Abstract

Featherbedding is t earned increment for work not done c ment is entitled to a day's work that ergies short of ill health. Discussions of health and safety. A close analysis of the collective bargaining process, however, reveals a fundamental conflict between management and the worker over what the worker unconsciously regards as a prop erty right, namely, his job. The notion of a job as a property right has not yet been received as part of American mores. Analysis of the legislative and judicial treatments of feather bedding discloses the futility of such efforts. At the present time, severance payments are gaining currency for the jobs that are abolished. Such payments are regarded as consola tion money by the unions; they tend to be regarded by em ployers as blackmail to persuade the worker to relinquish what was not his in the first place. One proposed solution to the problem is the establishment of voluntary arbitration tribunals to define a concept in labor-management relations parallel to the concept of eminent domain in private real estate. Such tribunals would recognize the worker's property right to his job and would define the degree to which the worker could capitalize the loss of his earning opportunity. Social efficiency would thereby be freed of the burden of obsolete performances insisted upon by the worker who must protect his earning capacity.

1 Benjamin Aaron, "Governmental Restraints on Featherbedding," 5 Stan. L. Rev. 720 (1953).

2 Selig R. Perlman, *A Theory of Labor Movement* (New York: Augustus Kelley, 1949), p. 199. See also Leon Green, "Fansteel Strike," *The New Republic,* Vol. 90 (May 24, 1937), pp. 199-201.

3 John R. Commons, *Legal Foundations of Capitalism* (Madison: University of Wisconsin Press, 1957).

4 Hearings before Committee on Interstate and Foreign Commerce on S. 3778, Ratemak ing Rule-Interstate Commerce Commission Act, United States Senate, 85th Congress, 2nd Session, May 20-21, 1958, p. 66.

5 *Ibid.,* p. 43.

6 *Ibid.,* p. 133.

7 *Wall Street Journal,* October 29, 1959.

8 Gilbert Burck, "A Plan to Save the Rail roads," *Fortune,* Vol. 58 (August 1958), p. 82.

9 Charles Gregory, *Labor and the Law* (2nd Ed.; New York: Norton, 1958).

10 40 L.R.R.M. 2393.

11 17 L.R.R.M. 2203.

12 20 L.R.R.M. 2254.

13 Gregory, *op. cit.,* p. 431.

14 27 L.R.R.M. 2511.

15 34 L.R.R.M. 2361.

16 34 L.R.R.M. 2363.

17 8 L.R.R.M. 1099.

18 34 L.R.R.M. 2367.

19 20 L.R.R.M. 94.

20 *"American Newspaper Publishers Associa tion* v. *National Labor Relations Board," La bor Relations Reporter,* Vol. 31, No. 37 (March 9, 1953), p. 1.

21 Hearings of the Senate Committee on La bor and Public Welfare, United States Sen ate, 83rd Congress, 1st Session, 1953, part 1, pp. 257-58, quoted in Neil W. Chamberlain, *Sourcebook on Labor* (New York: McGraw- Hill, 1958), pp. 725-26.

22 Aaron, *op. cit.*

23 Hearings of the House Antitrust Subcom mittee, United States House of Representa tives, 84th Congress, 1st Session, 1955, part 3, pp. 2149-50, quoted in Chamberlain, *op. cit.,* p. 726.

24 *Ibid.*

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