

tract. Extensive litigation followed. The miners returned to work, but the fund still was not operative because the parties could not agree on the neutral trustee.

With the expiration of the statute authorizing Government seizure the mines were returned to the private operators on June 30, 1947, and soon thereafter the parties negotiated anew and the employer contribution to the fund was raised to 10 cents a ton. But the payment of pension benefits was delayed because this time the fund's trustees could not agree on the terms of the pension program—in specific, whether the program should be funded or pay as you go. After another strike, an injunction, a contempt order against Lewis, a stalemate on the seating of the neutral trustee, suits to prevent the fund from making pension payments, the negotiation of a new contract in 1948, and a Federal court's approval of the pension plan—the first pension check was disbursed in September 1948. The fund did not become firmly established until 1950.³⁵

The UMW pension program has never been actuarially funded and benefits have been disbursed on a pay-as-you-go basis. Nor do miners have a legal equity in the fund. When considered necessary, pensions are reduced, but, also raised. The method of financing by a cents-per-ton contribution or "royalty" Lewis justified on the ground that "productivity per man employed in the industry would constantly rise * * * and that manpower of the industry per ton produced would decline," and, hence, a contribution based on cents per man-hour or percentage of payroll would produce a declining contribution to the fund.³⁶

Lewis' struggles dramatized and provided the great initial thrust for the union welfare and pension drive. There had been earlier negotiated pensions, pooled funds and royalty types of contribution, but Lewis and the miners quickened the movement for negotiated pensions as nothing else had. Psychologically it is likely that the miners' welfare fund was the single most influential force in the negotiated pension movement.

The late 1940's was almost the first opportunity the industrial union could come to consider pensions on their collective bargaining priority list. The unions in the first stage of development, as the NLRB had observed in the *Inland* decision, could not have "negotiate[d] effectively for anything more than the establishment of the routine terms of wages, hours, and conditions of employment, because the failure of most employers voluntarily to accept the processes of collective bargaining placed most unions in a weak position."³⁷ "Unions," Latimer remarked at the time, "had to pass beyond the organization stage. A union cannot be interested in the long-term outlook involved in social insurance unless the organization, as such, had some prospects of permanency."³⁸ The immediate postwar years was a period of rapidly rising prices and the industrial unions first concentrated their energies

³⁵ Account based on *Welfare and Pension Plans Investigation, Final Report, op. cit.*, pp. 166-177 and *Welfare and Pension Plans Investigation, Hearings*, pt. 3, testimony of Louis Reed, pp. 1015-1044.

³⁶ *Ibid.*, p. 1046. R. L. Myers, "Experience of the UMW Welfare and Retirement Fund," *Industrial and Labor Relations Review*, October 1956.

³⁷ *Inland Steel v. United Steelworkers, op. cit.*, p. 10, note 24.

³⁸ Murray Latimer, "Social Security in Bargaining," *Conference on Labor*, New York University (Albany, N. Y.: Bender, 1948), p. 6.