

I have come in my own thinking to the conclusion that there just is not a patentable answer, and that the plain facts are that there is an assumption in the country as a whole that there is something which permits the intrusion—no, that there is something which does not require the intrusion of any element of third-party determination which would at the same time assure against an interruption of production. I don't believe that there is.

Mr. KEITH. How about a labor court?

Secretary WIRTZ. I think that is a matter of name. There is a suggestion that in Sweden there are labor courts. That is a term used in Sweden to cover a jurisdiction of courts very close to our grievance procedure and NLRB.

There are other countries which have experimented with it. I don't believe that calling it a court and setting it up permanently on that basis would be other than a difference in cosmetics.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. FRIEDEL (presiding). Mr. Rogers.

Mr. ROGERS. Mr. Secretary, as I understand it, you feel that all has been done to try to settle the matter by mediation, and now out of consideration for the public interest you feel this suggested legislation should be tried.

Secretary WIRTZ. Yes, sir.

Mr. ROGERS. As I understand it, you maintain this is not compulsory arbitration since they can change the Board findings and the Board findings are only binding for so long.

Secretary WIRTZ. And more particularly because of the area of determination here being so narrow and is so tied to their collective bargaining.

Mr. ROGERS. Do you feel that is a distinguishing feature of compulsory arbitration?

Secretary WIRTZ. Yes, sir, I do. I think compulsory arbitration properly attaches to a proceeding in which that element dominates, covers the whole of the situation, is established in advance of any dispute, in contrast to a situation here where the Congress would provide that the history of collective bargaining in that particular case, which is quite extensive, must be brought to bear and must constitute the element of third party determination.

Mr. ROGERS. I had assumed that if parties could get together on other issues, the only point they could not get together on would be submitted to the Board and would be binding. I do not see a distinguishing feature there.

Secretary WIRTZ. Let me make a comparison. I don't think collective bargaining in this country today is properly described as compulsory collective bargaining.

It is a matter of terminology. There is a requirement by law that parties bargain collectively, but I don't think the application of the term compulsory to that is today a fair communication of the idea.

I have thought that to talk of the union shop as compulsory unionism is not a fair application of the term compulsory. It always is a question, Mr. Rogers, of whether the element of final determination which is here, and undeniably here, is a dominant characteristic, as I think it not to be in this case, or is the controlling consideration, as