. Considering the subject as a employee might view it, I think an appropriate sub-title might be "Who's afraid of the big bad wolf?" Or from the management viewpoint it might perhaps be "Virtue is its own reward."

From the observation post of an arbitrator, the subject covers a great deal more than employee department or supervisory conduct or crime and punishment. So rather than focusing on the issue of the personal factor or on the human equation in industrial discipline, I want to explore the arbitration of industrial discipline cases as an influence on management policy and union policy. I suspect that overemphasis on personality and ad hominem attitudes in the enforcement of supervisory authority and the processing of discipline grievances, including arbitrations, frequently causes a related underemphasis on the policy approach. To put it another way, to what extent can the problem of discipline be more constructively handled if approached in terms of *what is at fault* rather than *who is at fault* when disciplinary difficulties arise, and what do arbitrators expect as to sound managerial and union policies?

Obviously, disciplinary cases indicate a failure of something; of employee ability or willingness to conform to accepted standards, or of effective managerial performance. Some cases, per-

haps too many cases, show a lack of ability on the part of the union to meet politically difficult situations.

In a broad sense industrial discipline includes the entire subject matter of industrial and labor relations, in which management sets the requirements and the standards to which employees must conform; the unions challenge the exercise of unilateral authority and attempt to discipline management; and, through the process of negotiation, mutual regulation of employment conditions evolves.

Discipline is handed out for unsatisfactory performance in the supervisor's judgment. If the worker feels injured, the union blames management. Adversary attitudes may necessitate reference to a neutral third party whose wisdom and perception are assumed to be adequate for every contradiction and incompatibility of principle and/or of personality.

Industrial discipline generally arises out of the need of management to enforce its authority over control of operations and a need for getting employee compliance with standards and job obligations and with institutional requirements, including union agreements. The exercise of this control function can be coercive or it can be based on mutual cooperation. Since the responsibility for performance rests on the supervisor, management establishes the norms or rules and it also directs and assigns employees. Management also initiates penalties for performances below the required standards, for violation of rules, or for willful refusal to cooperate, the latter covering not only insubordination but also violation of contractual obligations.

Of course, reasonable policy, fairness, and cooperation are of mutual interest insofar as these stimulate efficiency and productivity, since unsuccessful operating results mean losses for everyone concerned. Management at the various levels of supervision coordinates and directs a joint effort toward optimum results. In theory, then, industrial discipline stimulates better performance to the mutual advantage of all concerned.

Nevertheless, disputes over discipline comprise the largest single category of grievances. Contrary to the predictions of some sanguine experts, arbitration has not grown rusty in the emergency tool kit as labor relations have matured. Human nature continues to create an increasing grievance docket, with differences over the justification of everything from warnings to discharges standing at the top of the list of items arbitrated. The records of the Federal Service, one sample of total activity in arbitration or at least of difficulties in agreeing on ad hoc arbitrators, show that in its first year as an independent agency, 1948, it made 646 appointments. Five years later it reported 683 designations. In 1954, there were 999 appointments, a jump of 46 percent over 1953. The figures for 1955 are not available, but I am informed that in November 1955 requests ran 50 percent over those in November 1954.

Of most relevance for present purposes, the records show that discipline matters were the subject of one-third of all the issues referred to arbitrators appointed to handle these 1954 disputes. Discipline cases were, moreover, the most prevalent of the 30 different phases of industrial relations classified in these statistics of the Federal Service. The AAA advises that its record is similar, with discipline issues running 24 percent of the total.

Is this perennial problem over arbitration of discipline an indication of generally inadequate management practices, of employee intractability, or of irresponsible union attitudes? This rhetorical question I will attempt to answer by reviewing some significant difficulties in this phase of industrial relations—difficulties for the professional neutral, for management, and for unions. These problems perplex the ad hoc arbitrator particularly because they frequently stem from policy factors, as well as attitudes, and from personalities of employees, managers, or union spokesmen of which the arbitrator may never be informed at the hearing on a grievance. Yet he is expected to show omniscience and insight irrespective of the twilight or the darkness.

II. The Challenge to Supervision

Inherently discipline grievances embrace more than human relations in industry or the personal equation. An organization requires policy and formal coordination in order to pursue its aims, with adequate authority for internal discipline to effectuate its program. Industry normally measures performance in terms of technical and economic efficiency. Rigid discipline has been used as the policy for furthering that goal. Management often demands strict conformity as a means to that single objective of low production costs and high productivity.

But unions will not accept efficiency as the major criterion for labor policy. The moral obligations of management to those who are subject to its authority are held to override cost considerations as the main basis for supervisory discretion. Machiavellian discipline has been tempered in industry by the influences resulting from collective bargaining and by the labor market pressures of full employment. Now industry's complaint is often heard to the effect that the unionization of employees has caused the pendulum to swing so far in the direction of lax discipline that supervision has not the necessary authority to get results. The steward carries the ball rather than the foreman, it is often contended.

Of course unions have changed management controls as to personnel administration, forcing the practice away from the hard-driving type of supervision which bases authority on fear while overlooking other motivations. Today employees are no longer willing to accept such treatment. The same change has occurred as in other areas of discipline. I recall a youngster who went to church regularly with his grandfather and sat up straight as if absorbing every word from the pulpit. On the way out one Sunday a friend complimented grandpa on the youngster's behavior, to which the old man replied, "Oh, it's nothing. He's adequately threatened before he goes in."

Years ago even the supervisors and foremen were often controlled more by fear. The articulated and published policies

of industrial plants as of today were seldom used. The personality of a harsh authoritarian at the top level of management would be reflected down through the various levels of authority. Today this will only cause a collision when it runs into some stiff union resistance. Either accommodation brings about the adoption of broader-gauged personnel policies in self-defense or the grievance procedures get jammed up to the point of collapse.

Unions have produced a changed attitude among employees so that they resist arbitrary dictation as an unacceptable condition of employment. Industrial supervisors have learned that instructions with reasons gain more effective results than commands and that it is better to encourage self-discipline than to intimidate.

Of course recognizing that workers are whole men rather than clock numbers does not solve all the problems of human organization. The millenium has not yet arrived, and the need to gain compliance with rules and standards remains primarily a management function and responsibility that has to be carefully planned and exercised.

Published rules and standards minimize the possibility of disputes due to misunderstanding of policy or unfamiliarity with job requirements. The right to discipline for infractions implies that workers will be informed as to the rules to be followed and that foremen who supervise and administer penalties know what the policies are so as to avoid charges of discriminatory treatment, whether intentional or not. Otherwise the continuously challenged authority of management will be on the defensive against claims of arbitrariness.

Some contracts specify what types of misconduct constitute proper cause for discharge or suspension, but the impossibility of foreseeing every possibility will nevertheless make a case-by-case treatment of discharge inevitable. Contracts provide also for suspensions and hearings before termination can be imposed. Nevertheless, the differences over reasonableness and equity continue, for the possibility that any disciplinary action may be

reviewed is inherent in the scope of "collective bargaining" over conditions of employment. The requirement that discipline be imposed only for good cause should encourage management to adopt better policy standards and more consistency in this phase of personnel relations, if only in self-defense.

The potential arbitration of discipline cases is a challenge to the quality of personnel management. The right to a review of discipline by arbitration may well have been one of the most radical limitations on the authority of supervision, but it is also the most significant contribution of unions to the self-respect of the American worker. It meant freedom from fear for industrial workers along with self-restraint for supervision. It also causes loss of sleep for arbitrators of grievances that develop out of the absence of sound policy.

III. Arbitrary versus Reasonable Discipline

Of course reasonable policies will not of themselves resolve all differences of opinion over their administration. The discipline dispute often raises more difficult considerations than do matters of contract interpretation. While the immediate problem involved may appear to be of no great magnitude, the impact on the aggrieved employee and his future job opportunities can be more serious. As an example to others, moreover, the policy and precedent value and the effect on worker morale and supervisory authority and status can also outweigh the immediate issue.

There has been developed over the years a considerable body of principles through the arbitration of discipline disputes, even though uniformity is not to be found in matters of human conduct. Primarily, arbitrators expect of management a showing of equity and fair play in personnel administration. While management imposes penalties and thus may take the role of prosecutor in the grievance procedures, the union will often argue to an arbitrator that the company is on trial for its arbitrary policy determinations in imposing discipline. What really

should be a fact-finding proceeding then becomes an adversary trial, and each party seeks a victory rather than a resolution of a difficulty over policy differences.

Whether or not the contract gives explicit recognition of management's discipline rights, there will be disputes over whether discipline was imposed for good cause. In the absence of a contractual waiver of the right of review, the justification of a penalty and the extent of the penalty fall within the scope of arbitration. The burden of proof as to the facts and the need for discipline, as to the reasonableness of the penalty, and as to due notice or fair play as to warning falls on the employer. Frequently these issues are overlooked and the parties use the opportunity to criticize personalities or to put supervisors or others on the defensive, while the broader policy questions are forgotten.

Even a policy of fair warning can cause personality differences. Sometimes I wonder how thin the concept of "reasonable" can be sliced. A union filed a grievance over a warning slip caused by an employee's second error in a two month period, the foreman having verbally reprimanded the employee for a similar boner two months before. The company maintained that a warning is not discipline and that the grievance was therefore not arbitrable. The union contended that the warning was a case of a supervisor "punch drunk" with his authority, that the issue was arbitrable as a step toward more serious penalties, and that the foreman was unfair because the head shipper was off the job on the day of the second error and the disciplined employee had extra work to perform. Since the use of warning slips was referred to in the contract, it would seem sufficient for the union to wait to see if further discipline were to follow any subsequent infractions before asking for arbitration of the unreasonableness of management, meanwhile filing the employee's objections for protection of future rights. Clearly a duty to issue reprimands or warnings exists as a reasonable first step of discipline, preliminary to disciplinary layoffs and dismissals. To

contest a warning for an admitted error means that everything is considered arbitrary.

Past practice often can be argued to show that discriminatory treatment has been meted out to the complaining worker or that supervisory prerogatives have been exercised abusively. Every case has different circumstances and different characters, however, and arbitrators expect management to weigh an individual's prior record, a generally satisfactory past performance, and the way the supervisor reacted as possibly more significant than the alleged offense. One man might reasonably receive a disciplinary layoff of two days for offensive language to a supervisor although in other cases employees had not been so penalized.

Reversing a penalty may make sense even where the schedule of penalties incorporated in the agreement by reference has been adhered to consistently. For example, the insubordination may have been stimulated by supervisory conduct, such as telling a generally cooperative worker to do as he's told or go home. Where a reasonable explanation would have solved the difficulty better, better supervisory performance may be asked for by arbitrators.

Relevant prior minor incidents can add to a company's conclusion as to proper cause for discharge, but many collateral questions of personnel policy must be raised: Were the earlier instances called to the employee's and the union's attention? Or did silence open up the avenue for arguments of condonement? To what extent should references to other unrelated causes for dissatisfaction with the employee be given any serious consideration by arbitrators, particularly where these were not stated prior to the time of discharge?

Generally arbitrators hold that good personnel policy means that an employee is entitled to notice for any prior offenses worthy of the record and to notice of the reason for the instant discipline at the time of a discharge. Usually arbitrators will sustain union objections to considering reasons that have not

been complained of before discharge and of reasons not stated prior to the hearing. Management presumably owes workers the opportunity to overcome deficient performance through notice of deficiency.

On the other hand, the theory of condonement does not lead to the inevitable conclusion that once misconduct has been overlooked in minor instances no later instance can be punished. Notice and warning that there will be no toleration of further violations, instead of a sudden cracking down after prolonged toleration, is reasonable, provided everyone is informed. Condonement does not compel perpetual toleration.

The legal concepts of double jeopardy and cumulative penalties are also applicable in industrial discipline cases. For example, an employee is discharged for cause, after which he is reinstated at the union's insistence and a disciplinary layoff takes the place of discharge on his employment record. Then the employer decides, upon further reconsideration, to cancel his seniority rights, thereby entitling him to less future work. This being contrary to the understanding with the union, it seems to be unsupportable as a double penalty. The situation can be discussed on this basis better than in terms of personality and bias.

In the absence of a specific injunction to the contrary, an arbitrator usually applies the equity concept in a discipline case so as to include the power to appraise penalties in terms of the fitness and fairness for the particular offense, since the extent of the penalty is logically reviewed as related to the action for which the employee is held responsible. Thus management rights, implied or expressed in an agreement, are qualified and reviewable by the need to be reasonable and fair, rather than arbitrary and capricious. On one side of the shield stands the inherent duty of management to maintain reasonable standards of performance, but on the other side there is the presumption that management, as governing agent for the entire operation—for owners, managers, workers, and customers—will exercise its judgment and authority reasonably rather than frivolously.

Judging whether discipline policies have been reasonably administered requires the exercise of self-restraint. Like a reviewing court, the arbitrator will not reverse management's decision solely on the basis of a difference of judgment. He must, like a Plato, seek to define "reasonable," "equitable," and "good cause," even if the parties themselves are unwilling or unable to do so. But unlike Plato he is often somewhat restricted by the history that developed before his appointment, irrespective of his personal subjective reactions.

IV. Union Responsibility for Discipline

Union policy in discipline matters has also been affected by arbitration. The necessity for complying with standards and regulations involves unions and workers. But union sharing of the responsibility to maintain shop discipline will depend to a large degree on management. Supervision is responsible for enforcing plant rules, but it often follows the practice of making or changing such rules only after consultation with the union. The union's failure to object would then be held tantamount to approval, and the incorporation of union-suggested revisions of policy wording or substance would similarly indicate the acceptance of the rules by both parties.

Union policy affects industrial discipline along with management policy. Narrowly viewed, the duty of the union in matters of industrial discipline is limited to protesting; but, as an instrument of communication between supervision and employees over and above its policing function, it may be willing to help management in maintaining standards by advising a member that discipline will follow if he continues his substandard work or continues to violate a rule. Stewards may be willing to cooperate with management, as a matter of mutual interest, in urging employees to meet standards of quality or output. But these responsibilities remain management's, except to the extent that practice or agreement provides for some assumption of duty by the union.

The union's right to protest discipline action can also be restricted by the agreement. In the absence of explicit waiver, however, the presumption must stand in favor of the right to protest. But that right does not make it a duty. Where obvious failure of the employees to comply with reasonable standards can be shown, the union probably does the membership more good by facing the facts of life than by passing the buck to an arbitrator.

For example, a girl returns from periodic sick leave to find a couple of learners on her set of machines. Excessive absences have seriously hindered production; the supervisor has tried to keep going by up-grading helpers. When the operator comes in unexpectedly, she is told to run different machines than her accustomed set, machines of a more difficult design and located in a department called Siberia. She complains to the superintendent and steward, but both instruct her to try, at least until her complaint can be looked into further. When she asks how long she is to be assigned there, the foreman impatiently says, "Maybe a day, maybe a week, maybe a year."

The girl asks for her pay and, although advised that if she takes it and leaves she is all done, she nevertheless wants it and goes home. The Company subsequently refuses reinstatement except on condition that she take whatever work is assigned to her within her classification. The union asks the arbitrator to reinstate her with back pay as an "induced quit." Rebutting this on the ground that she waived her rights, the company argues that she must meet the company's conditions for reemployment. She had lost her seniority standing, moreover, by her hasty action.

Even though this decision could contain considerable discussion of the duty of workers to stay at work and to follow the grievance procedures, mere dicta may not be effective. In the same plant about one year later another operator refused to fill in for an absent worker on a higher rated job for which he had been trained but which he did not like. Others refused to take the temporary assignment from higher grade classifications

of work. There was no problem of pay; rather one of lack of cooperation. The first refuser was sent home and his job did not operate that night; the arbitrator was asked to reimburse him for the night's lost wages on the ground that management had no right to discipline where this man's regular work was available. Parenthetically, the fact that the company won both decisions did not help; the plant has now been moved out of New England, in considerable part because of labor relations difficulties.

The point seems clear that arbitrators cannot reverse management's insistence on employee compliance with reasonable work instructions. Even the political case or the squeaking wheel can be informed by the union that there is less to be lost by accepting instructions and assignments than by facing charges of insubordination.

Of course, the union leadership may be so insecure that it cannot risk refusing to support unwarranted or trifling grievances. It may face criticism from a rival faction for refusing to press a grievance, however unmerited. The arbitrator may never know of this, however, or that the officials may be in too weak a position to risk the screening of unwarranted or trivial complaints. The officials may be faced with criticism of management collusion for not pressing all grievances, but there will be no such evidence in the record; in fact the very opposite may be indicated by militant argument.

Union stewards and officers perform a community service for which they properly enjoy more freedom of movement than other employees, irrespective of contractual specifications as to the extent of this latitude. Aside from their proper union duties, however, they have no more right to privileges than other employees. The fact that more latitude has been allowed may not act as a bar to management's imposing restrictions for abuse of privileges. There is small alternative but to sustain the discharge of a steward for low productivity where, for instance, it is shown that the low productivity is due to time lost through

talking politics with other workers after warnings to stay at the job. On the contrary, a union officer, discharged for being excessively away from work on proper union business may reasonably be reinstated, subject to agreement on conditions as to when he is to be allowed to be away from his machine, thus giving the management some control. The need for union participation in grievances and complaints is a joint policy problem that reasonable parties work out without the need for discipline or arbitrations.

A final principle of union policy in disciplinary issues relates to the matter of noncompliance with no-stoppage clauses. Employees who violate such provisions are guilty of misconduct against both the employer and the union representing them, since both have a stake in the protection and security of the contract. Irrespective of whether the agreements spell out employer rights or union duties as to wildcat stoppages or other unauthorized violations, it is difficult to refuse to support a nondiscriminatory disciplinary policy where the agreement prohibits the conduct for which punishment was imposed.

Real difficulties can arise on the facts of participation or on charges of discriminatory penalties as between individuals or on the question of what constitutes a stoppage. For example, a concerted refusal to perform overtime constitutes a nice issue as to alleged violations of a no-strike clause. The answer may depend on whether overtime performance had been compulsory in the past, on possible fatigue because of excessive requirements, on the method of instructions to perform the overtime, or on other conditions. But most of these cases ought never to reach the stage of ex post facto arbitration. Cooperation and the proper use of the grievance machinery before violations should reduce the necessity for disciplining wildcatters; it often would provide an antidote to the prosecution of grievances after violation of no-stoppage clauses. In such situations the need of union policies for a more effective self-discipline of members is indicated, however impolitic this may be.

V. Employee Extra-Curricular Activity

One other difficult aspect of discipline policy merits discussion, involving conduct *off the job*. No substantial problem arises over the right of management to insist on reasonable performance standards within industry or to enforce disciplinary measures to accomplish that end, but a more subtle and controversial problem arises as to management's right to impose discipline for non-working conduct or activities outside the plant. In the past the point had been pretty well established and accepted that an employee's non-working hours are no concern of the employer, and discipline for conduct outside the plant had rarely been sustained by arbitrators. This line has been shifting lately.

The change in reasoning has developed where conduct outside the scope of employment or where employee activities during non-working hours may be attended by harmful publicity for the employer. Such activities have then been held to be of proper concern to management so as to provide "obvious" cause for discipline, including dismissal.

It may well be argued that, so long as a man appears regularly at work in fit condition to perform his duties satisfactorily, even arrests are of no proper interest to management. Suppose, however, that the job involves calling on customers' homes to repair appliances or to read utility meters and the company has taken all the reasonable steps possible to get an employee to cure himself of lost weekends. The weakness continues, terminating frequently in entries on the police blotter. Customers seem to be less tolerant than management; they complain anonymously. The company concludes that, although alcoholism or sexual irregularities may be illness not directly interfering with the employee's work, the employee appears to be a bad risk from a publicity angle. After reasonable efforts to get the man to correct the condition, he is discharged. Is there justification for reversing the dismissal on the policy ground of employer non-interest, as urged by the union?

Or consider a discharge because of pre-employment arrests. Normally one would hold that prior police convictions are of no concern to an employer. Assume that the employee holds a local union office, his conduct as president of the local being exercised in such officious ways as to result in a check of his application and background. Usually false statements on applications in any material respect will provide cause for dismissal. Would sound policy indicate that an employer has any obligation to check such items as he considers important within a reasonable period after hiring? Does a record of satisfactory job performance offset misrepresentation of facts after four years of satisfactory work? Can employer negligence be found where the application clearly made employment conditional upon the true facts in the answers and investigation disclosed such serious criminal convictions as would justify the company's position that it would not have hired him if it had known these facts?

Which of the principles should have priority: (a) employer non-interest in outside conduct prior to the date of employment; or (b) employee responsibility for misstatement as to a major material fact? To make the case more difficult, perhaps a good deal of union activity, much of it improper performance of official duties, may have to be considered. I leave the problem for you to decide as you wish. Whether management or union policy was more sound may depend of course on the ex post facto factor of how the arbitrator decides the matter, if pragmatism and expediency are the criteria.

Finally in the category of off-the-premises activity for which discharge has been imposed lie charges of subversive-organization membership and invoking of the Fifth Amendment. Arbitrators have occasionally held that termination for such reasons is not a discharge for proper cause (as in the Cutter Laboratories [22 LA 4] and Worthington Corporation [24 LA 1] cases). But the courts have refused to enforce reinstatement awards in these cases on the ground that such employment would be con-

trary to public policy in view of the nature of the employer's business or that unilateral determination is an NLRB matter.

Discharges of Fifth-Amendment invokers have been upheld by some arbitrators on the ground of effect on consumers' adverse attitudes, of financial damage to the employer, or disruptive reactions and effects on other employees (Los Angeles Daily News Company [19 LA 39], United Press Association [22 LA 679], and J. H. Day Co., Inc., [22 LA 751] are awards in point). In these cases the burden of proof seems to rest heavily on the employee. Publicity alone or the mere argument of a public interest or the anticipation of possible repercussions seems to be sufficient, requiring no proof by way of evidence.

I suspect that public attitudes have been more important influences on the courts and on more recent arbitration awards than any reasoning as to public policy or private policy on which the decisions are rationalized. And in some situations union policy has been to refuse to arbitrate discipline imposed for this type of activity .

VI. Concluding Comments

The arbitration hearing has been called the psychiatrist's couch of industrial relations. In the application to discipline grievances this makes some sense, since motives may be more significant than facts in matters of conduct and each case may be unique in relation to the human equation. Notwithstanding the difficulty in ascertaining these intangible factors, they are important influences in such grievances and must be given consideration.

But there is frequently too little attention paid to the larger policy issues in discipline grievances, in relation to both management personnel practices and union responsibility. The arbitration awards provide some guidance for both parties which should be more influential in improving the presentation of cases and in reducing the need for arbitration.

Unions should be alert to oppose arbitrary applications of management authority over workers and to demand a good

quality of supervisory conduct. By recognition of sound management personnel policy, however, and by refusing to support employees whose discipline resulted from an unwillingness to fulfill their job obligations, the unions might cut down the need for discipline.

Management can reduce discipline arbitrations by better personnel administration and by more consultation with union officials on discipline policy and its enforcement. The parties could both avoid the use of arbitration both by an emphasis on mutual interests in long-run terms and by less attention to the adversary aspects in handling disciplinary problems.

In terms of self-interest, the unions should want to demand no more than the facts actually warrant. When political considerations play a part in the processing of grievances, the union may be asking the company to do precisely what it opposes, i.e., discrimination in giving favored treatment for reasons that are not supportable.

It is evident that few serious discipline cases develop in plants where management and unions have jointly adopted a program of formal cooperation, such as a productivity bonus plan giving employees an incentive to improve efficiency. When workers have a direct stake in operating results, fewer discipline problems seem to arise and, in my experience, attitudes also change—from who is at fault to what might be a good solution to the problem. Perhaps more effort could be applied by management to encourage union participation in maintaining discipline by some formally adopted plan for cooperation.

Arbitrators are subject to policing by the courts, which have refused to enforce awards considered to be contrary to public policy. A doctrine of "obvious cause" has been added to the general principle of "just cause" or "proper cause." It may well be advisable for unions and management to approach disciplinary problems with less emphasis on defending individuals or prosecuting individuals. More attention to cooperation from a broader viewpoint will better serve the needs of both. If the parties were concerned less with winning a dispute and more

with working out a solution to the problem, arbitrations of discipline might be made more constructive. I should add that arbitrations also could be reduced considerably—unless the obsolescence of arbitrators is a poor point to advocate at an arbitrators' conclave.

Discussion—

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I want to extend the thanks of the members and guests of the Academy to Dr. Myers for an excellent and well thought out paper. I also want to thank him on my own behalf for taking over the "prefabricated" subject. As some of you know, I was originally scheduled to give the paper and Howard agreed to discuss it. When I found myself unable to do so, he graciously undertook to cover the subject. I am very grateful.

As indicated in the principal paper, arbitrations over disciplinary actions by management frequently result from obscure underlying causes. It is my purpose to discuss somewhat concisely two or three specific concepts which command the attention of the parties and the arbitrators in discipline cases, but before I get into them I would like to observe that there is need for formulation and expression of a common goal by which arbitrators, management, and labor unions can approach problems of discipline. In that connection I know of no better objective than that expressed by William H. Davis in a speech he gave a number of years ago at the University of California entitled "The Logic of Collective Bargaining." At that time Mr. Davis advocated as the mutual goal of Labor and Management in our democratic society the free and spontaneous contribution by the individual of his energies to the common welfare of the enterprise.

Relating that expression to our particular inquiry, factory discipline, I think it may well be accepted by all parties that
