CHAPTER VIII

THE USES AND MISUSES OF TRIPARTITE BOARDS IN GRIEVANCE ARBITRATION: WORKSHOP SESSIONS *

SUMMARY OF WORKSHOP A **

MYRON JOSEPH, CHAIRMAN
JOHN HAYES
HERMAN L. FOREMAN

The workshop did not produce a consensus on the value of tripartite boards for grievance arbitration. Some participants argued that tripartite panels could play an important role in many situations, while others were ready to discard them as a waste of time.

The chairman reported that, in his experience, tripartite boards were not truth-seeking panels, but were simply forums for reargument of cases. Tripartite hearings tend to be less efficient because the partisan members ask questions and play roles designed to impress their constituents. He doubts that a tripartite approach increases the acceptability of awards, particularly when the dissenting members feel obliged to launch a strong attack in a

* This chapter presents summaries of four workshops or informal discussions on the subject of The Uses and Misuses of Tripartite Boards in Grievance Arbitration. These workshops were held simultaneously following presentation of the paper by Professor Harold W. Davey, and this paper provided the basis for the discussions in the workshops. The audience consisted of Academy members and their guests, who were divided among the workshops.

** Myron Joseph, Professor, Carnegie-Mellon Institue of Technology, and Member, National Academy of Arbitrators, served as Chairman of Workshop A. Other panel members were: John Hayes, Personnel Manager, Equitable Gas Co., representing management; and Herman L. Foreman, Attorney, Rothman, Gordon, Foreman and Groudine, representing labor.

separate opinion for the record. He recognizes that partisan members of a panel can help clarify the evidence and can keep the award from colliding head on with the submerged complexities of the case by providing an informal communication link with the parties. However, some alternative informal post-hearing communication process might be a more efficient way to provide such a safeguard if this was recognized by the parties as an integral part of the arbitration process.

As a prelude to his analysis of the tripartite approach, John Hayes suggested that, from his point of view, the best alternative is to get an agreement prior to third-party determination. The threat of arbitration and management's fear that an important issue could be mishandled by an arbitrator who doesn't fully understand company problems help industrial relations men get realistic settlements of disputes. Mr. Hayes believes that tripartite boards are helpful in several ways. As a partisan member of an arbitration board, he has a chance to view industrial relations problems from a different perspective, a valuable asset in handling future problems. He has a chance to explain the nuances of the company's operations to the impartial arbitrator, and to correct misconceptions that might have been created by testimony at the hearing. Even when he can't influence the decision, Mr. Hayes values the chance to keep the arbitrator's award from "throwing the baby out with the bath water." As a member of the arbitration panel he can frequently let his people know by a smile or a frown what kind of impression they are making, and he can help both company and union representatives avoid statements that might endanger future relations. He also values the chance to get a better idea of the probable outcome of the case so that he can prepare his people for victory or defeat, and so that he can administer the results more effectively. Mr. Hayes recognizes that some of these advantages of tripartite arbitration do not require that he be involved in the actual decision, but he wants to have a chance to serve as a check against the "dictatorship of impartiality."

Mr. Herman Foreman has represented labor in the Pittsburgh area for many years. He believes that, with few exceptions, tripartite boards in grievance arbitration are outmoded and impractical. He pointed out that the partisan members of a board are

usually the same individuals who already have failed to reach agreement. In any event, it would be impossible for them to take positions in conflict with those of their own organizations even if they privately agreed with the majority. If the partisan members already know their decisions before the hearing and before the panel meets, they serve no useful purpose in the decision process. The partisan members of a board can create problems for the advocate responsible for presenting the case. Having decided just how far to go in questioning a witness or in pursuing a point, the advocate may find his strategy destroyed when his own partisan panel member pushes the questioning one step further in the mistaken belief he is being helpful. Mr. Foreman is concerned about the substantial delays caused by the mechanics of convening tripartite panels, and by the difficulty they have in reaching decisions. This is particularly distressing because in many cases the neutral arbitrator decides the issues without any real consideration of the partisan members' views. Mr. Foreman is not necessarily critical of this approach because he recognizes that it is one way for the impartial arbitrator to protect himself against considering evidence not introduced at the hearing.. He does not believe that dissents play an important role, since a well-written post-hearing brief should present the party's position and serve as a dissent if that position is not upheld. Mr. Foreman discounts the advisory role of the partisan members since he feels that a qualified arbitrator should be able to understand the case on the basis of the presentations at the hearing. If one side does not do a good job, it should suffer the consequences. He recognizes that a tripartite panel may be useful if there is concern that a single arbitrator might go further than either party would be willing to accept. He would also recommend the tripartite approach in the arbitration of new contract terms. In other cases, he believes that a carefully selected arbitrator is preferable to a tripartite panel.

In the discussion that followed, a wide range of views were expressed. Several participants echoed and reenforced the criticisms of tripartite arbitration, while others detailed the ways in which the tripartite approach could improve the arbitration process. Among the procedural issues discussed was the character of tripartite boards. One view was that the partisan members should

be individuals with an intimate knowledge of the case so that they can help the impartial arbitrator understand the complex issues and the ramifications of alternative awards in the specific situation. Alternatively, some believed that tripartite boards would be more effective if the partisan members were not directly involved in the case or were not spokesmen for the parties. Instead, it was suggested that they be well-informed persons in the industry so that the board will be better able to mete out even-handed justice and seek an objective solution of the issues. It was recalled that the War Labor Board of World War II was the forerunner of tripartite arbitration and that its rule was to exclude from the hearing panel any partisan who was involved in the case. In Canada, union and employer panel members are frequently selected who are not directly concerned with the case to be heard. This practice increases the likelihood of getting a unanimous decision.

It was suggested that an alternative to tripartite arbitration might provide the important safeguards that are claimed as a major advantage of the tripartite approach. The arbitrator could discuss a preliminary draft of his award with high-level representatives of the parties who were not themselves involved in the hearing. These representatives could comment on the long-run and indirect consequences of the arbitrator's award and help him avoid creating unforeseen problems when alternative lines of reasoning could support his decision. This approach could be of particular value in multiplant situations where the repercussions of a single award can be extensive.

Workshop critics of tripartite boards raised the possibility that the use of such boards might result in decisions wholly favoring one side or the other because of the need to obtain the concurrence of a partisan member for a majority. They also warned of certain legal and procedural problems created when the parties ignore their own contractual provisions for tripartite arbitration. The critics emphasized that, from their points of view, tripartite boards were for the most part a waste of time.

Defenders of the tripartite approach argued that if the parties want a higher-quality award in contrast to a "yes or no" decision, if they want a thoughtful award from an arbitrator educated in

the complexities of the particular problem, if they want to be protected against damaging language, and if they want the arbitrator to understand the long-range consequences of the case, tripartite arbitration can best serve their needs. It was reported that in one industry the tripartite board has served as an effective device for training new permanent umpires. Other participants recommended tripartite arbitration if the parties want a panel that will mediate a dispute and attempt to work out a solution acceptable to both parties.

It would appear that the parties will continue to shape the arbitration process to meet their particular needs. Many have rejected tripartite arbitration as wasteful, while others find that it satisfies their arbitration needs most effectively.

SUMMARY OF WORKSHOP B *

LOUIS YAGODA, CHAIRMAN
GERALD H. LESSUCK
RAY RAPP

The consensus that emerged from the participants in this workshop was decidedly more hospitable to the tripartite mechanism for arbitrability than the attitude expressed by Professor Davey. All of the practitioners present—arbitrators, management advocates, and union advocates—had been involved in such tribunals either as litigants or as board members. The prevailing opinion was that they would like to retain the contract right to this mode of arbitration, but there was also substantial support for (1) the idea that the option should be preserved for waiving, on a case-by-case basis, the rights of the disputants to a place on the board in favor of a sole decision by the chairman; and (2) a contract stipulation that when the chairman cannot find a majority for his award, it will nevertheless stand as the verdict.

The individuals expressing this point of view indicated that their criteria for deciding whether or not to cede their rights to

* Louis Yagoda, Member, National Academy of Arbitrators, New Rochelle, N.Y., served as Chairman of Workshop B. Other panel members were: Gerald H. Lessuck, Director of Labor Relations, Brunswick Corp., representing management; and Ray Rapp, Director, District 100, International Assn. of Machinists, representing labor.

an independent arbitrator in a given situation would be (a) whether the subject matter was so technical or the issue so complex, or the possible "spillover" effects so potentially consequential on other aspects of the labor relationship, as to dictate a need to have informed participants at the side of the neutral; and (b) whether the neutral himself was regarded as competent and informed enough to avoid spin-off errors caused by failure to understand intricacies of the operations or underlying needs of the parties.

The impression emerged that arbitrators are more eager than disputants to get waivers in favor of the single arbitrator. One prominent arbitrator stated that he takes two forms with him to tripartite hearings, which he proposes for signature by the disputants. One waives a tripartite panel in favor of the chairman as single arbitrator. The other is an agreement that, absent a majority decision, the decision of the impartial arbitrator will prevail.

Part of the support for tripartitism stemmed from a feeling that the mode of arbitration chosen by the parties in their agreement is an outgrowth of their particular needs, an extension of the hallowed cliché that the contract expresses the way the parties are and how they have chosen to live and that the arbitrator is its creature and servant. It was held that, in the same sense, the tripartite arbitration mechanism reflects those needs at the given state of the relationship.

The workshop participants expressed no sense of shock concerning some of the nonjudicial "abuses" of tripartite arbitration which have offended others.

Most who spoke on this subject found no incompatibility between the concept of arbitration as a neutral final adjudication and the presence on the arbitration board of two admitted partisans. Exploration of the idea of having such boards composed of three true neutrals resulted in a conclusion that a board consisting of a neutral and two partisans is truer to the intent of this method.

In fact, majority opinion seemed to consider it proper for the partisans to take an active role during the course of the hearing.

This included intervention by the party-appointed arbitrators for the purpose of "clarification" and even to ask Socratic questions designed to help their respective sides. As an extreme, a few defended the right of the arbitration-board partisan to stand as a witness before himself.

But in all of this, it was felt that final reliance for the retention of decorum, expeditious procedure, and due process must be placed on the chairman of the board. One suggestion in this direction was that participation at the hearing by the partisan member of the board should be limited to relaying their questions through the chairman.

The workshop ventured into the touchy question of the extent to which, under a tripartite board, there is mediation rather than arbitration within the executive session. On this, the prevailing opinion was that the chairman is expected to make his decision on the merits; the legislative and negotiating efforts must be presumed to have reached an impasse by the time the parties reach the arbitrator. This attitude was tempered, however, by support for the view that tactical or political needs of the parties may be legitimately asserted by the partisans in their discussions with the chairman.

There was acknowledgment that the presence of advocate representatives on the board creates some problems arising out of the clash between their partisan missions and the practical necessity of bringing in a majority award. Labor and management representatives admitted that there may be times when their partisan compulsions would require that they issue a dissent from the majority opinion even though their more detached judgment would favor concurrence. But they saw no impropriety in such a course, or in indicating to their board colleagues in executive session their off-the-record approval of the majority position.

There was, however, concern expressed about the dangers of a "hung jury." On this subject there was a majority posture of disapproval of unmerited compromise for the sake of attaining a majority.

The classic case cited was one in which it was the chairman's objective judgment that the dismissed employee should be rein-

stated without back pay. The management member of the arbitration board held out for sustaining dismissal and the union designee for reinstatement with full back pay. In his award, the arbitrator stated openly that he had abandoned his position because he could not find a majority for it, and thereupon issued an award sustaining the discharge as his "second best" position.

One arbitrator in the workshop stated, however, that in a similar case he had allowed an award to go out containing all three disparate positions. Since this had no practical effect, the parties were left to resolve the dispute voluntarily or to establish a new arbitration board.

The consensus was in support of the chairman's sticking to his guns, and the hope was expressed that a stand-off could be avoided by a combination of persuasion and the threat of a "hung jury."

Avoiding the danger of the "hung jury" and minimizing the need for pro-forma dissents were reasons given for support of the arbitration clause which preserves the tripartite mechanism but stipulates that in the absence of majority agreement the chairman has decision-making power, leaving the two other members of the board to issue separate opinions for the record.

Some interesting contributions were made in response to questions as to the working mechanisms of the tripartite board in arriving at its decisions. Opinion favored the sending of a working draft by the chairman to his partisan colleagues in advance of the scheduling of the executive session. It was felt that the ensuing discussions would be more concrete, the points of view could be more tangibly expressed against a recorded position of the chairman, and the parties could be better protected against a harmful slip in verbiage. One arbitrator stated that his practice was to send not only a first draft for discussion purposes but a second draft after the executive session for comments and corrections before issuing his final award.

The opinion also was expressed that the fiction of using the words "the board" as the issuer of the opinion should be dropped. Inasmuch as the words of the opinion are those of the chairman, they should be in his name.

A view advanced by one arbitrator was that the tripartite

mechanism might be a useful vehicle for training new arbitrators. He commented that the partisans might appoint persons who have newly entered the arbitration profession and thus enable them to gain needed experience. This left unexplored (for lack of time) the question of whether such appointees would be expected to act as true neutrals or whether, by not doing so, they would be sacrificing their standing in the arbitration fraternity.

SUMMARY OF WORKSHOP C *

HARRY J. DWORKIN, CHAIRMAN
DONALD C. HYDE
JOSEPH E. FINLEY

Professor Davey's comprehensive analysis of the pros and cons of the use of the tripartite board as compared to a single arbitrator evoked a spirited response on the part of the participants attending this workshop. The members of the audience engaged in a lively appraisal of the advantages and disadvantages of the alternative arbitration procedures. The discussion which followed was marked by an apparent reluctance to reject either method of arbitration as inadequate. While it was pointed out that a tripartite board may be subject to abuse through failure to use it properly, this was not deemed a justification for rejection of the tripartite system. The preponderance of opinion indicated that the system should continue to be available in grievance arbitration where the parties deem it to be mutually desirable. This would be governed by the individual situation, that is, the pattern of the relationship and the subject matter of the particular dispute or grievance. As stated in the remarks of Professor Davey, the choice of procedures is for the parties to make, and this premise was sustained by the remarks of both the proponents and critics of the tripartite board.

The opinions expressed by the individual participants were,

* Harry J. Dworkin, Member, National Academy of Arbitrators, Cleveland, Ohio, served as Chairman of Workshop C. Other panel members were: Donald C. Hyde, Associated Consultant, Parsons, Brinckerhoff, Quade & Douglas, representing management; and Joseph E. Finley, Attorney, Metzenbaum, Gaines, Krupansky, Finley & Stern, representing labor.

however, as diverse as the arguments set forth in Professor Davey's paper. These opinions were in large measure prompted by the incisive and penetrating analysis presented by the representatives for management and labor, Hyde and Finley, who have had extensive and varied experience in the use of both arbitration boards and single arbitrators. They advanced their diverse views in a constructive manner, drawing from a wealth of experience in order to support their assertions. Although their statements reflected some basic differences, there was the recognition that the choice of either system depends in part upon the individual needs and requirements of the parties in light of the nature and character of the dispute.

The presentations by Hyde and Finley evoked a sustained discussion. The opinions expressed by some indicated disenchantment with the tripartite system, while others were equally vigorous in expressing a preference for that system. Those who favored retention and use of the three-man board did not necessarily take the position that the use of a single arbitrator is never warranted or that either system should prevail over the other in all situations. The thrust of their argument was that, while both systems present certain inherent advantages, they are subject to abuses as well; however, the shortcomings are attributable to the parties rather than to the systems themselves. In any event, it was the prevailing judgment that the choice of method should be reserved to the parties.

The faults incidental to the use of either arbitration system were held to lie in the misuse of the arbitration process. Several of those expressing opinions underscored the failure of the parties to permit their designated members to exercise their individual responsibilities in a positive and meaningful manner. It appears from the experience of many practitioners that all too frequently the partisan members are restricted in their authority by the appointing parties. Under such circumstances, they tend to lose their effectiveness. Where their authority is confined, the partisan members are prevented from utilizing their knowledge, experience, and judgment so as to aid the impartial member in arriving at a reasonable and informed judgment. Insofar as there is a tendency to restrict the exercise of judgment and discretion by

board members, their full potential is not realized. Frequently, they serve to cancel each other out, and the net effect is a decision by the neutral member alone.

One of the discussants, on the other hand, urged that the requirement that the award be concurred in by a majority be discarded; the neutral member should be charged with the sole responsibility of rendering the award, thereby preventing the issuance of a decision and award which are the product of compromise.

A recommendation that elicited considerable support was that company and union board members be selected from a "neighboring" company within the same industry and from a different local union, respectively, as a means of promoting objectivity without eliminating their basic interests; the partisan members should not be shackled with the "I have got to stand by my side, win, lose, or draw" approach. Partisan members should not be so inextricably linked to their principals as to prevent their exercising freedom of judgment.

The common practice of permitting the company and union members of an arbitration tribunal to present the case for the parties is regarded as a serious abuse which demeans the arbitration process and makes the tripartite board ineffective.

It was pointed out that the tripartite board is a familiar feature in certain industries. The use of a three-man board is regarded as an effective method for the resolution of grievances arising under labor agreements, as well as the formulation of the terms and conditions of collective bargaining agreements. The tripartite board has been found useful in the resolution of problems in municipal transit systems, public utilities, communications, and governmental agencies.

These were the chief arguments presented in support of the tripartite board:

1. The tripartite board is a valuable aid in the arbitration of contract grievances; if used correctly, it serves as a "judicial tribunal," the use of which should be encouraged and fostered.

2. The tripartite board can be used to obtain decisions with greater acceptability.

3. A tripartite board, properly utilized, provides assurance against serious error that may result from the limited knowledge of a single arbitrator and the limited opportunity of the parties to communicate with the arbitrator.

4. The executive session provides a valuable opportunity for company and union board members to define the issues and to assure that the award is limited to the grievance and within the scope of the contract.

5. Use of a board gives the parties an opportunity to file dissenting opinions, thereby documenting the position of the losing party and protecting against the charge that it "accepted" the award. The dissenting opinion is regarded as a substantial right; the dissent may be effectively referred to during contract negotiations and subsequent grievances; a well-written dissenting opinion, reflecting logic and persuasiveness, may be helpful during contract negotiations in correcting the adverse consequences of a prior award.

6. The board approach is particularly effective in complex cases where the knowledge and experience of the partisan members may be helpful in avoiding unrealistic and impracticable results; there is value in having informed members readily available for consultation on technical issues in complex cases.

7. In a long and involved case, partisan board members aid in the development of the case through their discussions with the neutral member and, in turn, provide a service in conveying any apparent problems to the company and union spokesmen for further clarification during the course of the hearing.

8. A board provides an opportunity for arriving at a compromise; such a result, when reflected in the award, is frequently more acceptable and palatable than a so-called "clear cut" decision which, although consistent with the contract, may be impracticable.

9. A board is useful in drafting the provisions of a new contract where the parties have reached an impasse in their negotiations; no substantial basis exists for the reluctance of companies and unions to entrust the terms of a collective bargaining agreement

to arbitration, as well as disputes and grievances arising under the contract.

10. The use of a board gives the parties greater confidence in the integrity of the arbitration process, serves to allay any suspicions which the parties may harbor, and accords a sense of security by flanking the neutral member with guardians designated by the parties themselves.

11. The use of a board is especially appropriate in the arbitration of grievances in the public sector, including municipalities, public transit systems, and other public agencies, as well as in disputes involving nonprofit corporations such as hospitals and educational institutions. The tripartite system would also be useful in resolving disputes over future contract provisions.

12. The tripartite approach is desirable in cases in which the parties have had relatively little arbitration background and experience. The parties look to their nominees to provide some assurance of the system's bona fides; where a party is represented by an advocate with little prior experience, the presence of the partisan member gives some assurance that his position will be considered.

13. The tripartite system provides a valuable training ground for the development of management personnel and apprising them of the necessity of adhering to the contract terms in the employment relationship.

14. The tripartite composition of the board may have significant functional benefits. It permits the adjustment and resolution of disputes as an extension of the collective bargaining process; a single arbitrator is more or less limited to the issuance of an award in strict conformity with the contract.

Criticisms of the tripartite system and a preference for the use of a single arbitrator are reflected by the following arguments:

1. The tripartite board has proved to be cumbersome, costly, and time-consuming.

2. The executive session permits and encourages "jockeying for position" on the part of the partisan members. This leads to

decisions which are the result of a compromise or "deal" and do not reflect the true basis for the decision.

3. The tripartite approach encourages innovation and experimentation. It encourages board members to venture beyond the contract and the evidence. Such tendencies, when reflected in the award, invade the exclusive province of the parties, namely, the right to negotiate mutually acceptable terms and conditions of employment without interference from outsiders.

General Conclusions

A principal feature of the tripartite system, as expressed during the workshop discussion, is that it promotes acceptability of the award on the part of both management and union and provides an opportunity for practical compromise. This result was not viewed as objectionable, and several responsible industry and union representatives voiced the opinion that compromise is not improper in some cases. It guards against an award which, although correct, may be impracticable for reasons not readily apparent to the neutral member.

Tripartite arbitration provides some measure of post-hearing control of the arbitration process, thereby avoiding absurd results. The executive session is viewed as an extension of the collective bargaining process and, in some situations, as desirable.

The general consensus was that the use of the tripartite board should be preserved because it constitutes an effective instrument in both grievance arbitration and future-terms disputes. The board is regarded as especially useful in the arbitration of grievances and disputes in the public sector. However, the use of the three-man board should be improved and refined so as to permit a greater utilization of the knowledge of the partisan members. One of the major shortcomings of prevailing practice is that the company and union members participate little or not at all in the arbitration hearing or in the formulation of the decision and award.

Among the improvements suggested was that the partisan members should be permitted to exercise a greater degree of individual judgment and be free to participate actively in the conduct of the hearing. This could be accomplished by developing a system

under which the parties would select members from "neighboring" companies and unions.

SUMMARY OF WORKSHOP D *

PAUL N. GUTHRIE, CHAIRMAN
WILLIAM BELL
KAY MCMURRAY

In developing the program for the Twenty-First Annual Meeting of the Academy, the program committee provided for a series of workshop sessions to discuss and consider various aspects of tripartite arbitration of grievance disputes. Workshop D was scheduled to give particular consideration to the use of tripartite boards in the arbitration of grievance disputes in the nation's airlines.

The panel first gave consideration to the general character of grievance dispute handling on the airlines as contrasted with the practices in other industries. It was noted that Title II of the Railway Labor Act makes certain provisions with respect to grievance disputes on the airlines. In particular, it authorizes the National Mediation Board to establish a National Air Transport Adjustment Board when in its judgment "it shall be necessary to have a permanent national board of adjustment in order to provide for the prompt and orderly settlement of disputes. . . . growing out of grievances or out of the interpretation or application of agreements. . . ."

In the meantime, Title II places the obligation upon the airline carriers and their employees, acting through their representatives, to establish boards of adjustment to which unresolved grievance disputes may be appealed. While the Act does not spell out in great detail the structure of such boards, it has been the practice to establish such boards as continuing bodies made up of an equal number of carrier representatives and organization representatives,

* Paul N. Guthrie, Professor of Economics, University of North Carolina, and Member, National Academy of Arbitrators, served as Chairman of Workshop D. Other panel members were William Bell, Director, Labor Relations, Eastern Air Lines, and Kay McMurray, Executive Administrator, Air Line Pilots Assn.

with the provision for the selection or appointment of a neutral arbitrator in the event of a deadlock in the handling of a case.

In view of these arrangements, it was pointed out at the beginning of the workshop session that the status and functioning of the tripartite boards in the airline industry is quite different from what is customarily found in general industry. For one thing, in many if not in most instances, these boards function as regular boards without participating neutrals. A neutral joins a board only if the regular members deadlock on the case. Therefore, these boards, without neutrals, function as boards to a degree not generally found in other industries. It may also be noted that the period of members' service on the airline system boards tends to be much longer than in other industries. Hence, the members acquire more experience and a greater sense of responsibility than do the party-designated arbitrators in the typical *ad hoc* situation in other industries. The workshop noted that the collective bargaining agreements in the airline industry tend to be rather technical and complicated, with the result that the party-designated members of the system boards are in a position to make a more significant contribution in the proceedings of the boards than may sometimes be the case in other situations. They are in a position to bring to a board's deliberations an experience and knowledge which may be of great value to the neutral member in interpreting and applying the terms of these rather complicated agreements.

It was the consensus of the workshop group that the criticisms of the tripartite system made in Professor Davey's paper were not applicable to the system board arrangements in the airline industry to the same degree as in a number of other industries. On the contrary, it was the sense of the meeting that the tripartite system works better, on the whole, in the airline industry than in any other.

Those participating in the workshop were aware that the tripartite system on the airlines has its problems. In other words, there was no disposition to regard the operation of the system as perfect and free of difficulties for the parties. For example, quite a number of the participants were concerned with the tendency of the system board arrangement to become too complicated and develop long-drawn-out procedures which present the danger

of long-delayed decisions. It was pointed out that this might result in large backlogs of cases with the consequence that the whole grievance-handling procedure would be frustrated. There was also concern on the part of some in the group that, as a result of these tendencies, the cost of case handling might become excessive. Hence, it was the prevailing view that the system board arrangement should be examined from time to time with a view to improving it and preventing such undesirable developments as those outlined above.

It may be properly inferred from the above comments that the members of this workshop did not view the existing tripartite methods of handling grievance disputes in the airline industry as undesirable or inferior to a possible system with a single neutral arbitrator. On the contrary, the general consensus was that the tripartite system as it has developed has substantial strengths, in part because the party-designated members of the boards tend to act in a more independent fashion than do the party members in *ad hoc* arbitrations in other industries. This, in turn, is a tribute to the carriers and the labor organizations, which recognize the desirability of having their representatives on the system boards perform their duties somewhat more independently than is customary in most other industries.

In the course of the workshop, representatives of both the carriers and the labor organizations expressed the view that the tripartite arrangement was valuable to them because it provided protection against unwise and unworkable awards. The knowledge and experience brought to a board by the party members can be of great aid to the neutral arbitrator, particularly where highly technical matters are involved and where an ill-advised award could do great damage to the parties. Therefore, it was the view of both carrier and labor organization spokesmen that the basic tripartite system is desirable and sound. The conviction was expressed that whatever undesirable features may have developed in the system can be corrected with much less difficulty than would be encountered in developing a different system.

In summary, therefore, the workshop as a whole looked with favor upon the tripartite system for handling grievance disputes in the airline industry. It was the consensus of the group that the

tripartite arrangement has probably worked more effectively in this industry than in any other. In the light of these considerations, the group held that most of Professor Davey's criticisms of the tripartite arrangements were not applicable to the system as it operates in the airline industry.