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CRITERIA FOR WAGE DETERMINATION*

Reverend J. F. Orford**

Of late years there has been much discussion concerning the manner in which decisions pertaining to the establishment of wage rates have been reached. It is, of course, common knowledge that a great many factors enter into such decisions.¹ It is not the purpose of this paper to examine all the elements and factors which, as a matter of fact, do actually enter into wage determination. We are concerned here with attempting to evaluate, in a moral sense, the validity of several criteria which are quite commonly offered as the basis for wage determination. The question we assay to answer is this: "Among the various criteria utilized in wage determination, singly or in combination, which can be justified morally?" Since it is a moral question which is involved, we see no need of discussing such things as economic and physical strength of the bargaining parties; we are not equating might, economic or any other type, with moral right. It is hardly necessary to emphasize that the conclusions reached in this paper are not, nor intended to be, in any way definite or final. Our purpose is, rather, to stimulate further discussion. Obviously, if a moral judgment is to be made there must be some standard which will enable one to ascertain whether or not a given criterion conforms to the demands of morality. In other words, if we are to evaluate morally these various criteria, there must be some yardstick with which we can measure them. As a hasty generalization it can be maintained, and we do maintain, that there are, in general, only two types of yardsticks possible, one which is absolute, or one which is relative, one which is enduring and timeless, or one which is subject to constant mutation. We take the position that there are certain moral principles which are objective and universal, and are not subject to shifting and changing "mores," or given patterns of conduct. There are moral values which are independent of time and place and person, obligatory on all men. As is clear, our position is diametrically contrary to that taken by the late Chief Justice of the United States Supreme Court, Mr. Vinson, who in expressing the opinion of the majority of the Court wrote, "Nothing is more certain in modern society than

* Comments on this article by an attorney representing employers and a labor union official, together with Father Orford's replies, will be published in the Spring Issue of the Marquette Law Review. Additional comments from readers are solicited.

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¹ See generally DUNLOP, *WAGE DETERMINATION UNDER TRADE UNIONS* (1944); ROSS, *TRADE UNION WAGE POLICY* (1948); Meyers, *Criteria in the Making of Wage Decisions by "Neutrals,"* 4 *INDUSTRIAL & LABOR REL. REV.* 343 (1951).

the principle that there are no absolutes, that . . . a standard has meaning only when associated with the considerations which gave birth to the nomenclature."² It is our intention to attempt to evaluate the criteria in terms of the natural, moral law, that law by which man's acts must be guided if they are to be morally good. Despite the sneers and jeers of the legal positivists, whose name is legion, the vitality of the natural law concept is amazing. It has lived, as someone has so aptly remarked, "to bury all of its undertakers." By the natural law we mean "a rule of action, mandatory in form, which reason itself reveals as established and promulgated by the Author of nature, and imposed on all men through their very nature."³ In accordance with this law, we shall judge any criterion to be morally justified which is consonant with the intrinsic value, and the legitimate demands, of a rational human being. Again, we are assuming that man has a specific and particular nature, essentially different from, and incomparably superior to, that of animals. We contend, further, that necessarily flowing from this rational nature are certain natural rights which must be respected by all men. It is in terms of these rights that the criteria are to be judged.

In the actual process of collective bargaining there are, as stated above, many elements which we cannot examine here, since they are not germane to our purpose. We are concerned with what ought to be the standards of determination if justice is to be done to the wage earner. In a stimulating article, Lloyd Reynolds, the Yale economist, expresses the view that this approach is "distinctly academic" at the present stage of our economic development.⁴ He deals with the actual considerations which move labor and management in the bargaining process. But these very factors themselves become criteria and should be judged morally. Further, even though it be "academic" we think that it is worth the effort.

The various criteria which play some important part in the process of reaching a decision on wage levels are generally considered to be these: 1) Comparative rates, *i.e.*, those paid by other companies using the same type of labor; 2) Changes in the cost of living; 3) Ability to pay a given rate; 4) Changes in productivity, or output per man hour and 5) Economic strength of the contending parties. There are other criteria enumerated in the literature, but these are the really significant and compelling ones. It is the opinion of Mr. Reynolds that, in actual bargaining, there are three major factors which influence union and management officials; "Two of these—wage changes in other companies and changes in living costs—play a positive role in

² *Dennis v. U.S.*, 341 U.S. 494, 508 (1951).

³ LE BUFFE, *THE AMERICAN PHILOSOPHY OF LAW* (1947), at 39.

⁴ Reynolds, *Bargaining Over General Wage Changes*, N.Y.U. SECOND ANNUAL CONFERENCE ON LABOR (1949), at 156.

wage decisions. The third, the financial situation of the company, plays a negative or limiting role."⁵ It is pertinent here to observe the criteria which have been used by the Emergency Boards acting under the Railroad Labor Act of 1926 as amended in 1934.⁶ The last step described by this Act, after the participants have failed to reach an agreement, is to allow the President to appoint an Emergency Board, whose function is to investigate the dispute and to make recommendations. Strikes are prohibited for the period of the investigation and thirty days thereafter. After a very thorough examination of the actions of the Emergency Boards over a period of years, Meyers lists the following criteria which have been utilized: 1) Wage comparison, external and internal to the industry; 2) Changes in the cost of living; 3) The effort, skill, responsibility and hazards of railroad employment; 4) Changes in the rate of productivity per employee; 5) Irregularity of employment and 6) Ability to pay. In conclusion Professor Meyers states:

"It appears, then, that neutrals determining wage changes in the railroad industry have given almost overwhelming consideration to the criterion of comparative wage trends. Evaluation of other criteria has found them to be either impossible of application, or subsidiary to the desirability of maintaining wage relationships between the railroads and other industries."⁷

With respect to the last point made, everyone at all familiar with wage bargaining is aware of the great effect certain key wage settlements have on a whole industry, such as the automobile industry.

Today there are few, if any, who would deny that the worker has a right to a fair and equitable wage. To that "good," a fair wage, the worker has an inviolable moral claim which cannot be denied without outraging his nature. Such a "good" is the intrinsic value of the labor of any adult full-time worker, who is a "breadwinner." The great practical difficulty lies in determining just what constitutes a fair and equitable wage under any given set of circumstances. It has long been the position of those, who maintain that the ethical concept of justice must be applied to the whole field of economics, that the only "fair and equitable" wage is one which enables the wage earner to live in a manner consistent with his value and dignity as a human being.⁸ The first and fundamental ethical title to material goods is human needs. As long as an adult male worker, of average physical and mental abilities, puts those abilities at the disposal of an employer, full time, that worker has a natural right to a wage which will give a decent livelihood to both himself and his family. We are

⁵ *Ibid.*

⁶ Meyers, *supra*, note 1, at 344.

⁷ *Ibid.* at 354.

⁸ RYAN, *DISTRIBUTIVE JUSTICE* (1943).

supposing that the industrial system, as a whole, and the employer, in particular, can pay such a wage, for no industrial right is absolute and unlimited. Clearly, all such rights are conditioned by the capacities of the system.

A most enlightened statement concerning wage criteria appears in an address by Professor George Taylor of the University of Pennsylvania, given before the Annual Conference on Labor at New York University. He recalls the efforts of businessmen during 1933 and 1934 to establish standards of wages, and likewise the operations of the various stabilization boards.

"Out of the regulation of wages for stabilization purposes a well recognized criterion of wage determination has emerged. I call it the criterion of the fair wage, *per se*. It is a wage considered to be so fair and equitable on its face that it should be paid irrespective of ability to pay and competitive conditions."⁹

This could properly be called a minimum living wage, one which would eliminate sub-standard levels of living for the worker and his family. The minimum wage required by the Fair Labor Standards Act, now standing at 75 cents per hour, acknowledges the validity of this concept. The Act states, equivalently, that such a wage must be paid by all industries engaging in interstate commerce, irrespective of the effect of that wage on the financial condition of the company. If a given company cannot pay that wage and remain in business, then presumably it should not remain in business. As Professor Taylor expresses it, "it is implicit in the Act that jobs should not be worked at wages less than a fair wage, *per se*."

Since the comparative wage rate has such great weight in the bargaining process and since it alone is determinative, according to Professor Meyers, in establishing rates for the railroad workers we shall consider it first. As a rule of action, this criterion means that a company will keep its wage range quite close to that of competing companies in the same area and in the same industry. Professor Taylor writes that he is quite dissatisfied with the usual personnel treatises which say "We must make a careful job evaluation and get our jobs all in order. Then we translate our job value into pennies by finding out what is paid in the area and gearing our rates to established levels." Taylor makes this trenchant criticism of such a criterion, "This approach avoids the main problem in wage determination. What makes the level change, both in an industry and an area, is of great importance. The usual use of the comparative rate criterion dodges the factors which make wages change."¹⁰ It can be attacked

⁹ Taylor, *Criteria in the Wage Bargain*, N.Y.U. FIRST ANNUAL CONFERENCE ON LABOR (1948), at 65.

¹⁰ *Ibid.* at 72.

on a more fundamental basis, that of simple justice, that of giving to the worker that which is due or owing to him. Let us suppose for a moment that a given rate is paid generally in some area to all those who perform a given type of labor. This criterion would assert that a fair wage would be one which compared favorably with such a rate. Such a method of determining rates begs the whole point at issue. The real question is whether the general level itself is a just level. Simply because most or all companies are paying a given rate, we cannot conclude that such is a "fair and equitable" wage. To justify the use of this criterion, some companies offer the excuse that they must maintain a competitive position if they are to survive, and this is impossible if wage costs rise above that of other companies in the same industry. What this really means is that raising the rate level would tend to reduce the profit level, *vis-a-vis* competitors, and the company is in business for profits. This criterion signifies that the dominant thing is always the right thing. A rigid application of this principle would mean that any real breakthrough of wage rates would be unjust, if people who use this criterion can properly speak of justice at all. Probably the most important cause of real increases in levels has been the insistent demands of strong unions, resulting from the sharp increases in the cost of living since the end of the war. Such spirals in costs reduce the real wage income. Another factor is a condition of rather full employment and a consequent tight labor market. Some industries, such as textiles, must be excluded from this generalization. To ascertain whether or not a prevailing wage rate is fair and equitable, we must apply another criterion or standard which can be defended morally. A second criterion which is actually used by both labor and management, but under different conditions, is changes in the cost of living. When the cost of living is rising the unions use this as an argument for higher wages, but, generally, they do not accept this standard as valid for lowering wages, except within a small range. There are exceptions to this. The Textile Unions have recently accepted a wage decrease simply to keep the industry alive. Changes in the cost of living have been widely used in bargaining. The Little Steel formula was based on this factor. The "escalator clause," first given national prominence in the General Motors-U.A.W. contract, was rather widely copied. However, at present most unions look with disfavor on such clauses. According to the General Motors formula, for every rise of 1.4 in the Consumer's Price Index there is an automatic increase in pay of 1 cent per hour. From a moral point of view this is, indeed, a step in the right direction. But by its very nature this type of increase merely prevents the lowering of the worker's real wage when prices are rising. Hence, the important thing to be determined is whether or

not the base level used for the "escalator clause" is a just level. If the base level does not constitute a fair and equitable wage, the "escalator clause" will not improve the condition of the worker, but will keep him in relatively the same position. In terms of purchasing power he is simply no worse off, but he is not any better off. By no kind of transmutation can such a clause make fair what was not fair before. As Taylor remarks, "The real tough part of a change in the cost of living formula is the selection of the base date, by which wage increases would be matched with price increases."¹¹ Because of this fact such a criterion, while good as far as it goes, is quite inadequate and insufficient. It must be remembered, too, that labor has been somewhat distrustful of late. Labor fears that such clauses have a tendency to establish a maximum real wage, and may induce real wage reductions in times of deflation or depression. To prevent real wage reductions from becoming large, the General Motors' contract allows for a decrease of only 5 cents per hour regardless of how low the index may fall. The U.A.W., C.I.O., was able, quite recently, to secure the agreement of General Motors to a change in the contract by which increases in the wage rate, caused by an increase in the cost of living, have been incorporated into the base level. Some economists look with disfavor on these "escalator clauses" because they fear that they would force wages up more rapidly during prosperity than they would otherwise rise, and thus bring about an undesirable degree of price inflation. It is certain that the unions would lose all interest in such clauses if the cost of living index took a sharp decline. But it still remains true that gearing rates to changes in the cost of living is desirable morally.

A third criterion is ability to pay on the part of the company. This actually plays only a minor role, and that role is a negative one. There is always an upper limit to the wages which a given company can pay, stay in business and operate profitably. For a marginal company in a year when business may be poor, this criterion will have a profound effect on the wage rate. We have cited the instance of the textile workers who accepted a wage decrease, predicated entirely on a recession in the industry, and the inability of the companies to pay a higher rate and remain solvent. Further, "ability to pay" may mean one thing to a union and another to the company officials. Used as anything more than a limiting factor this criterion in all probability would destroy incentive to efficient management. From the ethical aspect it is certain that ability to pay is quite justifiable as a limiting factor. The employer, as the manager of the business, has a moral right to a fair return on his investment and efforts. If his profits are such that he cannot pay higher wages he is not morally bound to do so.

¹¹ *Ibid.* at 77.

No one is bound to the impossible; a moral obligation supposes a corresponding physical ability. The employer has a clear right to maintain himself and his family in decent comfort on the returns he draws from his business venture. What is necessary for such a decent livelihood will be the limit on what he can pay. In general, transferring the matter from an individual to a corporation, it can be affirmed that a corporation in a competitive field has a right to a fair profit, and this level (however one may be able to determine what is a fair profit) can justifiably limit ability to pay.

As far as productivity is concerned, it is not of any great practical value. The prime reason for this is the extreme difficulty in determining, except in a most general way, the increase in productivity. And even after the rate of increase in productivity has been established, it is quite impossible to allocate credit for this increase; many factors enter into it. One practical solution has been devised by some unions. A contract may contain a clause allowing the worker an automatic increase each year of something like 5 cents an hour as an "improvement factor." This is automatic and independent of any change in the cost of living. Morally this is desirable as it does actually increase the real wage of the worker. Considered alone this criterion is inadequate. As mentioned above, we do not think it necessary to examine the criterion of the economic strength of the parties. This is not a moral criterion.

In the opinion of many there is only one method by which it can be determined whether a wage rate is fair and equitable; that is by an analysis of man and his needs. Unless man can satisfy his natural needs with material goods he is incapable of living a right and reasonable life. And he has not only the right but the duty to live such a life. Access to the goods of nature demands the expenditure of useful work. And, hence, every man who is able and willing to work for a livelihood has a natural right to do so. The right to work is, in reality, merely an extension of the right to life. On the supposition that the economic system provides the required opportunity, man has this right to work and to receive as compensation for this expenditure of his physical and mental capacities a sum which will be sufficient to enable him and his family to live decently. We can define a minimum wage, then, as one which provides those goods necessary to live decently, as becomes, not an animal, but a rational being. There are certain minimum requirements each must have if he is to live in normal health, efficiency, and reasonable contentment. A wage insufficient to provide these things cannot be a "fair wage, *per se*." Just precisely and in the concrete, what these minimum requirements are, is not always easy to determine. In general we can distinguish three levels of living: first, a mere subsistence level; secondly, a modest but de-

cent level; thirdly, a level of luxury. Every man has, at a minimum, the right to live at a decent level. In the actions brought before the Emergency Railroad Boards, "The employees case includes considerable evidence that the annual earnings of railroad employees, generally, are inadequate to support the men and their families at accepted levels of living. Annual earnings are compared with estimates of the costs of various budgets, ranging in adequacy from the 1935 W.P.A. Budget to the Hiller Committee wage earners budgets. Despite the volume of this evidence no Emergency Board paid any great attention to it."¹² In 1948 the United States Department of Labor issued Bulletin No. 927, "Workers Budgets in the United States; City Families," which analyzed the actual cost of living at a decent level in the 34 principal cities of the country. The standard of living is described as "moderate but adequate."¹³ There is an extremely pertinent remark in the introduction to this study: "This budget has many lessons for those who are trying to compare what people get with what they actually ought to get." When we speak in terms of "ought" we are using terminology. In June of 1947 the cost of this modest budget was, for Milwaukee, \$3,317. By June of 1952 the cost of the same items and services had risen to \$4,387, estimated by the Department of Labor. Since there are a greater number of workers who do not, as a fact, receive an annual wage even approximating this sum, two differing conclusions are possible. Either the budget includes unnecessary items, and the standard is too high, or, conversely, the wages being paid these workers is not a fair and equitable wage. The probability is that, even though the framers of the budget may not concede this, the standards are a bit too high and that the wages do, in cold fact, fall short of even this lowered standard. It is our contention that the worker has a moral right to such a wage, and if he is denied it injustice is being done him. Representatives of labor should strongly urge the cost of this budget as a point of departure for bargaining, upward, but not downward. In this way a serious attempt can be made to see that the worker receives a wage more or less sufficient for a decent livelihood. Latitude, of course, must be allowed, but a lower limit should, in justice, be established. After this clearly minimum wage has been established, an "escalator clause" should be agreed on in virtue of which the worker would not suffer a decrease in real wages because of increases in prices of goods and services. With this as a minimum level, full wage justice would demand that those jobs which require more training, education, experience, responsibility, and hazard should be more highly paid. The presently used system of job evaluation and classification would offer

¹² Meyers, *supra*, note 1 at 348.

¹³ Bulletin of the United States Labor Department, No. 927 (1948).

a good foundation for such determination. If these three factors were combined (cost of living at a decent level, escalator clauses and job evaluation and classification), we feel that a good estimate of a "fair and equitable" wage rate could be determined.

It has been our judgment that, if a moral evaluation is to be made of the various criteria used in wage determination, an absolute standard must be used, a standard rooted in man's rational nature. Comparative wage rates we have judged to be an unjust and inadequate norm, since it is, essentially, a statement that what is done generally is right. Changes in the cost of living is insufficient and begs the whole question. Ability to pay was conceded to be a morally justifiable limiting factor, but not a positive element. We have concluded that, if justice is to be done to the worker, a fair and equitable wage can be determined only by giving full attention to the actual cost of living at any given time, providing for stabilization of real wages by some type of escalator clause, and by paying proportionately more to those whose jobs involve more experience, training, ability and risks.

Comment by Edwin E. Witte, Professor of Economics, University of Wisconsin:

With much of the article I am in agreement. However, one approach to wage determination is not discussed which it seems to me does have bearing at least upon what is practical. It is the concept that any wage determination made by outsiders must be at least within the range of expectation of both the employers and the employees. Unless both parties believe the determination to be reasonable (which pretty much means "within the range of expectation"), it will not be acceptable and will not result in the whole-hearted cooperation which is necessary in modern production.

It seems to me that it is from this sort of approach that a different conclusion must be arrived at than Father Orford does on the significance of comparative wage rates. To reject, as he seems to do, all consideration of what wages are paid in other establishments in the same industry or community will not be in accordance with what both employers and employees deem to be fair and equitable. As I understand his position, comparisons with other plants should be given no weight. This would mean that workers who already receive a living wage should never be granted an increase, except to take account of changes in the cost of living and inequities which may develop by reason of differences in job content. Why it is in accordance with moral law to take account of wage differences resulting from differences in job content, but not of differences in the rates paid by different employers for the same work, I cannot understand. The principle suggested in the article would seem to mean that no in-

creases could be allowed in the automobile, aircraft, steel and substantially all other metal-working industries, except for changes in the cost of living and under improved job evaluation. These are the industries in which labor productivity is highest, and in which the employer's ability to pay is greatest. Yet, if I understand Father Orford's position, he considers it not to be in a position in accordance with good morality to hold that an employer in these industries who pays below the going wage rate (the rate generally paid by his competitors) should at least come close to the going rate. I cannot follow him in considering such an argument to be contrary to moral law, and I think it is clear that his position is not practical on this point.

One other comment relates to the sentence on page 9: "The employer, as the manager of the business, has a moral right to a fair return on his investment and efforts." I agree, but would like to point out that its practical meaning turns upon what is regarded to be a "fair return." Our American system of enterprise is predominately a system of free enterprise. In our system of free enterprise there is no guarantee of fair return or any return to the entrepreneur. The possibility of losses is as much a part of the system of free enterprise as is the possibility of profits. In a system of free enterprise, the entrepreneur is considered to be entitled to the entire net profits, because he assumes the risks of the business. The sentence quoted above might be construed to mean that wage determination in all cases should leave a net return to the employer. If management is inefficient, the system of free enterprise does not give a net return. In corporate enterprise, management consists of hired employees who have to be paid at least a living wage and are entitled to a larger return in accordance with their ability and success. But if Father Orford means that the wages in all cases should be set so that the business, no matter how inefficiently conducted, should show a net return, he must recognize that this is directly contrary to the basic concepts of a system of free enterprise.

Reply by Father Orford:

The thoughtful and constructive comments of Professor Witte, an acknowledged expert in this field, are valuable and merit serious consideration. Before replying in detail to the points raised by Professor Witte, we would like to restate that the purpose of the article was to stimulate further discussion and that the conclusions, although the serious and reasoned convictions of the author, were not presented as definitive and final.

The first comment concerns the practicality of the proposals made. We quite agree that any wage determination should appear

reasonable to both parties, if it is to be acceptable. If the term "reasonable" is taken to approximate the phrase "within the range of expectation" of the parties, we see no great difficulty in utilizing the criteria we have offered. Surely everyone is well aware of the fact that "expectations" change constantly. What was not "reasonable" or "within the range of expectations" yesterday may well be so today. Ten years ago an annual guaranteed wage, such as the C.I.O. at its last Convention vigorously demanded, was not within the range of expectations, but it is today. Or, if we may take an example from Professor Witte's article, "Criteria in Wage Rate Determinations,"¹ when Mr. Ford first raised the wage rate of his worker to \$5 per diem, would anyone be willing to assert that such a rate was "within the range of expectation" of either the worker or employers in general. Professor Witte will remember, we are sure, what businessmen had to say at that time about Mr. Ford. If a single big business, such as the Ford Motor Company, accepted today the criteria suggested, then wage rates determined in that manner would, at once, be within the reasonable expectations of very worker. Or again, precisely when did pensions come within range of reasonable expectations of the parties?

In his second comment Professor Witte raises an issue of great importance, and it is quite apparent that we did not resolve the issue with the clarity it deserves. The fault is ours. Our position is this: every worker has a right to a living wage, a wage which, again to quote from Professor Witte's article,² "is sufficient for complete self-support at standards consistent with health and decency." As a substitute for the word "self-support" in the above quotations, we would suggest "support for self and family." Using that standard as a base level wages would be gradated upward, in accordance with reasonable norms, from the least skilled to the highest skilled. The reasonable norms would be similar to those used today for job classification and evaluation. We judge the following factors to be the most important: training or education, vocational or otherwise, which is required for the job; experience; responsibility of the job; hazards. For example, a skilled aviation mechanic surely has a right to a higher rate than a janitor. And there are thousands of jobs between these extremes. We sincerely believe that a gradated scale could be worked out which would be acceptable to both worker and employer. When we stated that comparative wage rates, *as now used*, were unacceptable morally as a criterion, we affirmed that such a criterion begged the whole question, and that it meant that the dominant thing is always the right thing. On the supposition that the base level given above were used—that of a wage sufficient for a decent livelihood for a worker and his family—and

¹ 1949 WASH. U. L. Q. 24, 25.

² *Ibid.*

that to this sum was added an amount, determined by the factors enumerated as reasonable norms for a gradated scale, we see no objection to taking into account comparative rates. *We are rejecting comparative rates, as utilized today.* Under our proposals there could be a difference of opinion; for example, at Boeing, Lockheed and North American, as to the just rate for an aviation mechanic who does a particular type of work, and we see no moral difficulty in using comparisons or rates in this situation, or any similar ones. Further, just as we have today, so under the proposed system we would have a rather general level paid for the same type of work.

There would be a "going rate," and to dispel any misunderstanding on this point, it is our position that every company should come close to this "going rate." As to the question of productivity mentioned by Professor Witte, we certainly feel that it is important, and should be given due consideration in wage determination. However, Professor Witte, himself, in his article quoted above, puts his finger on the difficulty in using it as a criterion. "Productivity, however, has serious limitations as a yardstick for determining whether there should be wage increases or how large they should be. A fundamental difficulty is that of measuring the increase in productivity; another, that of fairly allocating the increase to the several claimants for shares in the production."³ Despite the difficulties productivity should be considered, and that is why, in the body of our article, we stated that something like the "improvement factor" in the U.A.W.-General Motors contract should be given thought. A rough approximation of productivity could be statistically determined for each industry.

The third and last comment concerns our statement that "The employer, as the manager of the business, has the 'moral right to a fair return on his investment and efforts.'" May we state emphatically that this sentence does not mean that wage determinations should in all cases leave a net return to the employer. We mean by our statement that the employer has a right to such a fair profit if he is able by efficient management and production to earn it. No employer, as we see it, has any moral right to a minimum profit. Neither the buying public nor the State is under any obligation to support inefficiency. Further, we believe that employers who are in a field where there is competition, and not monopoly, can justly claim all of the profits they can make, supposing, of course, that they use fair business methods. In a system of free enterprise risk is run, and profit is not guaranteed. We are completely in accord with Professor Witte on this point.

³ *Ibid*, at 31.