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A GUIDE TO PENSION NEGOTIATIONS AND PLANNING

INTERNATIONAL ASSOCIATION OF MACHINISTS

Research dept.

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PREFACE

THIS *Guide* is a complete revision of Part I of the International Association of Machinists Pension and Welfare Manual, published in 1950. During the past decade, the number of pension plans negotiated by IAM Local and District Lodges has increased fifteen-fold. In the course of the same ten years, many new developments have occurred in pension planning. The benefits provided by pension plans have been greatly improved. At the same time, insurance companies and the trust departments of banks are competing with each other in offering new and more economical methods for financing pension plans. These new developments, coming on top of the basic problems connected with the negotiation and planning of a pension program, are the subject of this handbook.

Although some of the problems relating to pensions are technical and complex, they can be reduced to simple terms that anyone can understand. The aim of this book is to do precisely this. The purely technical aspects of pension design should be left to the actuaries and pension consultants. By understanding the fundamental principle of pension planning, the union negotiator will be in a position to make the important decisions that he alone can make.

It is impossible to offer one pension plan that would be suited to the needs of each of the 15,000 bargaining units covered by IAM contracts. Some units employ thousands of our members; others, a mere handful. Moreover, our agreements cover several hundred industrial subdivisions. Each situation offers special problems which must be considered in developing a plan. For these reasons, we refrain from offering a model pension plan.

In the Appendix, we have, however, reproduced two superior pension plans. One is an example of a plan covering many plants of a single company. The second is what is called a multi-employer plan designed primarily, but not exclusively, for the small firm to achieve higher benefits through the efficiency and economy of large operations. Also included in the Appendix is a variety of material which should prove helpful to our representatives and committeemen in the actual drafting of instruments required in negotiating and installing a pension plan.

CONTENTS

CHAPTER 1

GROWTH of NEGOTIATED PENSION PLANS

NEARLY 18,000,000 people are now covered by private pension plans. This is six times the 2,700,000 persons covered in 1930. The initial spurt developed in 1942, when high profits, high taxes, wage stabilization controls, and the exemption of pension contributions from taxation encouraged plans for deferred compensation.

Legal Obligation to Bargain

The next spurt came in 1950 as a result of the negotiated pension plans which followed the NLRB decision, involving the Inland Steel Company and Local Unions Nos. 1010 and 64, United Steel Workers of America. The National Labor Relations Board ruled in April of 1948 that pension plans are within the area of mandatory bargaining.

In this case, the Board found that the company had refused to discuss with the union the amendment and application of the terms of an old-age retirement and pension plan originally established by the company. This refusal to bargain, the Board found, amounted to an unfair labor practice under Section 8(5) of the National Labor Relations Act, in that the company's unilateral action and amendments to the plan changed the employees' "wages" and "conditions of employment" as the terms were used in Section 9(a) of the National Labor Relations Act.

The Board construed the term "wages" to include "emoluments of value, like pensions and insurance benefits which may accrue to the employees out of their employment relationship." The company's contribution to the plan the Board said "constitutes an economic enhancement of the employee's wages." With reference to the effect of the company's unilateral action upon "conditions of employment," the Board held that "matters affecting tenure of employment, like the respondent's retirement rule, lie within the statutory scope of collective bargaining."

On appeal of the Board's Inland Steel ruling, the United States Circuit Court of Appeals for the Seventh Circuit on September 23, 1948, unanimously held that the order of the Board insofar as it requires the Company to bargain with respect to retirement and pension matters, is valid. The decision was upheld by the Supreme Court on April 25, 1949 when it refused to review the position of the Court of Appeals.

In other words, if an employer, who comes under the National Labor Relations Act is under an obligation to bargain on any subject with his employees' union representative, he is obliged to discuss pensions if they are made a part of the union's bargaining demands unless his existing contract with the union already deals with pensions.

The Inland Steel ruling has had a decided effect on the IAM bargaining units. In 1949, only 2.4 percent of the contracts signed that year provided for pensions. In the first half of 1959, the proportion of contracts providing pensions made a fifteen-fold jump to 36.4 percent of the agreements negotiated. These figures are based on summaries of agreement information prepared by the Research Department.

CHAPTER 2

NEGOTIATED PENSIONS and SOCIAL SECURITY

THE BENEFITS which an individual member can expect from a group pension plan are much higher than a pension that he could possibly provide for himself through his individual savings. Of course, in return for this chance of higher benefits, he runs the risk of never getting anything back out of the fund at all, if he dies before retirement or terminates employment before he has gained vested rights.

Like a lottery or a baseball pool, some of the participants must lose out, if others are to get more out of it than they put in. A member pays for the assurance that if he does live until retirement and meets other qualifications that might be written into the plan, he will receive an income for the rest of his life.

The relatively high benefits, in relation to the per capita cost of the pension plan are made possible through tax savings and income earned on the funds held in reserve, and because of mortality and turnover that is sure to take place among any group of employees. The way that these factors reduce the cost of financing will be explained in various parts of the *Guide*.

By negotiating pension plans through collective bargaining, workers can pool their respective risks and resources so as to take advantage of the law of averages and the economies of group participation, to provide those who qualify under the plan with a higher retirement income, at a lower cost, than they could otherwise obtain. They can spread this cost in a systematic and relatively convenient way over the span of their working and earning lives. In short, they can obtain benefits as a group which would be beyond their reach as individuals.

Benefits for Young and Old

While the older men who are near retirement will get the most direct benefit from a pension plan, there are certain definite advantages for the younger workers also. In addition to having the promise of a future pension, their present job security may be enhanced. As the older men retire, new job opportunities are opened up. In slack times, the retirement of older workers may save the jobs of younger men who would otherwise be laid off. The retirement problem is, therefore, related to the broader problem of keeping involuntary unemployment at a minimum.

Before deciding upon a pension, one must make sure that this is what the workers in a given bargaining unit want, and that they are strong enough to win it. One ought to bear in mind that a union that is able to persuade an employer to contribute to a pension, could just as easily convince the employer to pay it in the form of an equivalent wage increase. This is precisely what one of our Locals did when the other plants of a company negotiated pensions. This is not the place to discuss the wisdom of choice. We simply want to point out that freedom of choice exists. If, after considering several choices open, it is determined that a pension is needed, one must try to fashion a pension plan to meet the needs, characteristics and resources of the particular group of workers which it is to cover. An ill-considered or poorly designed retirement plan is worse than no plan at all.

What other unions have done is not necessarily the answer to one's own problem. Rather than be bogged down with a great deal of technical detail the union officer must concentrate upon the underlying principles and the most essential features of a pension plan.

Supplement to Social Security

The private pension should be regarded as a supplement to, and not a substitute for the Social Security program. Social Security benefits may be regarded as the foundation of the worker's retirement income. The International Association of Machinists believes that old age retirement benefits should be provided by a federal system such as the Social Security and the Railroad Retirement Acts. The Union stands for the proposition that the benefits provided by the present Social Security Act should be increased so that an employee who reaches retirement age is entitled to receive a monthly annuity equivalent to not less than one-half of the average monthly base pay earned in the final 5 or 10 years before retirement. Every worker is entitled to such a pension—not just certain groups—because in the final analysis pensions paid to individuals or groups of individuals are paid either directly or indirectly by the consumers of every part of our society.

Spendable Income Before and After Retirement

Some might object that a combined pension and Social Security benefit equal to 50 percent of earnings is inadequate. However, to appreciate the value of a pension to a person in good health, we must compare it not to gross earnings but to spendable income before retirement.

Certain expenses are eliminated or greatly reduced after retirement. A retired person aged 65 with a wife age 60 pays no income tax unless his net income before exemptions exceeds $2,000. If the wife is 65, the amount exempted goes up by $600, since at age 65 the exemption is $1,200 instead of $600. Expenses related to work are eliminated. The amount spent on life insurance is sharply cut, if not eliminated. There is no need for setting aside money for savings.

If spendable income after retirement is compared with spendable income before retirement, the two incomes will be much closer than 50 percent. It may be closer to 80 percent if both husband and wife are eligible to Social Security.

There is one offsetting expense—increased medical costs for the aged. This points to the need for group hospital, surgical, medical and related benefits for pensioners and their dependents. Persons aged 65 and over experience almost twice as many disabling illnesses (a week or longer) which last twice as long as for persons aged 15-64. Three quarters of general hospital beds are occupied by the chronically ill, a large proportion of whom are aged.

More and more health insurance plans provide for this, usually on a reduced basis. The cost of such benefits is substantially higher than for active employees. One large insurance company reports on the basis of limited experience that the cost for pensioners is three times that of active employees for hospital and medical benefits, and is twice that of active employees for surgical benefits.

But in order to assure such medical care for all senior citizens, the labor movement is backing legislation which would provide hospital and surgical benefits for people who are receiving Social Security payments. It would help older people and also widows with young children, who are receiving Social Security. The cost would be financed by raising Social Securiay taxes.

Since we have not achieved an adequate level of Social Security benefits, every worker should have the opportunity to supplement his Social Security benefit with a private pension. As suggested above, the combined retirement income from Social Security and private pension plan should be at least fifty percent of annual earnings in the last ten years rather than earnings during a lifetime. The difference between the two is appreciable. Pension based on 60 percent of average pay from 35 to 65 may equal only 40 to 45 percent of earnings in the last ten years, when income is at its peak.

A survey as of January 1, 1957 of all pension plans in New York State which covered 1,500 workers, or more, indicated the following schedule of median benefits for employees after thirty years of service:

TABLE 1

Median Benefits for Employees after 30 Years

Average Monthly Earnings	Median Monthly Pension Benefit	Median Benefit as a Percent of Earnings: Excluding Social Security Benefit	Median Benefit as a Percent of Earnings: Including Social Security Benefit
$250	$65	26%	64%
350	72	21	54
500	95	19	40-42

If the benefits for the lower paid workers from a private pension plan when added to Social Security do not equal at least fifty percent of the final earnings, then the private pension is inadequate. For the higher paid workers, 40 percent of earnings may be satisfactory. Of course, it also means that the Social Security benefit is not high enough, but in this *Guide* we are concerned with negotiating a private pension plan, and will, therefore, concentrate our attention upon that aspect.

Failure of Tie-in Pension Plans

While we are on the subject of relationship of private pensions to Social Security, we should say quite categorically that the amount received from a private pension plan should not be tied to the amount of benefit an employee receives from the Old Age and Survivor's Insurance.

The reason for this conclusion is not difficult to understand. Let us assume that a worker retired under an integrated or tie-in pension plan. Let us further assume that he is entitled to a combined total of $125 retirement benefit per month. If he retired in 1953, his federal benefit might have been as much as $85 a month (not including any allowance for his wife or other dependents) and his pension from the company plan as such would, therefore, be $40 a month. Under the Social Security Amendment of 1958 maximum federal benefit is increased to $116. An employee entitled to this amount under a tie-in plan would have it deducted from the $125, requiring a benefit of only $9 from the private plan.

Suppose that instead of an integrated plan, the union had negotiated a fixed benefit with the company. Let us assume that it was only $40 per month. Then the worker in our example would have had this sum plus $85 federal benefit, or a total of $125 in 1953. In 1959, he would receive the same $40, plus $116 Social Security benefit, or a total of $156. Under the integrated plan, the $31 increase in federal benefit, in effect, went to the company by reducing its retirement cost by this amount. Under the non-integrated system, the $31 goes to the retired worker, as it should.

Moreover, tying Social Security with Private Pension Benefits works to the disadvantage of the skilled employee in that skilled employees pay more into the Social Security Fund and consequently receive higher Social Security Benefits. Therefore the Company's contribution to the pension plan is used to a greater extent to purchase pensions for the lower paid, unskilled workers. Thus, actually, any pension plan which was put into operation in lieu of a wage increase (usually figured at so many cents per hour) results in a greater portion of this increase accruing to the lower paid employees.

Integrated plans were quite common in 1949, when unions went in for pension plans in a big way. A recent study by the Bureau of Labor Statistics showed that one-third of 100 representative pension plans tied the pension to Social Security Benefits. But there is no justification for accepting such a provision. However, as already indicated, in negotiating a plan, we must always have in back of our minds the benefits that a worker will receive from Social Security. We are, therefore, reproducing some figures based on the 1958 amendments to the Social Security Law, which can be helpful in computing retirement income from both private pensions and Social Security.

TABLE 2

Typical Benefits under New Law

Average Monthly Earnings	Retirement Benefits Employee Age 65 *
$100	$ 59
150	73
200	84
250	95
300	105
350	116
400	127**

* Increase 50% for worker and spouse both age 65.
** Will be many years before any one attains $127, but many will come within a few dollars of it in the next decade.

CHAPTER 3

PRINCIPLES for DETERMINING PENSION COSTS

HAVING DECIDED that we want to negotiate a pension plan, we want to know how much it would cost. After all, it makes no sense to give up a pension plan worth 10 cents an hour for a nickel an hour wage increase. Likewise, one should not exchange 10 cents wage increase for a pension worth only 5 cents an hour. In this discussion we shall assume that the plan is noncontributory, that is, the employer pays the full cost of the plan. Elsewhere, we shall review the extent and nature of both contributory and noncontributory plans.

Assumptions

Involved in the determination of pension costs are numerous assumptions about the past and present and some guesses about the future. The task of systematically handling these intangibles is assigned to a group skilled in actuarial mathematics. Though the computation of pension costs is difficult and uncertain, it is necessary, worthwhile and comparatively easy to understand the principles upon which cost estimates are based. Rather than throw a lot of unintelligible terms at the negotiator, we shall try to explain by example.

Since the level of benefits is at the heart of a plan, let us start with this factor of pension cost. Let us think in terms of a $50 a month pension for life. Having selected the amount, we now have to estimate the length of life after 65. Life expectancy is growing longer all the time. The Combined Annuity Table (1917-1926) showed a life expectancy for males at age 65 of 12.7 years; the 1937 Standard Annuity gives it as 14.4 years; the latest tables place life expectancy at about 15 years. Cost goes up with increasing life expectancy. We shall use the 1937 Standard Annuity Table in our computation. A pension of $50 a month means $600 a year. For a little more than 14 years, a retired worker will collect $8,526.

How is this money made available through a pension plan? First, let us note that experience shows that the average actual retirement age occurs at 66 instead of 65. On this basis, the amount that the average male employee will collect under a $50 a month plan will drop to $8,130. Moreover, at age 66, the worker does not get a lump sum of $8,130. The $8,130 will be paid out $50 a month during the life of the retired employee. What's left of this sum as the monthly pension is paid, will be drawing interest. If the interest rate is 2½ percent, actuaries have figured that the interest will amount to $1,536. (This rate is too low for present day yields, but is convenient because numerous tables have been computed on this basis. How to adjust for higher rates is shown on page 60.) Subtracting $1,536 from the $8,130 indicated above required at age 66 for a $50 per month pension gives $6,594.

Examples of Compound Interest

At this point, it might be well to show a portion of a compound interest table. Since we have used a rate of 2½ percent, let us continue with the same.

TABLE 3

Value of $1 at 2½% Compound Interest

After given number of years	Amount
1	$1.025
2	1.051
3	1.077
4	1.104
5	1.131
10	1.280
15	1.445
20	1.639
25	1.854
28	1.996
29	2.046
30	2.098

It will be noted that $1 invested at interest of 2½ percent will more than double its value in 29 years. The table can be used for any amount of money. If you want to know much $1,000 will be worth in 29 years, you simply multiply $2.046, opposite 29 years, by 1,000. The answer is $2,046. The question might be turned around. In order to have $1,000 five years from now, how much must I invest at 2½ percent? The answer is $885.00. This amount is called the present value of $1,000.00. The present value of a sum of money payable at a future time is the amount of money which, if invested now at a given rate of compound interest, will accumulate to a required sum at the time when the latter is to become payable.

What is the present value of $1,000 payable 30 years from now, bearing an interest rate of 2½ percent? Answer: $476.70. At 3 percent interest it is $412. For other interest rate figures, it will be necessary to consult a book of compound interest and present value tables.

Calculating Annual Contributions

Let us assume that the company for which the employee in our example works begins laying aside money for him when he is 30 years of age and sets aside the same sum each year for 36 years. Let us also assume that the money earned interest at 2½ percent a year. Under these conditions, the employer would have to set aside $112 each year to accumulate $6,594 for his retirement benefit.

How this figure is obtained can be more easily understood if we reproduce a portion of the table which shows how $1 deposited each year at compound interest accumulates. It should be noted that this table differs radically from Table 3 which is designed to show the effect of compound interest alone. Table 4, below, shows the results of both annual deposits of $1 and compound interest.

TABLE 4

Accumulation of Annual Deposits of $1 at 2½% Compound Interest

At end of given number of years	Amount
1	$ 1.025
2	2.076
3	3.153
4	4.256
5	5.388
10	11.483
15	18.380
20	26.183
25	35.012
30	45.000
35	56.301
36	58.734

This table can be used to answer the question of how much an employer must contribute yearly to have $6,594 when the employee is ready to retire. We have assumed an average retirement age of 66 and that the contributions begin at age 30. This gives us 36 years to accumulate the funds. From Table 4, we know that $1 contributed annually at 2½ percent compound interest will accumulate to $58.734 in 36 years. All that we have to do is to divide $6,594 by $58.734 and we get $112.27 as the equal annual contribution. We have rounded it off to $112.

Since pensions, by their very nature, involve not a single employee, but a group of employees, we must take into account the fact that everybody in the group will not live to age 66. A certain number of the employees will die between 30 and 66, and the accumulations made in their behalf will, therefore, be available to help finance the cost of pensions to those who survive to the retirement age. Clearly, since fewer people survive to age 66 than there were at age 30, the amount needed for employees surviving at 66 will be reduced. The cost is reduced from $112 a year to $94 a year.

Not only will the group of original employees be reduced by deaths, but also by termination of employment, voluntary and involuntary. Each time that an employee drops out of the unit covered by the plan before he is eligible for benefits, the accumulations made on his behalf are used for the benefit of the remaining employees. In other words, you can expect a certain amount of turnover in the plant or industry covered by the pension plan, and this results in measurable savings in the pension plan. Using some fairly modest reductions on account of the turnover, the cost of the pension might well be reduced from $94 to $71 per year per employee.

Providing for Past Service

Our discussion thus far has assumed that the pension plan has been in effect during the working lifetime of an employee. However, when we negotiate the establishment of a pension plan, it is necessary to consider the years of employment during which no pension plan existed. Otherwise, older workers with long years of service would earn pension benefits only for the years of service between the time that the pension plan is adopted and age of retirement. The amount of pension credit to the employee accumulated for the years before the plan went into effect is described as the past service liability to the pension fund. Let us assume that our man is 45 years of age at the time the pension plan is first established, and 30 years old when first employed by this company. If the pension plan had been in effect all along, there would have been accumulated for him $1,799 toward his ultimate pension benefit. This is called the initial past service liability. This is a rather large sum to pay at one time. The payments are, therefore, usually spread over a period of 25 or 30 years. This is known as the period of "amortization" of the past service liability.

At the time that the plan is established, a 25 year amortization of this initial sum of $1,799 would amount to a contribution of $98 a year for 25 years. This must be paid into the pension plan over and above the $71 a year cost we had figured above. Consequently, the obligation for financing the pension plan would amount to a contribution of $169 for the employee aged 45 years.

This is the cost for a worker 45 years of age, with 15 years of service. He was, therefore, 30 years of age upon first being employed. The employer has to make up for the cost of those 15 years of service. For employees who are hired after the pension plan goes into effect, the cost will be limited to future service. This has been figured at $71 per year.

When these costs for past and future service are averaged for the whole group, young and old, newly-hired and old-timers—on the assumption given on page 11—we get an estimated cost of $125 per year for a pension of $50 per month.

We shall return to the problem of computing costs on page 59 of the *Guide,* when we shall have had the opportunity to define terms, explain provisions and discuss some of the more important features of a pension plan.

CHAPTER 4

IMPORTANCE of ADVANCE FUNDING

THE PURPOSE of our discussion thus far is to show by an example, which is not too difficult to follow, the various factors which influence the cost of providing a pension. We shall pursue it further in a later section of the *Guide*. More immediately, the illustration is intended to indicate the need for the employer for setting aside funds to pay for a pension when the employee retires. This process is called funding. It is a form of savings on the installment plan. Funding can be considered as the reverse of mortgage payment. It is a form of budgeting.

The term "advance funding" may be applied to any arrangement under which sums intended for the payment of retirement benefits are set aside according to a specific plan under proper legal safeguards in advance of the date of actual retirement. It usually implies, as a minimum, that sufficient funds are set aside each year to meet the pension obligations created in that year, plus a portion of the initial past service liability, with a view toward having all obligations fully funded at the earliest practicable date.

The sums set aside may be adequate, with future interest earnings, to pay all benefits which have accrued at a particular time, which might be designated as full funding, or they may be adequate to meet only a portion of the accrued liability, which reflects a condition of only partial funding. That portion of the accrued liability of a pension plan which is not offset by assets is termed the unfunded accrued liability.

It is now accepted almost as axiomatic that funding arrangements under which each year's approximate pension credit is set aside during the year in which it is earned constitute an indispensable element of any sound pension plan.

Dangers of Pay-as-you-go Approach

Although the advanced funding method is the conventional financing technique used in pension plans today, the historical approach was for the employer to disburse the benefits as they became due. This is sometimes referred to as the pay-as-you-go approach.

Such plans are extremely dangerous, because as the age of the employer's business establishment increases, the average age of his employees also increases, and he may one day find himself faced with so many retired employees that he is unable to pay the pensions which he starts out to pay during the time when only one or two employees were on pension. As no funds are set aside for the payments of such pensions, they are usually paid out of current operating expenses.

The only advice that we can give in this *Guide* with respect to such plans, is to caution our members that there is absolutely no certainty that a pension will be paid, and the employee who works for an employer under such a plan, after 20 or 25 years of service, may find himself without a job and without a pension. This is so, not because of any desire on the part of the employer to prevent him from having this pension, but simply because there is no money with which to pay him.

In former years, prior to insurance regulations, a number of fraternal organizations (such as the Woodmen and the Maccabees and many others) were faced with a similar dilemma when they found that they had not been charging sufficient premiums to establish adequate reserves to pay their outstanding life insurance policies. Despite the good intentions of all these organizations, many old time members found themselves without insurance. We can point to our own experience with insurance as an example of what happens when an organization or a company promises to pay a certain sum of money at some future date and fails to set aside on a current basis an amount sufficient to provide the payment of the promised sums when the date of maturity arrives.

This approach is often referred to derisively as "owe-as-you-go" and "pay-if-you-can" financing. Although such plans are extremely dangerous, they are still accepted by some unsuspecting groups of workers. The latest study of pension plans released by the Bureau of Labor Statistics shows that six of the 100 plans included in the survey were on a pay-as-you-go basis. The Research Department has itself received a plan for analysis, not too long ago, which was unfunded. Needless to say, we warned the Local that the plan was not worth the paper that it was written on.

Avoid Profit-sharing Plans

Profit-sharing pension plans are very unsatisfactory and should be avoided. Pension plans are costly, and in order to insure monthly annuities when the employee reaches retirement age, there has to be on deposit some place (either in a trust fund or with an insurance company), a certain specified amount of money which is related to the amount of pension the retired employee will receive. In view of the uncertain manner in which the employer makes payments into the plan, no such guarantee is possible under a profit-sharing plan.

CHAPTER 5

METHODS of FINANCING and ADMINISTERING

THE REPRESENTATIVE should know the alternative methods by which a funded plan may be set up and administered. In practice, the choice narrows down to two agencies—an insurance company, or a self-administered trust fund. Whether the plan is administered by the employer alone, jointly with the union, or on a tripartite basis, the representative will want to know about the two institutions through which a pension plan is funded.

The self-administered trusteed plan is by far the most prevalent type of pension plan. In 1958 it covered 13.4 million employees, as against 4.9 million employees covered by insured plans. The popularity of the trusteed plan is to be explained, primarily, by the possibility for better earnings that result from investment in common stocks. We shall discuss it in greater detail at a later point.

Self-Administered Trusteed Plan

A self-administered trusteed plan is an arrangement under which contributions to provide pension benefits are deposited with a trustee, normally a trust company, who invests the money, accumulates the earnings and pays benefits directly to eligible employees. An independent actuary from time to time evaluates the fund in relation to the liabilities accrued, and recommends any changes necessary to maintain solvency or avoid overfinancing. The term "actuarially sound" is frequently used in this connection. This expression means that all potential past and future liabilities have been fully recognized and that measures have been adopted to meet them.

The plan is to be distinguished from the type of self-administered plan which operates on the pay-as-you-go basis, without the services of a trust company. The self-administered trusteed plan is extensively used to underwrite the benefits of negotiated pension plans. Contributory, as well as non-contributory plans are written on this basis.

This kind of plan requires a formal document called an Agreement and Declaration of Trust. In the case of a single employer, this is a written agreement between the employer, or trust fund, and the corporate trustee setting forth the terms under which the trust fund will be created and administered. The indenture must either include all the terms and conditions of the pension plan or incorporate the plan by reference, since the benefit payments are made from the trust fund in accordance with the provisions of the plan. The type of trust agreement needed under a multi-employer pension plan is discussed on page 27 and an example is given in Appendix F.

The trust instead of paying benefits directly to eligible employees may buy each pensioner an annuity from an insurance company. This arrangement combines some of the elements of the trust and insurance methods. The deposit administration plan is a device adopted by the insurance companies to compete with self-administered plans.

A trusteed or self-administered plan may not be suited to comparatively small groups. But what is a small group? At one extreme is the pension authority who maintains that because of the element of risk involved in self-insuring most comparatively small groups of, say, under 1,000 covered employees find it difficult to give serious consideration to a self-administered program. On the other hand, one actuary, who has had a great deal of experience with trusteed plans, contends that any group with 100 or 200 lives can be self-insured. In fact, he maintains, there are many successful self-administered trusteed plans having as few as 25 lives or even less.

What makes possible self-insured pension plans for the comparatively small groups that we have been discussing is the maintenance by banks of the common or general trust fund, through which the funds of numerous pension plans are commingled for investment purposes. This procedure provides not only diversification of investment, but reduces the expense involved in purchasing small units of securities. This method has been accepted as a suitable arrangement by the Internal Revenue Service, subject to appropriate provisions of the Treasury Department's regulations. Other accepted methods for dealing with small units are discussed in greater detail elsewhere in this *Guide*.

Deferred Group Annuity Plan

The various types of insured plans fall into two main classes: (1) the individual contract plan, and (2) the group plans. As we shall make clear later in some detail, the individual contract has no place in collective bargaining. The deferred group annuity, because it has been written over so many years is numerically the most important contract developed by the life insurance companies to underwrite pension plans. In 1958, 2,425,000 employees were covered under 4,800 deferred group annuity contracts.

The underlying legal document is the master contract which, along with the application, if attached, constitute the entire contract between the employer or trustee and the insurance company. The provisions of the pension plans are incorporated in the master contract, and each employee receives a certificate which contains those clauses of the master contract which directly affect his rights or those of his beneficiary. Legally, this certificate is merely evidence of participation in the plan and is not a contract between the employee and the insurance company. Nevertheless, the employee is considered to be a third party beneficiary under the master contract and, as such, can enforce his rights created thereunder.

Contributions are transmitted to an insurance company which guarantees to pay the specified pensions that have been purchased. Under the typical arrangement, the contributions on behalf of each participant each year constitute the premium which buys for him a deferred annuity payable if and when he becomes eligible to retire. The sum of the several annuities thus bought over the years constitutes his pension. Premium rates are usually fixed for a period of five years, after which they are subject to readjustment, but for future purchases only.

Deposit Administration Plan

Next to deferred group annuities, the most common form of an insured pension plan is deposit administration. In 1958, 1,500,000 employees were covered by 2,000 such plans. While the type has been used on a limited scale for the last quarter century, it has achieved new popularity in recent years as the insurance company's answer to the self-administered trusteed plan. Deposit Administration permits much greater flexibility in plan provisions than the rigid deferred group annuity. It has been widely used to underwrite negotiated pension plans which typically require a fairly high degree of flexibility. It is particularly suited for a multi-employer plan if it is not self-administered.

Under the deposit administration group annuity plan, all employer contributions are deposited with the insurance company, but are not immediately used to purchase annuities. The insurance company acts as a sort of trustee to accumulate the funds against the ultimate purchase of annuities. The monies paid in are commingled with the general assets of the insurance company, and the fund exists only as a bookkeeping account. For a stipulated period, it guarantees both the rate of interest to be earned by the fund and, for the same or a different period, the applicable annuity premium rates.

When an employee retires, the insurance company charges the fund with the premium cost of the annuity that the employee will immediately begin to draw (referred to as "immediate annuities"). Annuities for individual employees may also be purchased in advance of the actual retirement date (termed "deferred annuities") if required by the vesting or other provisions of the plan.

One of the objections to insured plans is that the insurance companies maintain a contingency reserve and determine dividend policy. It is argued that contingency reserves are not as vital in the field of pensions as in life insurance, since no one grows old suddenly and adverse experience cannot be catastrophic.

Individual Contract Plan

The third form of insured pensions that we shall discuss is the individual contract pension trust and is even sometimes referred to as a pension trust. The name is derived from the fact that it operates through a trustee, either an individual or corporation, who holds title to and possession of the individual contract issued under the plan. Treasury regulations required to qualify a pension plan are the cause of this trustee arrangement.

Contributions are used to buy for each participant one or more individual insurance and/or annuity policies in an amount that will provide the stipulated pension. Probably the most common type of contract used for the individual policies is the retirement income with life insurance type. These contracts generally carry a death benefit that is related to the monthly pension in the ratio of 100 to 1. This dual protection against death and old age is often advanced as an argument for this type of policy. But this protection can almost invariably be bought more cheaply by a combination of group life insurance and group annuities, or trusteed pensions than by individual policies.

It has been said by some authorities in the field that pension plans through individual policies were developed as programs designed chiefly to benefit senior executives and that they sometimes involved elements of avoiding taxes.

Exorbitant Costs under Individual Policies

The cost of providing individual policies is exorbitant. It must be remembered that the commission rate on individual policies will be about 35-65 percent of the first year's premium, and about 5 percent on renewal. Also, the first year commission rate is paid on any new participants and benefit increases for all participants after the first year. It has been estimated that this may cost 28 to 29 percent of total premiums collected. In contrast, the group annuity commission rate of a leading company is 5 percent on the first $50,000 of annual premium during the first contract year. Moreover, all increases and new participants would be treated as renewal business under the Group Annuity, and the renewal commission is 1.5 percent on the first $50,000, and 0.5 percent on the next $450,000. It drops to 0.2 percent of amounts over $500,000.

But that's not all. An organization like the IAM could arrange with an insurance company to pay what is called a finder's fee in lieu of the regular commission. This amounts to a maximum of $1,200. It is figured on the basis of 1.85 percent on the first $50,000 ($925), and 0.55 percent on the next $50,000 ($275), a total of $1,200. If your premiums amount to $1,000,000 per year, the commission would amount to 1/10 of 1 percent. The total savings on commission can be substantial.

It is not necessary to discuss in detail here the factors that are responsible for the high expense rates connected with individual policies. It is sufficient to recognize the fact that the individual policies of pension trusts are subject to the traditionally high expense rates of standard individual life insurance policies.

The high initial expenses charged under the individual contracts are accentuated when the pension plan covers many employees who remain with the employer only a short period of time after being covered under the plan. The credits arising from the termination of these employees may be only a small portion of the amount contributed on their behalf. Under a self-administered plan or a Deposit Administration Group Annuity, there is no loss whatsoever because of turnover.

Because the individual policy plan is so expensive, most insurance companies refuse to write pension trust cases over 100 lives. One company has informed us that it will not write individual policies where a group is involved. Unfortunately, some companies and their local agents have been pushing individual pension plans and have been successful in deceiving some of our locals.

In the end, it is the employee who loses through uneconomical plans. We know of one individual policy pension plan where the employees could double their benefits if they changed to a group basis. It is to avoid the adoption of such uneconomical plans that we have devoted so much space to individual policy pension plans.

CHAPTER 6

MULTI-EMPLOYER PLAN

EVEN though it may be possible to get a group pension plan for a small shop of 10 employees, the costs may be more and risk greater than would justify a pension program limited to a single small employer whether it is insured or self-administered.

To overcome the difficulties faced by small units, it is necessary to resort to union-wide or multi-employer plans. This is of particular importance to the IAM where there are over 2,500 bargaining units with less than ten employees. This is especially true in the automotive repair industry, where the average number of employees per firm is only nine. In this industry, the IAM has over 8,000 firms under contract.

More than 10,000 of the firms in all industries under contract with the IAM employ less than 100 persons. Although they cover only 15 percent of all the employees under agreement with the Machinists Union, they are a deep concern of the Business Representative who is obliged to service all members of the IAM whether they be in small or large units.

For the small unit, it is a multi-employer plan or no pension plan at all. They may be industry-wide in coverage or limited to union members in a given area. They may be for the benefit of nearly all members of the IAM, or for the benefit of union members only in a given area. Certain pooled plans are distinguished by being confined to union locals or operating only in a specific geographic location.

Economies of Large Scale Operations

A union-wide plan, covering the smaller firms, would have tremendous advantages for all involved. The fund would be an economical means of providing pension benefits. On an individual small company basis, money would be wasted in the higher overhead involved in any small or medium size plan: insurance company retentions, commissions, bank charges, consultant and actuarial fees, and administrative overhead. As in many other operations, the expenses are a higher proportion of the total cost if the group is small. Instead of having an expense margin which absorbs 10 percent, 20 percent, or 30 percent of the amount set aside for pensions, a large union-wide fund could cut the entire overhead to 2 percent or less.

Such a plan would allow workers to shift from one covered employer to another without losing their pension rights. In other words, they would have complete transferability within the scope of the fund. Under most single company plans, before vesting rights are acquired, a worker loses his pension if he shifts from one employer to another.

IAM Districts, Locals and negotiating committees would have a uniform detailed plan to present to their employers for negotiations. It would make it easier to "sell" the plan to employers because they could point to the plan as being adopted by dozens or perhaps by hundreds of other employers under contract to the IAM. In other words, they would have a strong precedent to point to. They would have the full knowledge that the funds contributed would be used fully and economically to provide benefits instead of being wasted in unnecessary expenses or overhead.

A union-wide pension fund is a constant living reminder that the benefit provided came from collective bargaining between the union and the employer. It would simplify the problem of negotiating pension plans. It would provide a single plan or structure with which the representative would soon get to be familiar, thus avoiding the need for studying a multitude of plans.

The type of plan that would be suitable for our purposes would not be a uniform contract with all of the employers involved and requiring uniform contributions. At the outset it would be impossible to determine which employers would come in under the plan. Nor is it possible to say how much of those who agree to participate will continue to remain in the plan after a number of years.

It is possible to have one pooled fund and to have a uniform plan with a standard of eligibility conditions and types of pensions. All workers would be governed by the same rules as to qualifying ages, years of service required, early retirement, and vesting provisions, disability provisions, etc. However, the benefit level, the amount of pension per month, would have to be fixed for each group of employees according to the cost involved and according to the contribution rate, so many cents per hour or a certain percentage of pay agreed to by the employer.

Variety of IAM Plans

A variety of plans has been established by IAM Local and District Lodges adapted to many different situations. In some cases, coverage is limited to employees under a single association agreement. In several instances, the plan is open to individual employers who negotiate separately and at different times. A few plans are not limited to the Machinists Union, but include other labor organizations who jointly negotiate with several associations and individual employers. Most of the plans cover an area around a single large city or county. Two Machinists' plans are intended eventually to cover all the states in a given Vice-Presidential region. One plan is national in scope and, therefore, open to any IAM bargaining unit.

Any Local which is interested in the multi-employer plan should first find out whether it is possible or advisable to join up with an existing program. For information on any of these plans, write to the Research Department. If upon examination, it is decided to proceed with the establishment of a separate multi-employer plan, the Local or District Lodge will require the advice of a competent pension consultant, attorney, and investment counsel. The stakes are too high to permit any sloppiness in drawing up the necessary instuments for an adequate pension program. It is, however, worthwhile outlining the procedure involved.

Generally, the terms of the multi-employer pension plan are not spelled out in the collective bargaining agreement and sometimes even the agreement for the pension contribution is contained in a separate document, known as a Pension Agreement, which is negotiated at the same time as the rest of the collective bargaining agreement.

Once the pension agreement is signed, the principals, through their representatives, adopt a trust instrument to govern the pension trust fund and select a board of trustees to establish the terms of the pension plan and to administer it. The pension itself is embodied in a separate document. The trustees should adopt a "Standard Form of Participation Agreement" and procedure for its use. This is necessary to include any new employers who have agreed to a pension plan and wish to become part of the multi-employer program.

Requirements under Labor Law

A multi-employer pension plan having union participation in the administration of the pension fund must conform with the Labor Management Relations Act of 1947. Under Section 302 of this Act there must be:

1. A written agreement stating the basis on which contributions to the fund are to be made, the basis on which payments from the fund are to be made, and provision that such contributions shall be held in trust;
2. A trust fund to receive such contributions, and apply them for the sole and exclusive benefit of the employees and their dependents and for no other purpose;
3. A board of trustees on which there is equal representation of employers and unions (sometimes supplemented by neutral representation);
4. Provision for arbitration of any deadlocks pertaining to administration of the fund;
5. Provision for an annual audit of the fund, to be available to all interested persons;
6. Separation of pension funds from other funds.

There are a number of features which are peculiar to multi-employer plans. Some of these deserve detailed consideration. Under area-wide pension plans it is necessary to find some way to define relatively continuous service in the area covered by the pension plan, while allowing for mobility of employees among the different employers covered as well as for some decrease in the employment in the industry as a whole. Various types of so-called "grace" periods have been devised. For example, under some plans it is possible for an employee to be considered as not having had a break in continuity of service so long as he works at least a minimum number of hours of covered employment in any period of two consecutive calendar years. If this minimum is appropriately designed, it can permit an employee sufficient latitude for remaining covered even though his covered employment is intermittent. Some plans "excuse" without credit, employment represented by the union but outside the collective bargaining units covered by the plan, either outside the geographical area of the plan or otherwise working for an employer who is not party to the plan.

Special Provisions

A few plans contain provisions which, in effect, give rise to what has been called "floating liability". By this is meant a provision under which an employee can leave the area of covered employment more or less permanently, but come back later and restore all his previous credits by working a new minimum period in covered employment.

When an employee retires under a single employer pension plan, his pension payments are generally suspended if he goes back to work for the same employer, but are unaffected if he works for any other employer. Under the multi-employer pension plan the situation is somewhat different. Such plans often provide for some test to be applied to determine whether or not the employee is to be considered as retired, and therefore eligible for pension payments, somewhat like social security. The basic idea is that the benefits under the plan should not provide an income to those who continue to compete for work, and may, by reason of the pension, even be able to work at lower rates than those who are not retired. Accordingly, it is quite common to find that the pension benefits are not paid in any month in which the retired employee engages in any employment covered by the pension plan or in such employment above a permitted maximum.

Some plans require pensioners to submit a form each year indicating the extent of their employment, subject to the retirement test. In some cases, this provision may be integrated with the operation of the retirement test under social security, so that a month's pension is lost for every month for which a social security payment is lost. Many plans discontinue the retirement test completely above a stated age, such as 70.

To maintain equity among all covered members when the amounts contributed for each are different, the amount of monthly pensions is sometimes expressed as a percent of the total contributions made into the particular multi-employer pension fund. This solves the problem that arises when some employers go out of business, or otherwise drop out of the plan but leave large unfunded liabilities under the plan. It would also take care of the addition of new employers, who bring under the plan employees with past service which has not previously been credited, and for which no contributions have been made.

Relating pension to contributions also makes possible different rates of contributions by different employers whose contracts are negotiated independently. It also allows for increased contributions at future negotiations which will make possible greater benefits on an equitable basis.

Responsibility and Control of Financial Operations

A discussion of a few administrative matters should prove of great value to our representatives. Under some plans the contributions made by the employer are remitted directly to a bank, with an information copy going to the trust fund or union office. In this way the safeguarding of the money is facilitated. Some plans have devised reports to be made available each year to the employees showing the amount of the contributions made on their behalf by the employers. These reports when checked out with the total funds available can provide a very effective control on the overall financial operation of the plan. An important aspect of the controls relates to the auditing function carried out under the Board of Trustees. Several plans, particularly the major ones, make it a practice of conducting their meetings in a very formal manner, establishing a permanent record in the form of minutes kept by a court stenographer.

A troublesome aspect of some multi-employer pension plans arises from the delinquency in the payment by employers of their contributions. As an attempt at minimizing this problem, several plans provide for charging a delinquent employer with liquidating damages of perhaps $20 or 10 percent of the contributions, whichever is greater. In other cases, a delinquent employer is required to post a bond to safeguard his future contributions.

A multi-employer pension plan is a large and complex financial structure, and deserves careful and competent administration. The responsibility of investing funds accumulated through a multiple-employer pension plan is great, indeed. The representative who becomes a trustee must realize that the money is being invested for the combined benefit of the individual employees. He must uphold the reputation and honor of the organization as well as his own good record. He must bear in mind the admonition of Grand Lodge, IAM, in regards to Health and Welfare Funds, which also applies to Pension Plans, which states (Official Circular No. 573, April 12, 1955):

". . . It is the responsibility of representatives of our Association connected with the operation of Health and Welfare Plans to exercise extreme vigilance to see that no unethical practices are indulged in by any individual connected with the operation of a Health and Welfare Plan, regardless of whom they represent.

"Health and Welfare Plans are negotiated and administered solely for the benefit of our members and their dependents who should not be deprived of available services because of unethical practices on the part of others."

Attached to and made part of Official Circular No. 573 was the policy adopted by the Executive Council regarding Health and Welfare Funds. The section dealing with administration is so complete and pertinent to pension funds that we reproduce it in full as Appendix H.

High Moral Standards for Trustee

The spirit of the IAM's policy is to be found in the well chosen words of a great judge, the late Supreme Court Justice Cardoza:

"Many forms of conduct permissible in a workaday world for those acting at arm's length, are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior."

To the moral side of this problem, we must not fail to add the very practical and mandatory requirement of the Welfare and Pension Plans Disclosure Act. It became effective January 1, 1959. For pensions in effect on January 1, 1959, the Act required the filing of a description of the plan by April 1, 1959. For plans established after that date, a description of the plan must be prepared and filed within 90 days. An administrator must do the following within the time specified above:

1. Two copies of the plan description and supplementary documents must be delivered or mailed to the:

   Welfare & Pension Reports Division
   Bureau of Labor Standards
   U. S. Department of Labor
   Washington 25, D. C.

   These documents will be available for public inspection in the public document room of the Department of Labor.
2. A copy must be available in the plan's principal office for inspection of participants and their beneficiaries.
3. Copies must be mailed to participants or their beneficiaries who submit written requests.

In addition to a description of the pension plan, the administrator is required to file with the Secretary of Labor an annual report within one hundred and twenty days after the end of the calendar year (or, if the records of the plan are kept on a policy or other fiscal year basis, within one hundred and twenty days after such policy or fiscal year). Such a report must be made available and mailed upon request of a participant or beneficiary.

CHAPTER 7

CHOOSING BETWEEN INSURED and SELF ADMINISTERED PLAN

THE MULTI-EMPLOYER pension plan can overcome the problems of the small units and make possible the establishment of an efficient operation. But we still have to make a decision as to whether the plan should be insured or self-administered. The same decision, of course, has to be made in the case of a single employer plan. But there is a difference as to who has the primary responsibility for making the choice. In regard to a single company, it is usually the employer who makes the final decision. It is the union which must decide in connection with multi-employer plans. In either case, the covered employees are affected by the choice, because it will determine the amount of benefit that will be available to pensioners.

A leading investment consultant contends that in the management of pension funds, their profitability should be the primary purpose. In the case of stocks, the measurement of profitability is to include both dividend payment and the rise in the market value of the shares.

Because of the long period of accumulation required for pensions and because the subsequent distribution is spread over a considerable period, the rate of return on invested funds is one of the decisive elements in determining pension costs and consequently the amount of benefits to retired workers.

The favorable performance of common stock in recent years has created a growing trend toward inclusion of common stock as a means of raising the earnings on investments, and thereby reducing the cost of the pension, or making possible an increase in benefits or improvements in other features of the plan.

Higher Earnings of Trusteed Plans

Proponents of trusted pension funds contend that their funds can be invested in diversified holdings to yield a return greater than the net investment earnings rate of the larger insurance companies. It is estimated that an increase of one-half of one percent in interest earnings during a period of 30 years will increase the pension benefits by 15.0 percent.

Trust funds did not always have this advantage. When their funds were invested exclusively in government bonds and high grade corporate bonds, life insurance companies earned a somewhat higher net rate of return. When they began to invest a substantial portion of the trust fund in a diversified list of common stocks, however, the trust fund began to show a higher yield on the basis of recent common stock performance than that of a typical insurance company. The margin of superiority depending upon the proportion of the fund invested in equities. Most pension fund trustees consider 35 percent to be maximum for common stock holdings. In recent years, this has been more than sufficient to yield a return on the total fund above that earned by life insurance companies with their fixed-income investments.

Investments of insurance companies take place within the framework of strict statutory regulations. The insurance laws of the various states not only specify the types of investments which are legal for insurance companies but also prescribe certain qualitative standards which must be met. Investment in common stock is severely restricted, being prohibited altogether in a few states, and permitted only on a very limited scale in other states. The New York State Insurance Code, for example, permits a company to invest in common stock to the extent of 3 percent of its admitted assets, or one-third of its surplus, whichever is the lesser.

The bulk of insurance company investments is in government bonds (federal, state and local), high-grade corporate bonds, and real estate mortgages. The companies rely on real estate mortgages, privately placed corporate securities, and income producing real estate to raise the yield on their investments above that obtainable on government bonds and public issues of high grade corporate bonds. Some states have modified their insurance regulations to permit the investment of larger proportions of their pension funds in common stocks. This will undoubtedly improve the competitive position of insurance companies.

The funds of trusteed pension plans may also be subject to statutory investment restrictions. However, a large number of states have adopted the Prudent Man type of statute which requires only that the trustee observe the principles that govern a prudent man in the investment of his own funds when his purpose is a reasonable income and the preservation of his capital. Moreover, in every state, the trust agreement may be drawn up to permit the trustee broad discretion in the investment of the trust funds. Under these circumstances, the extent of legal control on trustee funds is practically non-existent and gives a marked advantage to the trusteed pension plans over insured plans.

Conservative Investment Policy May Bring Poor Earnings

It is well to remember that trusteed plans do not automatically enjoy a superior rate of return on investments. This will depend on market conditions and the investment policy of the trustees. When a pension trust limits itself to government bonds and obligations of domestic corporations of the highest quality, its earnings will be less than that of life insurance companies. For example, the New York Telephone Company earned an average of 2.77 percent for the period from 1945 to 1957. During the same period, the average earnings of life insurance companies, after federal income taxes, was 3.08 percent.

Some union pension funds have also followed an extremely conservative investment policy, which resulted in poor performance. In an article in the Harvard Business Review (November-December, 1958), an investment consultant has pointed out that one fund of $53,300,000 had 15 percent of it in idle cash and in 1957 provided a return of only 2.35 percent on the fund.

Not only have common stocks proved their ability to outperform insured funds insofar as yield is concerned, but they have demonstrated the unexpected power of capital growth. Unrealized capital gains may amount to several times the yield of the fund. This establishes a reserve cushion which can be used to improve pension benefits appreciably. Although this superior performance of well-chosen equities has been particularly evident over the past ten years, essentially the same results can be traced back over a period of at least 50 years.

If the stock market were going to rise forever, then there would be no need for buying either government or corporate bonds. Equity prices cannot be relied on to keep growing at the pace of the last ten years much longer. However, considering the long-term growth of the economy, and/or the long term inflationary trend, careful placements in equities should prove advantageous in the long run. But prudence dictates that they must be tempered with caution. Most pension funds have limited their investments in common stocks to 35 percent of the total portfolio. More recently, at least one leading bank has raised the common stock portion to 50 percent.

Although the recent revision of the federal tax laws to exempt annuity accounts of insurance companies from federal income taxes has removed one advantage hitherto enjoyed by trusteed plans, which have had tax exemption for a long time, it is safe to conclude that as long as insurance companies may not invest in common stocks, the large and well managed trusteed plan will do better than the insurance companies. However, it should be noted that the earnings of the insurance company were closer to the earnings of the bank in 1959 than in any other year.

This is illustrated by two sets of figures recently released by a leading New York Trust Company and one of the largest insurance companies. The bank furnished us with what it called the "experience of a typical pension trust which used our pattern of investment in stocks and bonds". The insurance company issued a release on the "Allocation of Investment Income to Group Pension Contracts" which included a table giving "illustrative select rates applicable to net amount available for investment during calendar year based on 1959 investment income and Federal income tax after relief due in 1961". The return on investment of the bank included realized and unrealized appreciation of stock holdings as well as depreciation in bond values. The comparison is shown in the table on the following page.

TABLE 4

Return on Pension Investments of a Leading Bank and One of the Largest Insurance Companies

Calendar Year	Banks	Insurance Company
1952	9.20%	3.79%
1953	9.22	3.97
1954	9.95	4.02
1955	7.86	3.98
1956	6.69	4.19
1957	8.78	4.52
1958	13.47	4.90
1959	7.02	5.09

Only two elements of cost—return on investment and expenses—are affected by the choice of funding vehicle. The other factors—mortality, turnover, and age of retirement—influence costs which are unaffected by the funding medium. We have already shown that large and well-managed self-administered trusteed plans have the advantage over insurance companies in regard to investment yield. We still have to compare expenses.

Comparison of Expenses

In comparing expenses of insured and trusteed plans, it is essential to distinguish between "loading" under an insured plan with the reported expenses of a trusteed plan. The expenses of insured plans are prefunded. The loading represents the maximum potential expenses under the plan. On the other hand, expenses under a trusteed plan are financed on a cash basis. It is improper and misleading to compare the current expenses of a trusteed plan with the total potential expenses of an insured plan.

Since deposit administration is the most common and suitable insured pension plan under collective bargaining, it is valid to compare the expenses under such an arrangement with the expenses of a trusteed plan. If commissions are kept to a minimum, and if the plan is in one of the 23 states (including most of the industrial states) which do not levy a tax on group annuity premiums, the expenses over the years under a deposit administration contract might run as low as the expenses of a trusteed plan. Under either type of funding, except for individual contract plans, expenses tend to be a relatively minor item of cost if the unit is not too small. However to combine small bargaining units under a multi-employer plan is discussed in Chapter 6.

Guarantee of Life Insurance Company

As already explained, the trusteed plans have an advantage in regard to earnings on investments. To counter this argument, the insurance companies advance the claim of greater security of benefits. One authority puts the case as follows: ". . . only one type of third-party guarantee is available for the safeguarding of pension benefits and that is the guarantee of a life insurance company. With the exception of the immediate participation guarantee contract, every dollar that is paid to an insurance company under a pension plan carries with it the company's unconditional guarantee that benefit of a specified amount will be paid pursuant to the terms of the plan."

The insurance company guarantee diminishes as they try to match the earnings of trusteed plans. As pointed out in the above quotation, the guarantee does not apply to the immediate participation guarantee contract. Moreover, under a deposit administration plan, "only retired employees enjoy the type of security available under conventional insurance contracts". It should be noted that the "variable annuity" being sponsored by a number of insurance companies also does not offer the type of "third party guarantee" mentioned earlier.

A trust company, which administers the funds of an uninsured plan, does not offer a third party guarantee, since the obligation of the trust company is limited to the investment and disbursement of funds turned over to it by the employer or pension fund.

But even those who stress the importance of a third party guarantee admit that its significance diminishes as a pension plan is adequately funded on a sound actuarial basis.

Another claim made by insurance companies is in respect to service. In connection with the disbursement function, it is argued that the insurance companies seem to enjoy a definite advantage. Trust companies operate in a limited area, while life insurance companies engaged in the pension business have representatives in every sizable community. It is argued that their broad agency system is of especial significance to plans which provide vested benefits.

Since circumstances vary over time and from place to place, it would be dangerous to conclude that one funding medium is inherently superior to another. A self-administered trusteed plan might be ideal under one set of conditions and thoroughly unsuited to another. Accordingly, the best way to decide between an insured and self-administered trusteed plan is to have a qualified pension consultant make a comparative study of all factors involved when a specific plan is under discussion and after bids are made by banks and insurance companies.

Split Funding

To meet the obvious advantage of the well-managed self-administered pension plan, some actuarial consultants and insurance companies have promoted a method known as "split funding". It consists of combining an insured fund, operated on the deposit administration principle, with a trust fund utilizing (but not restricted to) equity investments. It is argued that this approach eliminates the drag on the interest yield of a trust fund necessitated by the need for the trustee to hold a large portion of his funds in government bonds. It provides all of the flexibility of a fully trusteed fund or of the most flexible forms of insured fund, and the economies of the group approach.

Advocates of split funding further claim that its advantage over the simple deposit administration form of insured fund lies in its capacity to make use of equity investments to the extent desired, or to purchase other direct investments which would not be possible with a fully insured fund. Its advantage over a simple trusteed plan lies in its probable higher long-term yield, and in the guarantees and backing of the insurance company.

The claim for a higher yield is based on the argument that a well chosen insurance fund can outdo the low yielding bond portion of the trustee's portfolio.

Another important advantage claimed for this method is the flexibility which it provides in the power to direct new pension fund deposits into either the trust fund or the insured fund, depending upon investment conditions at the time. There are various possible methods of determining the basis of the split as between the trustee and the insurer.

One of the characteristics of a true split funding plan is that regardless of the active life fund, the pension for the retired employee is insured at his retirement. There is a considerable range in the handling of employee current contributions to the active life fund. The mechanism is a standard deposit administration contract. It requires the purchase of the annuity for each retired employee as long as the contract is in force.

The minimum payment in any year required by the insurance company is the amount needed to keep the fund sufficient to provide for the purchase of annuities for employees as they retire. The maximum payment is an amount mutually agreed upon by the trustees and the insurance company. The split funded method is not suited for pension funds of less than $75,000 because additional paper work and administrative costs involved would tend to neutralize some of its advantages. Although split funding eliminates some of the disadvantages of insured plans, it does not remove the higher expense rates and the margin for contingency funds which may reduce the amount available for pension benefit.

Pensions as an Investment Problem

From what has already been said it should be clear that a pension program presents far more of an investment problem and little of an "insurance" problem. There are many uncertainties concerning the ultimate costs of a pension program, but the "insurance" risks are not many and cannot come upon a pension fund suddenly and catastrophically.

What are the "risks"? First, more employees may live and work to retirement age than had been anticipated in the actuarial studies. Secondly, employees who retire might live longer than had been anticipated in the same actuarial calculation. The life span will not suddenly lengthen. It happens slowly, and as it becomes apparent, it is possible to take adequate measures to protect the fund. For example, if pensioners remain alive long after they had been expected to die, it is possible each year to calculate the actuarial loss to the pension fund. In any one year this loss is a relatively minor factor and the developments can be taken into account by some readjustment in the plan, including a modification of the pension rules as they apply to future retirements.

In short, the element of actuarial risk as it normally applies to the problem of insurance versus self-insurance of welfare plans has only a minimal application when it concerns a pension plan.

CHAPTER 8

KEEPING UP WITH INFLATION and HIGHER STANDARDS of LIVING

A GOOD INVESTMENT program must be concerned not only with safety and earnings but also with the long term trend of the purchasing power of the dollar. How much will a dollar buy when it is paid out as a pension? Retirement plans cover rather long periods of time. In the case of an employee who is first covered by a pension at age 35, the total span covered by his participation in a pension plan can be 50 years or more—and the average period between the time a dollar is paid into the plan on his behalf, and the time that it is paid out to him can be over 25 years. When periods of this kind are involved, it is necessary to establish a procedure which cannot only overcome inflation, but keep up with the costs of an ever-higher standard of living.

The Variable Annuity Principle

Inflation can play havoc with any retirement plan based entirely on fixed-dollar benefits. To discover the means of overcoming the difficulties caused by inflation, the staff of the Teachers Insurance and Annuity Association (TIAA) made a thorough study of long term investments for retirement purposes and came up with what they called the "variable annuity".

To understand this term, it is perhaps best to first define the concept of "life annuity", as is customarily used for pension plan purposes. It is a device by which money is provided to furnish an income to a retired employee, the income to continue as long as he lives. We usually think of it as providing a certain fixed number of dollars of benefit each month.

A variable annuity, however, is expressed in terms of benefit units, instead of dollars, and the income it provides varies in accordance with the investment results of a common stock portfolio, including capital gains and losses realized and unrealized. It is intended to take care of the fact that a fixed number of dollars is not equal to a fixed quantity of food, clothing and shelter. Through the variable annuity the means are provided of obtaining an income which is responsive to a changing cost of living, as well as to a changing standard of living. Plans using the variable annuity principle usually invest contributions partly in bonds and partly in common stocks. Stocks investment is limited to a maximum of 50 percent of contributions.

The soundness of the variable annuity principle can be tested mathematically. Actuaries have checked hundreds of different historical situations over the last 75 years. They show conclusively that a worker with a pension based on a 50 percent contribution to a fixed dollar pension and 50 percent contribution to a variable annuity pension would not only have retained his purchasing power, but it would have enabled him to retain his relative position in the community.

It could be shown that under certain circumstances a 100 percent common stock variable annuity could do even better than a combined fixed dollar and variable annuity. However, because common stocks fluctuate so widely and could cause some hardship under adverse conditions, it seems just as prudent to hedge against the possibility of deflation by a fixed dollar annuity for half the pension, as to hedge against the possibility of inflation by the variable annuity of the other half.

Higher Benefits under Variable Annuity

It might be well to illustrate operation of the variable annuity principle by taking a hypothetical case from the TIAA study mentioned earlier. A college teacher who contributed $100 per year toward the purchase of a fixed-dollar annuity from 1900 to 1930 would have received an annual annuity upon retirement in 1930 of $552. Instead, had he contributed $50 annually toward a fixed-dollar annuity and $50 toward a variable annuity, he would have received a fixed annuity of $276 (one half of $552) plus a fluctuating amount from the variable annuity. His combined annuity would have ranged from $503 in 1932 to $1,007 in 1950. Only in 1932 would the combined annuity have been less than the fixed dollar amount of $552. Over a 20-year period of retirement the fixed annuity would have provided $11,040; the combined annuity, $14,617. As a matter of interest, a 100 percent variable annuity would have paid $18,188. However, the annual payments would have fluctuated from a low of $454 to a maximum of $1,194, a range which would have made personal budgeting difficult for the policyholder. This fluctuation in benefits is probably the most serious obstacle in making this plan popular with large groups of workers.

Following the pioneering example of TIAA, a number of employers have set up uninsured retirement plans, using the variable annuity principle. Among these are Long Island Lighting Corporation, Chemstrand Corporation, Panagra Airlines, Kidder Peabody and Company, Boeing Airplane Company, the Carnegie Institution of Washington, and Wisconsin state employees. The Airlines Pilots Association has accepted the variable annuity principle for its members. More than 100,000 Americans now have variable pensions. We may expect the number to grow rapidly with the passage of a law in 1959 to permit life insurance companies to issue variable annuity contracts in New Jersey. Such contracts will probably become widely available throughout the United States in 1961.

It should be noted that under a pension plan where the employer agrees to a fixed contribution, such as 10 cents per hour, the ultimate results may be the same as under a "variable annuity". They will be the same if they invest 50 percent of the contribution in stocks and 50 percent in government and corporate bonds and if they have a provision for liberalizing the pension benefits as experience permits. A discussion of "fixed contribution" and "fixed benefit" plans will be found on page 43.

Cost of Living Escalator

Another way to overcome inflation is to provide for a pension with a cost of living escalator. Under this arrangement, pension benefits will go up semi-annually by a percentage related to the rise in the consumer price index of a given date. IAM members on the National Airlines have such protection. In some cases, the annuity is adjusted at retirement and periodically thereafter. The adjustment is sometimes applied to benefits as they accrue.

Some protection against inflation (but not after retirement) is also provided in plans which base pension benefits on the final five or ten years earnings. This is discussed at some length in a later part of the *Guide*. The simplest and most obvious way of protecting against inflation is the frequent revision of the benefit formula. But this procedure requires bargaining with the employer and may not protect the worker who is already retired. It is well to bear in mind the fact that several powerful companies have forced a number of unions to agree not to bargain over the benefits of already retired workers.

CHAPTER 9

BASIC PROVISIONS of a PENSION PLAN

SOME BASIC PROVISIONS are common to all types of pension plans regardless of the financial and legal characteristics of the plan. Despite the complexity of a pension plan, the essential features can be grouped under three convenient headings: (1) benefit structure, (2) coverage, (3) source of financing.

The benefit provisions are the very heart of a pension plan and we shall deal with this aspect at some length. Before doing so we want to first discuss the two other main features of a pension plan.

Coverage from the point of view of the union negotiator is determined by the scope of collective bargaining. It may be of the multi-employer or single employer type. The multi-employer type is so important that we have treated it in a separate section.

Not every employee is automatically covered by a pension plan even within the bargaining unit involved. The two most common bases for exclusion are length of service and age. Many plans require that an employee complete a minimum period of service before being able to participate in the plan. Early plans tended to require five years of service as a qualification period, but the trend in recent years has been to shorten the time. The object of a service and minimum age requirement, particularly under individual policy plans, is to eliminate unnecessary administrative expense among new employees, particularly the young where there is a high rate of turnover. No eligibility requirements are incorporated under most self-insured or deposit administration type of plans. Under these plans there is no economic waste because of turnover.

An employee may be excluded from membership in a pension plan because he is either too young or too old. Many plans require that the employee must have attained age 25, 30 or 35, before he may become a member of the plan. At the other end, persons who are employed after, or have not elected to become members of the plan before, age 50, 55 or 60 are excluded from membership.

Determining "Credited Service"

Membership in a plan is important primarily in the case of contributory plans. However, in both contributory and non-contributory plans, it is the number of years of credit service that determines whether a person qualifies for a pension and how much it will be.

Unless great care is taken in writing the agreement provision covering this point, many retiring workers may find their pensions to be considerably less than they had expected, owing to a narrow definition of the term "service" in plans which relate the amount of benefits to length of service. Particularly in plans which make no provision for the retention of vested rights by the worker in case of layoff, quits or discharge, a loosely-worded clause governing "credited service" may put a potential whip in the hands of the employer, or enable him to reduce his cost obligations at the expense of the benefits anticipated under the plan.

Under most single-employer plans, service credited toward retirement benefits is required to be "continuous" from the date of membership in the plan to the date of retirement. If broken, only the last continuous period of service under the plan counts, unless some further provision for the retention of vested rights is included.

In the typical negotiated plan, continuous service is not considered to be broken by leaves of absence, sickness and accidents, military service, lay-offs, dismissal followed by subsequent reinstatement, strikes or lockouts. In most cases, however, absences for these causes in excess of stated periods, while not considered a break in continuous service so as to involve the retroactive loss of service credits already accumulated, are deducted in computing the total length of service.

Provisions governing non-work time counted as credited service are usually geared to the seniority clause in the collective agreement. Under such an arrangement, continuous service, for retirement plan purposes, accumulates in the same manner as seriority does under the agreement and service credits are retained as long as seniority rights are.

Minimum age requirements reduce the number of years of credited service and, consequently, the pension benefit of the employee who remains with the employer until retirement, or to the point of vesting. A minimum age requirement is sometimes used in a contributory plan to please the younger employees who because of their youth have little interest in pensions and prefer not to make any contributions for that purpose.

The maximum age limitation is intended solely to hold down the cost of pensions. The cost of providing a pension increases with the age of an individual. For example, one rate widely used calls for a single premium of $45.60 for a life income of $1.00 per month at age 65 purchased at age 30, with no refund, while the same benefit purchased at age 50 is $82.32. The difference between the two premiums is $36.72. If a $50 a month pension is involved, the difference would amount to $1,836 for one employee.

Contributory and Non-contributory Plans

The second feature that we shall discuss is source of financing. When the money to finance a pension plan comes exclusively from the funds of the employer, it is called a non-contributory plan. When the employee directly provides the funds for a portion of his benefits, with the employer assuming the remaining portion, it is called a contributory plan.

The overwhelming proportion of negotiated plans are non-contributory. The most compelling argument for this arrangement is that employers can charge contributions against taxes as a cost of doing business, but employees are subject to tax on that part of their wages deducted for contributions. At present tax rates, therefore, an employee contribution of $1 may be said to cost him more than $1.20. Another way of saying it is that an employee by giving up a wage increase of $1.00 can get himself a pension worth $1.20. No negotiator would pass up a deal like this.

The situation is different in Canada where employers' and employees' contributions to an approved pension fund are both allowable as deductions from taxable income up to amounts of $1,500 per year per employee.

One must not overlook the obvious fact that a contributory plan makes possible larger benefits to the employees. Well paid workers may wish to contribute in order to increase their benefits. For those who can afford it, pensions offer an advantageous way of long term investment.

A review of the history of employee contribution requirements shows that it had its ups and downs. Before 1925 most pension plans were non-contributory. Thereafter, a strong trend toward contributory plans developed, which continued until World War II. It was then interrupted when wage stabilization and tax considerations led many companies to adopt non-contributory pension plans as nonwage concessions to employees, for which the net cost after tax would be negligible. After the war, however, the trend toward employee contributions reasserted itself. But the trend was again reversed by the decision in the Inland Steel case making pension plans a subject for required collective bargaining. The latest figures available (1957) indicate that 85 percent of all contributions are made directly by the employers.

It is well to have a way of testing the liberality of a contributory fixed benefit plan. One such measure is the ratio of the employee contribution rate to the current service benefit rate. A plan which requires an employee contribution of 2 percent of earnings and provides a benefit of 1 percent has a ratio of 2:1. A ratio of 2½:1 or 5:2 is about average. Any higher ratio tends to make a plan below average.

Fixed Benefits versus Money Purchase Plan

There are two main ways of approaching the problem of determining the benefit structure: (1) fixed benefit plan, (2) money purchase plan. The first fixes the amount of benefit and places the responsibility upon the company to meet necessary costs. The "fixed benefit" plan is also called "definite benefit", "unit of benefit", or "unit annuity".

The second fixes contributions at a specified level and strives to obtain the best set of benefits possible under the circumstances. It is known as a "money purchase" plan. Under the definite benefit type of plan, the benefits are determined in advance and the contributions will vary with the estimated cost. Under a money purchase plan, the contributions are fixed and the benefits will have to be adjusted in accordance with the estimated cost. Accordingly, either the level of benefits or the cost of financing that level of benefits will be subject to variation.

Since pensions extend over long periods of time, actuaries are always trying to estimate the cost of benefits. The cost as shown by experience over several years, is almost sure to be different from the estimate. Under a money-purchase plan, if the contribution turns out to be too low for the benefits provided in the pension plan, then the union will either have to accept a reduction in the benefit schedule, or it will have to negotiate an increase in employer contribution. If contributions are greater than needed to provide the original benefit, then the union can negotiate for a higher benefit level or for additional benefits. If, on the other hand, the employer has agreed to a fixed benefit plan, then an "actuarial loss" will automatically require him to increase his payments. "Actuarial gains" may yield him savings which will serve to reduce his contributions below the level of his initial outlays.

Union Participation in Administration of Plan

Regardless of whether or not the plan is to be on a fixed cost or a definite benefit basis, negotiations will tend to center around the factor of costs. Getting the best cost estimates is a matter of urgent concern to the union negotiator.

What is important to the negotiator is how much did he give up in other gains to secure the pension plan and how much does it really cost the employer. If experience shows that the plan costs more than was originally estimated, then the representative will learn about it from the employer. On the other hand, if the actuarial valuation shows that the plan costs less than was first estimated, then the representative ought to have a channel for learning these valuable facts. For this purpose, the actuarial valuation reports are indispensable. In the case of a multi-employer plan, the information comes from the actuaries retained by the Board of Trustees, where the union is well represented. In the case of a single employer plan, the best way to obtain them is to provide for union representation on the Board of Administration. This applies to both insured and self-administered plans.

The workers covered by the plan are properly entitled, through their union representatives, to a forceful voice in the control and management of the fund. The choice of an insurance company, bank, or any third party to manage and operate the pension funds should not be left solely to the employer, but should be acceptable to the union as well. A suggested Article to accomplish this purpose appears as Appendix D.

There are situations where the negotiator has no choice between a fixed cost and a fixed benefit plan. For example, multi-employer plans are based upon a fixed and guaranteed rate of employer contribution payments into a pension fund.

To avoid difficulties under a money purchase or fixed cost arrangement, the plan should be set up on a basis that will permit future liberalization. Hence, the pension benefits should be set at a reasonable level, and determined by cost estimates that utilize realistic assumptions. Emphasis should initially be given to providing the highest level of retirement benefits consistent with realistic actuarial assumptions. To achieve the highest level of pension benefits, frills should be avoided. Provision should be made in the appropriate agreements for adjustment of benefit schedules in accordance with experience. It should clearly state that this will not affect adversely the benefits of retired employees.

Effect of Service Requirements on Amount of Benefits

Service and eligibility requirements are just as important as benefit formula itself in determining who gets what among the group covered. These requirements should always be considered in relation to the benefit formula. A liberal benefit formula can be largely offset by a provision which limits the number of years of service that can be counted. In addition to the age restrictions already outlined, the number of years of service which can be credited toward retirement may be limited to 30 or 35 years. Since the monthly retirement benefit is the product of so many dollars times the years of credited service, the amount of pension received by long-service employees may be considerably reduced by such service requirements.

These restrictions may be the means of providing short-service workers and older workers with higher immediate benefits than would be possible if the available funds were spread thin, so as to make earlier coverage and higher benefits available to young and long-service workers.

A choice might have to be made between a plan which pays a monthly benefit of 2 percent of earnings per year of service with a 25 year limit, and a plan with only 1½ percent of earnings but with no limit on credited service. The older and short-service workers will make out much better under the former plan—25 year limit. The younger and longer-service workers would gain higher benefits under the latter plan—no limit on years of service.

The cost of the two alternative plans might be the same. It is impossible, in advance, to say that one approach is necessarily superior to the other. The choice must be made by the workers in the group involved.

How do we reconcile the claims of the young and the old, the newly hired and the old-timers? The thinking involved in striking a balance can be illustrated by an example. Let us assume that our plan covers 1,000 employees. The contribution is $20 a month ($240 per year) per employee, or $20,000 per month for all the employees. After a year, there would be $240,000 in the fund. Suppose that 80 employees retire in the first year. How much monthly benefit can each employee be paid during the first year? If no reserve is established for future obligations, and disregarding expenses, the whole sum of $240,000 is available for 80 pensioners for one year. This would amount to $3,000 per person per year, or $250 per month. But as the years go by, and the proportion of retired employees increases, let us say, to 500, then contributions of $20,000 per month ($240,000 per year) would give only a $40 monthly pension to each of the retired workers. What seemed like a generous plan, at first, now becomes pretty niggardly.

Now let us try to be more prudent. Let us suppose that the $240 paid each year on behalf of each individual is to be applied to buy for him whatever amount of deferred pension that it can. For a man aged 65, $240 will provide an immediate monthly pension of $1.30 for life. We could hardly agree to such a miserable pension for an older worker.

Neither of the above extreme cases is suitable. It is necessary to find some amount in between that would be reasonable for the young and old. The decision would have to rest with the group affected, due consideration being given to the justice of all concerned. When a plan is first put into effect, a worker might be permitted to work long enough after normal retirement age to enable him to receive a minimum pension of $25 a month. The aim for those with longer service might be to get a pension of $75 a month for an employee with 25 years of service. Another way of putting it is that an employee would receive $3 a month benefit for each year of service.

Five Main Benefit Formulas

A study of 217 plans of the definite benefit type revealed that they had 217 different benefit formulas. The variations in the number of pension benefit formulas is almost limitless. They can, however, be grouped into five broad classes:

1. Benefit related to service but not to earnings. A flat amount, say $2.50 benefit per month for each year of credited service.
2. Benefits related to both earnings and service. This is usually expressed as a specified percentage of the employee's earnings for each year of his accredited service.
3. Benefit related to earnings but not to service. This may mean 50 percent of pay after a minimum of 20 years of service.
4. Benefit related to neither service nor earnings. This could mean, for example, a pension of $75 per month after 15 years or 20 years of employment, regardless of earnings or service.
5. Benefit as a percent of total contribution, 2 percent, for example. A participant who had $200 a year for 35 years contributed on his behalf (a total of $7,000) would receive a monthly pension of $140.

The variations on the first and second types of formulas are the most common. Relatively few plans will fall entirely within one class. They will usually be a combination of more than one type with one kind predominating. For our purpose, it will be sufficient to cover the first two types.

The first and simplest type—benefit related to service, but not to earnings—is very common in negotiated pension plans. It may provide, for example, $2.50 pension benefit a month per year of service. An employee with 20 years of service would be entitled to $2.50 x 20, or $50 retirement benefit per month. This arrangement fails to face up to inflation and the wishes of the higher paid workers. This will be explained in our discussion of type 2, to which we now turn.

The second type of formula is the one in which the benefit payable at retirement age is based on both earnings and length of service. It is more complicated and by far the most prevalent. It requires some elaboration. The great majority of these plans base the benefits on earnings for the total period of employment or the "career average", as it is called. The benefit formula of such a plan provides that each employee is to be credited with an annual benefit at retirement equal to a specified percentage of average annual compensation multiplied by the number of years of credited service. The percentage may vary with the level of earnings.

A good plan is one which provides a pension of 2 percent of pay for each year of service from the pension plan and Social Security combined. For 30 years of service the pension benefit would amount to 60 percent of average pay. A pension plan which provides a retirement benefit of 1½ percent of pay times years of service from the negotiated plan and Social Security combined is considered fair. For a worker with 30 years of service, the retirement benefits would amount to 45 percent of his average pay. Any plan providing less than 1.5 percent pay times years of service is substandard. It is quite common to apply one percentage to the earnings subject to Social Security and another, perhaps higher, percentage to earnings in excess of the Social Security base.

An increasing number of plans are turning to benefits based on the worker's annual pay during the final years of his participation in the plan. Any of the following formulas might be used: final ten-year average, highest ten-year average, and highest five-year average in final ten. Under Treasury Regulations, the period must be at least five consecutive years.

Relating Pensions to Final Earnings

It should be pointed out that to achieve a pension of 50 percent of final pay, it would be necessary to set aside enough money to buy a pension ranging from 70 to 80 percent of current pay. If, for example, we aim for a pension of 50 percent of final pay within 25 years, then contributions would have to equal about 3 percent of current pay. Likewise, if the plan provides for benefits equal to 2 percent of current pay, in 25 years it would provide not 50 percent of final pay, but only about 35 percent or less, of what he was making at the time of retirement.

This is important because for the past 25 years wages have been rising, partly as a result of rising prices and partly as a result of higher standards of living. Under these circumstances, this type of formula will produce an earnings base higher than that of career average, and consequently also larger retirement benefits. The final average type of formula thus appears to be a partial hedge against the effect of inflation and also permits some participation in the higher standards of living. An important feature of this formula is that increased benefits are automatic with the rise in wages and do not require painful negotiations. Although lower wages are possible, they are not likely in light of the long term trend of prices and wages in the United States which has been upward. There are other possible ways of hedging against inflation. They are discussed elsewhere.

Under this type of benefit formula, both "earnings" and "service" must be carefully defined. The pension agreement must spell out clearly the items of compensation which will be treated as part of the earnings base. The pension agreement should stipulate what constitutes "continous service," since this is the only period for which credit is given in computing benefits.

Related to the service aspect of the benefit formula is the distinction between future and past service. Future service means all service of a continuous nature performed after the date of establishment of the pension plan, while past service is all continuous service performed for the company in question prior to that date. Future service will not provide adequate benefits to employees who have been with the company for years but have only a few more years before retirement. For this reason pension plans should give recognition to maximum past service.

Although past service benefits may cost more than future service benefits, the cost may be funded over a period as long as 40 years. The Treasury will not permit funding it over a period less than 11 years. The cash outlay for past service liability can be kept to the interest that has to be paid on the initial unfunded liability. Various forms of limitations are used to reduce costs of past service benefits, including the application of a lower percentage to past service credits. In considering this phase of the plan, the representative should bear in mind that in newly negotiated pensions, the employees who will retire in the near future will have to derive the larger part of their benefits from their past service credits. Consequently, where the plan distinguishes between past and future service, it is the former that will determine how the plan pays off in the next five or ten years.

Normal Retirement Age

Every pension plan prescribes the conditions under which employees may be permitted or required to retire and receive their pensions. Eligibility is usually expressed in terms of age and service. Central to this provision is the concept of a "normal retirement age." This is the age at which employees are normally expected to retire. This is sometimes modified by a service requirement. It is the age at which they have the right to voluntary retirement on full pension, and in plans with compulsory retirement, it is usually the age at which they must do so.

We shall not enter into a discussion as to what is the ideal age for retirement. We shall merely observe that the prevailing practice now is overwhelmingly to use age 65 as the normal retirement age. This practice may be accounted for by the fact that 65 was adopted in 1935 as the age of eligibility for federal old age benefits. Since cost estimates are based on a retirement age of 65, departure from this practice will affect costs. If the normal retirement age were to be cut from age 65 to age 60, while the amount of benefit was kept the same, the cost would go up 40 to 50 percent, because contributions cease five years sooner and payments begin five years earlier. On the other hand, if retirement age were deferred from age 65 to age 70, the cost of the same pension benefit would be cut by about one-third because contributions continue for a longer period and payments last for a shorter period.

Some plans provide a lower retirement age for women. Since women have a life expectancy about five years greater than men, it makes this policy of earlier retirement for women difficult to justify. In any case every negotiator ought to know that such a policy will add considerably to the cost of the plan, in addition to the fact that it costs more to buy pensions for women because of their higher life expectancy.

Under many plans an employee who is a member of the plan is entitled to receive full retirement benefits upon the attainment of the normal retirement age alone. This is a contractual right and can be exercised without the consent of the employer. In other plans, however, the age requirement is supplemented by a minimum service requirement. They require a minimum period of service or entry into the plan before a specified age, which has the same effect. The service requirement for a full pension is normally 25 or 30 years, with no benefits for service of less than 10 or 15 years.

An exception to the normal retirement age is generally made for employees who are beyond a specified age at the time the pension plan is established. The lower limit for such exception is usually 55 or 60, and such employees are permitted to work five or ten years beyond the normal retirement age, or until age 70, whichever occurs first.

Early Retirement

A strict adherence to the normal retirement age and specified service requirements would inflict hardships on many workers who for various reasons, including health, may wish to retire earlier. Accordingly, many plans provide that an employee may retire earlier than the normal retirement age. Existing plans are about equally divided as to whether employer consent is required. About half of the plans permit early retirement solely on the basis of age, usually 55. The remaining plans require a specified minimum period of service, usually 10 years, in addition to the attainment of a specified age. It is very unusual for a plan to permit early retirement on the basis of service alone.

Early retirement reduces the period during which contributions are payable and interest is earned on accumulated funds, and also extends the period during which a pension may be paid. For these reasons and because a pension payable at early retirement may mean payments to an employee who might not live to normal retirement date, early retirement involves a drastic reduction in the amount of the pension. Under most plans, early retirement reduces benefit by 0.6 of 1 percent for each month of retirement before age 65. This reduction is in addition to the smaller benefits that result from loss of credited service.

An example will help to show the extent of reduction. Assume that an employee began working for a particular company at age 35. Assume further that his pension is figured on the basis of $3 a month for each year of service. If he retired at age 65, he would be entitled to $90 a month ($3 x 30 years). If he retired at 60, under the early retirement provision, he would have only 25 years of service, and his pension would be $75 per month ($3 x 25 years), before the actuarial reduction goes to work. Now because the employee retires at 60, instead of 65, his pension benefit is reduced by 36 percent. This is the product of 60 months x .006 (the decimal of .6 of 1 percent) or .36, which is also expressed as 36 percent. If we subtract 36 percent from 100 percent, we are left with 64 percent of $75, or $48. This is quite different from the $90 monthly pension at age 65.

Great care must be exercised in drawing up a provision for early benefits. The worker pays for the right to an early pension. He must make sure that the employer does not gain from it because of too great reductions in the benefit. Some actuaries are suggesting that the reduction in benefits because of early retirement be limited to 0.5 of 1 percent for each month of retirement before age 65.

It is important not to permit early retirement to become a substitute for disability benefit. Some plans permit early retirement only in the event of total and permanent disability. Every effort should be made to secure a disability benefit that is at least the same as the final pension benefit at age 65 for years of service to the date of disability.

Related to the question of early retirement is that of postponed or deferred retirement. Under relatively few plans is retirement at the normal retirement age compulsory in the sense that there is no flexibility. A sizable proportion of plans contains an automatic retirement age, as well as normal retirement age. Under these plans an employee is permitted to remain in service up to the automatic retirement age, usually without the employer's consent. Continuation beyond the automatic retirement age, if permitted at all, is only with the employer's consent. It should be understood, of course, that the employee is entitled to retire at the normal retirement age and can be retained in service only with his consent.

Workers' Attitude to Retirement

It is well to bear in mind the attitude of the workers themselves to retirement. Studies show that if benefits are sufficient to enable a retired worker to live in relative comfort, dignity and security, most workers will voluntarily retire when the time comes that they can no longer work as well as they used to do. If they are not sufficient, workers resent being compelled to retire while they are still able and willing to perform useful and remunerative service.

A study by the Social Security Administration in 1951 found that 65 percent of the men and 71 percent of the women beneficiaries considered themselves unable to work. Only 15 percent of the men and 11 percent of the women beneficiaries reported that they were able to work and wanted to work, but over half of this group desired only part-time or occasional employment.

As far as costs go, a plan which permits workers to retire at their own pleasure after reaching the retirement age will prove considerably less expensive per unit of benefit than one which enforces compulsory retirement. Each year that a worker remains on the job after reaching retirement age reduces the cost of eventually paying him a pension.

Unions should exercise their best efforts to assure that the plans do not react against the employment of older workers. Employers may undertake to keep their costs down by adopting a policy of hiring only workers below a certain low maximum age limit. Here it should be pointed out that although the cost of retiring employees with short service is high, it is not quite as expensive as some would have us believe.

Since they have short service, they would receive smaller benefits than those hired at a younger age. Moreover, if they do not qualify for a pension because of lack of minimum service, there is no additional cost in hiring older workers. If retirement is postponed beyond age 65, then the duration of the pension benefits is reduced to that extent. Each year of such postponement may save anywhere from 6 to 9 percent of annual costs.

Workers hired at older ages may not qualify for disability benefits and cut down pension cost thereby. Where benefits are related to final earnings, the maximum increases in pension benefits come to younger workers, thus offsetting the increased costs of pensions for older workers. Likewise, longer life expectancy is greatest for younger workers.

The wider adoption of vesting provisions would help to eliminate the higher cost factor, since it would enable workers to carry their pension credits earned in the past with them in the form of paid-up annuities, as they move from one employer to another. The amount on which a worker would be able to retire would not then be dependent solely upon his length of service with his last employer—and that employer would not face the choice of assuming the cost of funding an adequate pension for him over a short period of time, or retiring him on a small pension or none at all.

Compulsory Retirement

There are arguments for and against compulsory retirement at normal retirement or some other specified age. Employee attitudes toward retirement vary widely. Younger employees, insofar as they think about retirement at all, are somewhat inclined to favor retirement at relatively early ages. As employees grow older, they become more aware of the difficulties of the readjustment involved in retirement and wish to postpone it. Business conditions also influence attitudes toward retirement. Here are some of the arguments for and against compulsory retirement:

A. *Arguments for compulsory retirement:*

1. It avoids charges of discrimination and favoritism. It reduces retirements to a matter of accepted routine and treats all employees alike at the compulsory retirement age.
2. Automatic retirement on the basis of age, though arbitrary, is impartial, impersonal and objective. It thus preserves the dignity of retiring employees. It carries no adverse personal implication.
3. It encourages preparation for retirement on the part of both management and employees.
4. Opens job opportunities for new and young workers, preventing layoffs and making possible promotions.

B. *Arguments against compulsory retirement:*

1. The great majority of workers do not want to retire while in good health.
2. Most of the unwillingness to retire stems from the fact that the average worker resents and resists drastic reduction in his standard of living that retirement causes.
3. Even if pensions were adequate, many workers still do not wish to retire. As long as an individual remains able to work and wants to do so, compulsory retirement may be a cruel relegation to uselessness. It disrupts the pattern of life, which for all of us is organized around the regular performance of work.
4. Compulsory retirement at an arbitrary chronological age disregards both differences in individuals and differences in job requirements. At any given age health and work capacity vary between individuals. Different jobs make different demands on individual capacities.
5. Compulsory retirement is economically wasteful. The economic waste of compulsory retirement is demonstrated by the apparent satisfactory work record of older workers retained or recalled during the war and by the experience of companies which have an unusually high proportion of older employees.

Postponed Retirement and Amount of Pension Benefits

Continuance at work of employees eligible to retire raises the question of when their pensions should become payable. If postponed retirement is allowed and the payment of pension benefits is deferred, the size of pension that is ultimately paid can be increased quite substantially. The contributions vested in the employee at normal retirement age accumulate with interest during the deferred period. At the same time, the probable duration of the pension is declining as the employee ages. Therefore, the pension payable at normal retirement increases, and increases rapidly with each year of deferment, even if no contributions are added to it, or credits earned, in the deferred period. The question then is whether it should be payable in the same or an increased amount. Practice is divided. Some companies provide for the payment of retirement benefits in addition to his regular wages. The majority of the plans which postpone the retirement benefits pay the employee, upon actual retirement, only the amount of income which would have been paid at the normal retirement date. The result is a saving to employer or to the fund. In fact, such savings often are and should be considered in estimating the cost of a pension plan. For every year for which retirement is postponed one can figure a reduction of about 7½ percent in the cost. In collective bargaining, we must make certain that the group of workers involved does not lose anything which rightfully belongs to it. It is then up to the group to decide how the fruits of bargaining are divided among them.

Joint and Last Survivor Annuity

Whether a plan is insured or self-administered, it is taken for granted that the payment of a retirement benefit continues throughout the remaining lifetime of the retired employee. The disbursement of pension benefits takes on several forms. Grouped broadly, they may be of the single life or joint life kind, and within either of these classifications they may be either "straight life annuity" or refund type. A single life annuity is one which is based on only one life. A joint life annuity is based on two or more lives. The simple form of single life annuity provides periodic, usually monthly, income payments that continue as long as the pensioner lives and ends upon his death.

The refund type of single life annuity guarantees to return a portion or all of the purchase price of the annuity. The annuity may promise that a certain number of monthly payments will be made not only during the lifetime of the annuitant but not less than an agreed period, usually five or ten years, either to him or to his survivors. In insurance this guarantee is called "five year certain" or "ten year certain", which means that 60 or 120 payments, respectively, are guaranteed to the beneficiary if the pensioner dies. The cost of this type of annuity is greater than that of a single life annuity which provides the largest monthly income per dollar of outlay.

The prevailing joint life annuity goes under the name of "joint and last survivor annuity". It provides a periodic payment of a specified amount as long as either of two or more persons shall live. This type of contract is ideally suited to provide old age income to a husband and wife. One form provides that the income be reduced upon the death of the first annuitant to either one-half or two-thirds of the original amount, on the theory that the survivor does not require as large an income as do the two annuitants. For most combinations of ages, this is the most expensive of all annuity forms.

Since in most pension plans the normal form of payment is the straight life annuity, the employee is usually given the option, a specified number of years before retirement, of electing a different type of payment. Some plans provide a wide choice of options, while others are fairly limited. One form that is almost always available is the joint and survivorship annuity, in the belief that the employee would wish to extend his pension protection to his wife. A regular joint and survivorship annuity sharply reduces the size of the retirement benefit. Consequently, most plans also permit the type of joint and survivorship annuity that provides a smaller benefit to the survivor.

Of the numerous options, one other deserves to be mentioned. It is available only in the case of early retirement. It is called the "Social Security Adjustment Option". The purpose of the option is to provide a level benefit throughout the period of retirement because the Social Security retirement benefits are not paid until age 65. Since monthly benefits are reduced under the various options, it means that the cost is borne by the pensioner himself. Options are a desirable feature of a pension plan, but do not require additional contributions.

Adequate Disability Benefits

Provision can and should be made for adequate disability benefits. This has not been the case under even the most liberal plans. A Princeton University study reported: "Even under the most liberal plans, the level of benefits to disabled workers is exceedingly low. Available incomes fall short of meeting what would seem to be the barest minimum requirements for maintaining a modest living standard for a single person and are even less adequate for individuals with continuing family responsibilities."

Care should be taken that the age and service requirements are not such as to limit disability payments to those who are about to retire. The facts are that disability may occur with equal likelihood at any age or after any length of service with a particular employer. If anything, the younger and middle-aged employees (who, generally speaking, are also the shorter service employees) have a greater need for disability benefit protection, for these employees as a general rule, have greater family responsibilities than the older workers.

The IAM Agreement with American Can Company makes an employee eligible for disability pension after 15 years of service. It provides: "An employee eligible for a disability pension prior to March 1, 1960 shall continue to receive the present amount of his disability pension; however, for an employee becoming entitled to a disability pension beginning on or after March 1, 1960, the monthly amount thereof shall be the greater of

1. The larger of (i) $100, or (ii) $3.00 per month times the number of years (and fraction of a year) of accredited service, minus in either case, the amount of any disability insurance benefit under the Social Security Act to which he may be entitled for that month; or
2. $2.75 per month times the number of years (and fraction of a year) of accredited service.

"Each person applying for a disability pension must also apply for disability benefits under the Social Security Act unless his age is such that he cannot become eligible therefor. An applicant for a disability insurance benefit shall be deemed not entitled to such benefit prior to the month in which it shall be granted if he shall agree to refund any excess payment from his first disability insurance benefit check."

The cost of disability benefits after 15 years of service has been estimated to be about 10 percent of the cost of agreed upon benefits.

CHAPTER 10

VESTING

THE MOST SIGNIFICANT development in pensions in recent years is the recognition that an employee on retirement has a vested nonforfeitable, legally binding right to his pension. There also has been a steady increase in the proportion of plans which gives an employee who terminates his employment before retirement some rights to his pension credits. The term "vesting" is now used to refer to rights before retirement. The nonforfeitable right to pensions after retirement is today taken for granted.

Although a pension plan is set up primarily to provide retirement benefits, only a small proportion of the workers remain with the same employer until retirement. It is necessary to protect the rights of all workers covered by a pension plan with a particular company whose employment is terminated by withdrawal from employment, death or disability. Provision also has to be made for the rights of employees when a pension plan itself is terminated.

The term "vesting" refers to the right which an employee acquires in the contributions made on his behalf by the employer. There is no question as to the right of the employee to his own contributions under a contributory plan. Because there is a question in regard to the contributions made by the employer, a few words of explanation are in order.

When the union and employer agree to a pension plan, it is only one part of a collective bargaining package. In order to obtain a pension, the union might have had to give up a wage increase, part of a wage increase, or some other benefit with a dollar and cents value. This being the case, there is no justification for treating employer contributions much differently from employee contributions as far as vesting is concerned. Equity requires that pension agreements must provide for some form of vesting. It is a keystone to a sound pension program.

Vesting may be described in terms of time, amount and form. In regard to time, the employer's contributions may vest immediately, or it may be deferred until certain conditions as to time and services are completed. As far as the amount goes, the contributions may vest in full or only in part.

Though the majority of plans vest in full upon completion of prescribed requirements, some plans provide for graduated vesting. This is a schedule of vesting in which the employee is first given a right to only a part of the total pension purchased by the employer's contributions, but with progressive increases in the proportion that is vested. An example of this is when an employee, after ten years of service, is entitled to half the pension purchased by the employer's contributions, and to an additional ten percent for each subsequent year, until it is fully vested after 15 years.

As to form, the employee may be permitted to take the employer's contributions in a number of ways, including a lump sum, or he may be restricted to a deferred paid-up annuity without a cash value.

Vesting rights are nearly always conditioned on a combination of service and age. Full, immediate vesting is extremely rare. The most common requirements of service are 5, 10, 15 or 20 years. This is combined with an age requirement equal to 45, 50, 55 or 60 years. There is no logical justification for less liberal vesting of past service than of current service benefits.

Immediate Vesting Too Costly

Although it would be desirable on the basis of logic to get a plan which provides for full and immediate vesting, it is not feasible as a practical matter. There are many situations in which such vesting might double or triple pension costs and yet provide nothing much more than trifling pension credits for many casual and short service workers. The representative, when negotiating a new plan, should try to keep the service and age requirements for vesting to 10 years and age 40. If it is impossible to gain this level, an effort should be made to get, let us say, 50 percent vesting for all employees with ten years of service or more, and then increase it 10 percent each year until full vesting is achieved after 15 years of service.

Deferred vesting is feasible in almost any company and can achieve the main objectives of granting employees vested rights, with only a minimum increase in pension costs. A study by Cornell University showed that the total benefits vested in withdrawing employees represented approximately 10 percent of the total premium outlay over a seven year period of operation. One insurance company has made calculations which show that vesting after 10 years of service will raise the cost 10 percent. If the service requirement is 15 years, the additional cost is reduced to 6 percent. With a 20-year requirement, the extra cost drops 3 to 4 percent.

The reason that the cost of vesting is not as large as it might seem at first is that labor turnover is usually concentrated among the younger and short serviced workers. Even under immediate full vesting, amounts paid to younger workers will be small. With the service requirements of 10 or more years discussed above, many workers will drop out before earning vested rights and the contributions made on their behalf can be used for the benefit of those remaining until they have earned vested rights.

Absolute and Conditional Vesting

It is important to remember that the vesting that we have been discussing is of a conditional type. It is the kind that permits the employee to exercise his rights only under certain circumstances, usually only in the case of withdrawal from employment. The term "vesting", in fact, has through common usage come to mean the right to employer contribution only in the event of withdrawal. Yet the term also has a different meaning. In theory, at least, vesting could place full title to the employer's contribution in the employee whenever the basic requirements are met, and his rights could be exercised under any circumstances that might terminate his employment. The employee, or his beneficiary, would be entitled to receive the employer's contribution whether the termination resulted from withdrawal, death or disability. This is called "absolute" vesting.

Although we are primarily concerned with noncontributory plans, there are enough contributory plans in effect to require some discussion of vesting under the circumstances. We have already noted that the employee's right to his own contributions is unquestioned, but the right to the employer's contributions is conditioned. Many plans, among them the vast majority of group annuity plans, provide that upon withdrawal, the employer's contributions vest in the employee only if the latter elects to take his own contributions in the form of deferred annuities, rather than in a lump sum. In such plans, the employer's contributions vest only in the form of deferred pension credits. This conditional feature in contributory plans greatly reduces the cost of vesting, since a very large proportion of terminating employees cannot resist the temptation to withdraw their own contributions even at the sacrifice of their vested rights.

As a rule, the noncontributory plan does not include a death benefit. In fact, employer contributions are figured on the basis that there will be no payment upon the death of the covered employee. In insurance language, the mortality is discounted in advance. The employer contributions are used for the purchase of pure or non-refund deferred annuities. If life insurance is provided under a pension plan, it should be under group term insurance because that is the least costly. It should be remembered that provision of life insurance in a pension plan will reduce the amount of pension benefit that can be obtained with a given contribution. Life insurance is usually provided under the health and welfare program.

CHAPTER 11

COMPUTING COSTS

At this point, it is useful to present some rough estimates of cost equivalents. The cost of a pension plan is simply the amount paid out in benefits plus the cost of administration less earnings on investments. The ultimate cost of a pension plan cannot be accurately forecast.

In our estimate, we are concerned, not with ultimate costs, but with accepted standard current costs or outlays. The outlay for a plan is the amount of money that the pension fund has to pay out at a given time or during a given period. Given the basic provisions of a plan, the cost, though unknown, is a fixed factor, but the outlay can be changed by varying methods of funding and financing the plan. It is precisely because the outlay is variable that the representative will find these cost guides useful.

One convenient estimate is based on the assumption of a 2¾ percent yield on investment. Provided the group of employees under consideration is of average age, has the average length of service, and retirement is at age 65, the approximate costs for pension benefits of $2.50 per month times years of service, with 10 years vesting at age 45, and disability benefits after 15 years of service are estimated at 12.5-13.5 cents per hour.

Using the above set of figures, we can, with the aid of a few additional factors, make cost estimates for a whole series of combinations, covering varying amounts of pension benefits, different types of vesting, death benefits, and varying assumptions regarding interest rates and age of retirement. Again, we must warn that these figures are for groups of average age and length of service. We shall not offer any methods for computing the cost for a specific group. But the suggestions for the average group can be very helpful, indeed.

How Varying Assumptions Affect Cost

One of the most important elements in estimating costs is the assumption regarding interest. In our discussion, we have assumed interest rates of 2¾ percent, but actual earnings of pension funds have been higher. What effect does the difference between the more conservative assumptions used in most pension plans and the actual yields have upon long range pension costs? The savings that a higher interest rate can cause in pension costs can be approximated as the product of the increase in annual return and the number of years for which the average dollar will remain invested. An advantage of ¼ percent in earnings over a 10-year period will save 2½ percent in pension costs; over 15 years, it makes a difference of 4 percent; over a 30-year period, it will bring about a saving of 7½ percent in pension costs. The length of time that the average dollar will remain invested depends upon the age and length of service of the employees involved. It might be safe to assume that the average dollar will be invested for 15 years and ¼ percent interest will cause a difference of 4 percent in cost.

Another assumption that is usually made by actuaries is that retirement of male employees will take place at age 65. Experience, however, shows that average age of retirement is 66 and sometimes 67. It is important for the representative to know that for every year of postponement in average retirement, the cost of a pension is reduced by 7½ percent. On the other hand, whenever retirement takes place before age 65, the cost goes up or the amount of benefit has to be reduced.

The cost of vesting depends upon the requirements for eligibility. Immediate vesting is very costly. But vesting after 10 years of service will add 10 percent to the cost; after 15 years, 6 percent; and after 20 years, 3 percent to 4 percent.

Disability benefits after 15 years of service will cost about 10 percent or 1 cent an hour in a plan which costs 10 cents an hour.

If the pension plan provides for "5 year certain" or "10 year certain" annuity, then the costs will go up with the number of assured payments. If the plan provides for "5 years certain," the cost goes up by 2½ percent of annual cost. A provision for "5 year certain" can be very attractive to the members without reducing the benefit to any considerable extent.

Adjusting for Various Alternatives

We are now in a position to take our basic cost estimates and make some necessary adjustments to fit in with the more recent experience. We can also see what additional features will cost and how they will fit in with the claims of the company. If we have a fixed amount of money to be spent for pensions, we want to consider various alternatives in relation to the level of benefits and other basic features.

To simplify our examples we shall use the average figure where a range has been given. For example, instead of using the range 12.5-13.5 cents per hour for the cost of a plan providing $2.50 benefit a month times years of service, we shall designate the cost as 13 cents per hour. Now let us proceed with some calculations.

On the basis of recent experience and the long pull, it is safe and reasonable to assume an interest rate of 3½ percent. This compares with the 2¾ percent used in the cost estimate of 12.5 to 13.5 cents for pension benefits of $2.50 per month times years of service. This is a difference of ¾ percent. This can be expressed as 3 units worth 4 percent each. Three times 4 percent gives us a reduction in cost of 12 percent. This reduces our original cost estimate by 1.6 cents or from 13 to 11.4 cents.

Let us suppose that actual experience shows that instead of retiring at 65, the average age at retirement is 66, this would mean a reduction of 7½ percent in annual costs, provided no credit is given for service after age 65. The saving from postponed retirment would amount to 0.9 of 1 cent, and thus bring the cost down to 10.5 cents for a $2.50 per month benefit, vesting after 10 years of service, and disability after 15 years of service.

It should be noted that in our calculations, two different sets of figures were involved. The first set brought the assumption regarding interest, age of retirement and life expectancy into line with recent experience. These adjustments apply to all pension plans. The second set of figures applies to individual elements of a pension plan. There is an element of choice involved. The representative can use the approximate figure to determine how much a particular feature will cost and whether it can be fitted into the money available for pensions. Like any rough guide, it must be used with caution.

It is necessary to warn most emphatically that the actual cost computations may be considerably different from the figures given here, depending on the age distribution of the group, years of service, sex, composition, turnover, etc.

Rough figures of this kind are needed by each representative for two reasons: (1) To know what to ask for from the employer in negotiating; (2) to be able to deal with enthusiastic pension consultants who may offer more than they can deliver. This is particularly true when it is necessary to set up an area-wide or multi-employer pension plan.

Now let us consider a situation where a group only has 7½ cents to spend on pensions. It can either reduce the amount of benefit or change other features of the plan. If it is the former, benefits would have to be reduced to roughly $1.75 per month. If the group wants to keep the amount of pension to a maximum, it might decide to eliminate disability benefits and have the vesting provision apply after 20 years of service instead of 10. This would make available about 1½ cents for additional pension benefits and would bring it back to about $2.15 per month per year of service.

Services of an Actuary

A former actuary for a labor union, speaking before a labor conference on pensions had these wise words of caution to offer: "Pressures will develop on the actuary . . . to make optimistic predictions of future plan experience. These do not necessarily always come from the union side of the table. Often the company, particularly where a certain pattern benefit level must be provided, will wish to reduce the initial contribution level to as low a figure as possible.

"My own personal view is that the initial benefit level should be based on reasonable assumptions, neither optimistic nor unduly conservative. An unduly conservative approach unnecessarily penalizes those employees who will retire in the early years of the plan. On the other hand, an unrealistically optimistic approach may produce unhappy results if the plan is terminated by reason of the employer's going out of business or otherwise. . . ."

When it comes to figuring actual cost for a particular group of workers, the job should be done by an actuary. Every group must be figured separately. There is no ready-made formula for all cases.

Generally speaking, there are two ways in which unions and employers can get outside actuarial assistance in setting up a pension plan. They can either engage a professional consultant on a fee basis or they can call in an insurance company representative and ask him to submit cost estimates for a proposed plan. Some banks and trust companies that make a business of administering pension funds also offer consulting services.

While it may be possible to negotiate a flat overall fee for the services of independent actuaries and consultants to establish a plan, their charges are usually based upon the man-hours of work required to perform the services.

The total amount of the fee will therefore depend upon the size of the group, the character and complexity of the plan, the ease with which the necessary data can be gathered and reduced to usable form, and other factors which may affect the amount of time spent on the job. It will also depend upon the actuary. The Research Department assisted one of our Lodges with the selection of an actuarial consultant. The bids for 500 employees were as follows: Company A, $1,625; Company B, $2,100; Company C, $3,500 to $5,000; Company D, $4,000.

The higher bids represent the going rates of the larger and well established firms. The lower fees were submitted by actuaries anxious to win new business, especially from the larger unions. All the companies involved were well qualified and experienced in pension planning. Actuarial fees are a negligible percentage of total pension costs. But the aid of a pension consultant is indispensable, and the cost is repaid many times from the savings that accrue.

An insurance company will supply cost estimates "free" of any direct charge to the union or employer, in hopes of selling its particular insurance products to the parties. However, all of the insurance company's expenses are included in its premium charges—so none of its services are actually "free" of charge. Insurance companies will vary their commission rates in accordance with the actuarial service performed. If an outside actuary is used, the commission is correspondingly lower.

Aside from the question of expense, there are certain advantages in hiring an independent actuary rather than relying on an insurance company. The professional consultant, by his very nature, is more likely to offer a wider and more objective view regarding pension plans. He will ask for bids both from insurance companies and banks. The insurance company must limit itself to insured pensions. The independent consultant will be on hand for consultation, to answer technical questions and to give advice if needed, at the time it is needed. But being only human, he is not free of self-interest which may influence him in the direction of self-insured plans or toward certain insurance companies. Even when a local uses an outside expert, it should seek the advice of the Research Department regarding the choice and decisions involved.

Local unions that are about to negotiate a retirement plan should consider the possibility of an arrangment with the employer whereby they might jointly engage an impartial actuary to provide the necessary cost estimates, and to whom technical questions might be referred by both parties.

If relations with the employer are such as to make this possible, it would certainly be the most economical approach, since it would eliminate duplication of effort and expense. It would also facilitate collective bargaining by helping to eliminate one area of possible disagreement. Negotiations could then be devoted to questions of policy without getting bogged down in actuarial details.

Such an arrangement will permit the actuary to disclose fully the assumptions and methods he has used and make definite recommendations as to costs and benefit levels. Full disclosure by the actuary is not possible where he has been retained by only one party to the negotiations and who has supplied him with confidential information. This would be true whether the actuary was employed by the company or the union. Where he is employed by both parties jointly, his duties, of course, would be to keep both parties equally informed of any matter affecting the program.

CHAPTER 12

PROTECTING BENEFITS if PLAN IS TERMINATED

THE RULES of the Treasury carefully prescribe the conditions under which a pension plan can be terminated without retroactive tax penalty in order to prevent discrimination in favor of stockholders, officers and highly paid employees of the company. The rules which the Bureau follows are very strict. Not only must there be a good reason for dropping the plan but that reason must not have been foreseen from the beginning. Thus, if a company had a big jump in income in the war years and set up a pension plan, and it was understandable that business would drop back to the pre-war period, the fact that the company cannot keep up the contributions to the company fund and still remain solvent is not a good business purpose. The company should have foreseen that it wouldn't be able to meet the pension payments.

Without Treasury supervision, a company might establish a pension plan with tight vesting provisions. After being credited with tax deductible contributions for all employees for a number of years, the plan could be terminated. The accumulated funds could then be distributed among the favored few participants who could meet the stringent vesting requirements. This kind of scheme is particularly advantageous during years of high profits and large tax liabilities. Such a plan would be discriminatory and is prohibited. It would be disqualified retroactively.

To prevent such practices, the Internal Revenue Service has ruled that a plan can be terminated only for reasons of "business necessity". The Treasury has recognized as reasons of business necessity the following: bankruptcy, insolvency, change of ownership, change in management, and financial inability to continue contributions toward the pension program.

If a plan is dropped for any cause other than business necessity within a few years after it has taken effect, the Treasury will take it to mean that the plan, from the very beginning, was not intended for the exclusive benefit of employees in general and will disallow Federal income tax deductions for all the taxable years involved.

Treasury rules do discourage termination of plans without good and sufficient reasons, but they do not spell out the order of priority to be followed in allocating the assets of the fund. The plan should specify the order of precedence along the lines suggested in Appendix E.

Though Treasury approval of a plan offers certain protections, it carries with it no certification that contributions under the plan will be adequate to provide the accured benefits. The regulations require that the employer meet his current service costs and the interest on the initial past service liability. It also specifies that contributions expected during the term of contract be not less than the full costs of the prospective pensions for employees expected to retire under the plan during such term.

Section 401(a) of the 1954 Internal Revenue Code prescribes the conditions under which an employer may deduct his contribution to a pension plan for tax purposes. Below we summarize these requirements:

1. There must be a trust contract, or other legally binding instrument (a reserve on the company's books does not qualify as a trust). The plan must be in writing and must be communicated to the employees. Moreover, it must be a permanent and continuing program and may not be terminated for any other reason than business necessity.
2. It must be for the exclusive benefit of the employees or their beneficiaries.
3. Employer contributions must be irrevocable in the sense that no part of the principal or income can be diverted, prior to the satisfaction of all liabilities of the trust, to any other purpose except the benefit of employees or their beneficiaries.
4. The plan must benefit employees in general and not just a limited number of favored employees. It must not be discriminatory in favor of employees who are also officers, shareholders, supervisors, or highly compensated employees.

CHAPTER 13

SUMMARY and RECOMMENDATIONS

THE RAPID GROWTH of negotiated pension plans since 1950 is the direct result of the Inland Steel Decision which placed pension plans in the area of compulsory bargaining. This trend has affected the pattern of IAM negotiations as it has the bargaining of organized labor as a whole. Demands for pension plans or improvements are now part of almost every negotiation.

The role of negotiated pensions must be understood both in relation to individual savings as well as to benefits under Social Security. In regard to the former, it has been shown that workers can obtain benefits as a group which would be beyond their reach as individuals. In respect to the latter, it must be viewed as a supplement but not a substitute for Federal Social Security.

Once a group of workers have decided to bargain for a pension, they must tailor a program for their specific needs. An ill-considered or poorly designed retirement plan is worse than no plan at all.

The adequacy of negotiated pensions can be understood only in relation to the needs of retired workers and the benefits that they receive under Social Security. The IAM favors combined retirement benefits equal to at least 50 percent of final pay. Even where the combined benefits of Social Security and private pensions meet the basic needs of the retired employees, they fail to provide protection against sickness and accident. This is an area where federal action is needed. But much can also be achieved through retirement provisions in health and welfare programs. Although the negotiator must always be aware of the relationship between private pensions and Social Security Benefits, he must refuse to tie the benefits under his pension plan to Social Security Benefits, because it tends to keep his benefits lower than they would be if the two are kept separate.

A well designed pension plan must provide for adequate advance funding. In the old days, the employer paid pension benefits as they became due. This is referred to as the pay-as-you-go approach. Sometimes it is called derisively the "owe-as-you-go" and "pay-if-you-can" financing. Such an approach is completely unacceptable and should be rejected from the start.

Profit sharing pension plans, though funded, are very unsatisfactory because of the fluctuating amounts of contributions made by the employer to the plan. They should be avoided wherever possible.

Need for a Qualified Pension Consultant

A pension plan may be funded through an insurance company or by means of a self-administered trust fund. In making a choice between the two financing mediums, it is well to bear in mind that no single answer can be given which will apply to all circumstances and at all times. The self-administered trusteed plan, at present, generally has the advantage over the insured plan. But the insurance companies have recently won tax exemption for their pension funds and more freedom to invest in common stocks, which may soon make it possible for them to match the earnings of trusteed plans. Consequently, when a union representative has to make a choice, he should obtain the services of a qualified pension consultant who will ask for proposals from both banks and insurance companies, and make an analysis of all the factors involved before reaching his final decision.

If an insurance company is selected, it is important to choose a suitable group plan and not the individual contract type. The individual policy plan should not be accepted under any conditions. It involves exorbitant expenses for commissions and administration. The result is lower benefits for the employees.

To overcome the difficulties of establishing a pension plan for workers in small plants, it is necessary to resort to "pooled" or multi-employer plans. These plans may be either insured or self-administered. Such programs cannot be developed without expert assistance. Fortunately, a number of multi-employer plans have already been established. One plan is national in scope, and, therefore, open to any IAM bargaining unit. Information on these plans is available from the Research Department.

The representative who becomes a trustee of a pension assumes grave responsibilities. He must exercise extreme vigilance to see that there are no unethical practices by any individual connected with the operation of the plan. If he is the administrator of the plan, he must comply with the requirements of the Welfare and Pension Plan Disclosure Act.

Inflation can play havoc with a retirement program. It is necessary to protect employees against the ravages of inflation. Among the methods developed, the following may be mentioned:

1. Frequent, upward revision of benefit formula.
2. The variable annuity.
3. Cost of living escalator.
4. Relating benefits to final earnings.

Because employee contributions to a pension plan are taxable, it is advantageous to have a non-contributory plan, even if it is necessary to trade part of a wage increase. The overwhelming majority of workers for whom pensions have been negotiated are covered by non-contributory plans.

Some Common Provisions

Although each negotiator will have to determine for himself the design of his pension plan, it is worth while listing some generally accepted provisions:

I. Crediting of service:

1. *Past service*—on the basis of total seniority, computed to the nearest 1/12th year.
2. *Future service*—one year for 1,800 hours, 1/12th year for each full 150 hours, with any remaining hours, if more than 75, counting as 1/12th year.
3. 40 hours credited service for each week of absence due to occupational injury or sickness and because of leave of absence for Union business.

II. Eligibility for benefits:

1. *Normal retirement*—age 65 and 10 years of service.
2. *Early retirement*—Age 60 and 10 years of service.
3. *Disability*—15 years of credited service prior to age 65.
4. *Deferred vested retirement*—10 years of service.

III. Amount of monthly benefits:

1. *Normal retirement benefit*—$2.50 multiplied by years of service.
2. *Early retirement benefit*—$2.50 multiplied by years of service, reduced by 6/10ths (0.6) of one percent for each full month under age 65.
3. *Disability retirement benefit*
    1. The larger of (i) $100, or (ii) $3.00 per month times the number of years (and fraction of a year) of accredited service, minus in either case, the amount of disability insurance benefit under the Social Security Act to which he may be entitled for that month; or
    2. $2.75 per month times the number of years (and fraction of a year) of accredited service.

IV. *Death benefit:*

1. 5 year certain.

V. *Administration of plan:*

1. A joint labor-management committee to administer plan.
   See Appendix D.

VI. *Termination of the plan:*

1. See Appendix E.

The benefits outlined above for a representative group of employees could be obtained for about 10-11 cents an hour on the basis of 2,000 hours per year. Assumptions: Interest, 3½ percent; average retirement, age 66; turnover, moderate; mortality, Group Annuity Valuation Table.

APPENDIX A

Dictionary of Pension Terms

Accrued Liability—Usually, the single-sum cost of providing pensions based on service rendered prior to the adoption of a pension plan. Often called past-service liability. More broadly, the cost of providing pensions based on service rendered prior to any given date.

Actuarial Equivalent—The amount of annuity or pension that can be provided at the same cost as a specified annuity of a different type or a specified annuity payable from a different age.

Actuarially Reduced Annuity—(See Actuarial Equivalent) Annuity payable to an employee who retires before normal retirement age in an amount less than would have been payable at normal retirement age, because contributions will have been paid and interest accumulated for a shorter period and starting the payments at an earlier age will increase the probable number of annuity payments.

Actuarial Valuation—An examination of a pension plan to determine the extent to which it is "actuarially sound." A plan is actuarially sound if contributions are being accumulated at a rate sufficient to provide the funds out of which the promised pensions can be paid when due. This involves a determination whether the actual experience under the plan as to composition of the work force, earnings levels, turnover, interest earned, mortality and any other factors affecting cost is consistent with the assumptions on the basis of which the plan was established.

Actuary (Pension and Insurance)—A professional person trained in mathematics, statistics, and legal-accounting methods, and the sound principles of operation of insurance, annuities, and pension plans. The actuary determines, on the basis of existing experience, the monetary value of liabilities for the happening of certain specified contingent events. Most professional life actuaries have met the requirements and are members of the Society of Actuaries.

Annuity—Periodic payments made to the retired employee either for life or until the fund accumulated in his behalf is exhausted.

Annuity, Cash Refund—A form of annuity under which any excess contributions and interest over the total of annuities actually paid is refunded after the annuitant's death to a designated beneficiary or his estate.

Annuity, Modified Cash Refund—Annuity under which the refund consists of the excess of the employee's own contributions, plus interest to retirement date, over the total annuity payments he actually received.

Annuity, Deferred—Annuity which becomes payable at a specified date or age subsequent to the time at which contributions or premiums are first paid.

Annuity, Joint and Survivor—An annuity payable as long as the retired employee lives and continued in whole or in part after his death to a named survivor or contingent annuitant, if living, until the latter's death. Also called *contingent annuity*.

Annuity, Life—Periodic payments made after retirement and ceasing with the death of the annuitant.

Annuity, Variable—An annuity expressed in terms of benefit units, instead of fixed dollar amounts. Payments vary in accordance with the investment results of the common stock portfolio, including capital gains and losses realized and unrealized. Retirement contributions are invested partly in bonds and partly in common stocks. Stock investment is limited to a maximum of 50 percent of the contributions.

Annuity, Years Certain—A form of annuity by which payment is guaranteed for a specified number of years. When a guarantee of five- or ten-years certain is added to a life annuity it means that the annuity will be paid for the life of the annuitant but if he dies before the end of the guaranteed term it will be continued for the balance of the term to his beneficiary.

Approved Pension Plan—A plan approved by the Secretary of Treasury as meeting the requirements of the Internal Revenue Code and applicable regulations. The Secretary's approval qualifies the plan for favorable tax treatment.

Average Pay Plan—Pension based upon the individual's pay averaged over his years of participation in the plan.

Balance Sheet Reserve Plan—A plan which sets up a bookkeeping entry acknowledging some or all of the liability incurred for the payment of pensions, and thus taking this liability into account in determining profits and the stockholders' equity. Not necessarily accompanied by the earmarking of special funds for this purpose.

Beneficiary—Person named by participant to receive any benefits provided by the plan if the participant dies. Also sometimes used to refer to any participant who may have prospective benefits under a plan.

Benefit—Amount to be paid to a participant or his beneficiary under a pension plan at retirement, death, or termination of service.

Contingency Reserve—That portion of contributions or premiums credited to a special account to cover possible losses or increases in costs resulting from adverse experience with respect to investments, interest earnings, mortality, and administrative expenses.

Contingent Annuity—(See Annuity, joint and survivor)

Contributory Plan—A plan which provides for both employer and employee contributions to pay the costs.

Current Service—Participation in a plan after its adoption.

Current Service Benefit—Amount of pension payable for each year of participation in a plan after its adoption.

Current Service Cost—See Current Service Liability.

Current Service Liability—The estimated cost of providing pensions for service rendered after adoption of plan.

Death Benefit—Benefit payable to a beneficiary on the death of a participating employee. An absolutely pure pension plan would pay no death benefit, which involves an element of life insurance, and most noncontributory plans do not in fact do so. Under contributory plans the rates at which employee contributions are applied to purchase annuities (or estimated to accumulate in a trust fund) are not discounted for mortality. Such contributions are therefore available for return to the beneficiary, usually with interest, as a so-called death benefit if the participant dies before retirement. Under prescribed conditions there may similarly be a partial return of contributions from a refund annuity if the participant dies after retirement.

Definite Benefit Plan—A plan which provides a definite schedule of benefits and undertakes to meet whatever costs prove to be necessary; in contrast to a money-purchase plan, which see. Also called fixed benefit.

Deposit Administration—A method of financing, under which contributions are deposited with an insurance company and are used to purchase annuities usually when employees retire, in contrast to conventional group annuities under which the funds are currently used to purchase units of deferred annuities for all participants. Has many of the characteristics of a trusteed plan with the insurance company acting as the trustee until annuities are actually purchased.

Disability Pension—Pension payable in the event that the employee becomes totally and permanently disabled before age of normal retirement.

Discount—To deduct. In estimating pension costs, to discount for mortality or turnover is to deduct or make allowance for those employees who will die or terminate employment, respectively, before retirement.

Dividends—Refunds of excess or unused contributions to holders of participating policies.

Financing Method—The method of administering the pension funds through group annuities, deposit administration, individual policies or a trusteed plan.

Final Earnings Basis—A definite benefit pension formula which bases benefits on earnings immediately prior to retirement, in contrast to the more customary method of basing benefits on average or career earnings.

Fixed Benefit—(See Definite Benefit).

Flat-percentage Pension—A pension equivalent to a uniform percentage of compensation for all participants in the plan upon retirement.

Flat-sum Benefit—A benefit, or pension, of a specified uniform amount for all participants in the pension plan, regardless of the individual's earnings. Such plans ordinarily require a long service record before an employee is eligible.

FOAB—Federal old age benefits.

Freezing Past Service Liability—Estimating the accrued liability for past service and paying into the pension fund only the interest on this amount instead of fully funding it, thus preventing this liability from increasing. Assumes plan will go on forever.

Fund (noun)—Money and investments held in trust, or share of insurance company assets, for payment of pension benefits.

Fund (verb)—To accumulate money necessary to pay off a pension benefit; thus to *fund each year's benefit* means to pay into the trust fund each year enough to cover the obligations created by the pension plan for that year.

Funded—Having sufficient funds accumulated to meet all accrued liabilities. A pension plan is fully funded if annuities have been bought or sufficient money is available to provide all pensions earned to date. Plans are often described as funded if current service liabilities are funded and arrangements have been made gradually to fund the past service liability. An unfunded plan is a pay-as-you-go plan under which, without prior accumulation of funds, pensions are paid when due as a current cost.

Funding Method—Manner of accumulating money for future payment of pensions.

Future Service—See Current Service

Group Annuity Plan—Underwritten and administered by an insurance company under a master contract. The retirement benefit consists of a series of units of paid-up deferred annunities, one unit to be purchased each year for each eligible employee.

Group Permanent Plan—A policy is purchased for each participant under a group contract negotiated between an insurance company and an employer. Life insurance protection equivalent to $1,000 for each $10 monthly annuity is provided. No physical examination is required unless the insurance underwritten for an individual exceeds a specified maximum.

Immediate Annuity—Loosely, an annuity that is payable immediately. Technically, an annuity which is payable at the end of prescribed periods (month, quarter or year), in contrast to an *annuity due* which is payable at the beginning of the periods.

Individual Contract Pension Trust—A pension plan under which a trust is created to buy and hold title to individual insurance or annuity contracts for employees covered by the plan. The trust receives the premium payments from the employer and transmits them to the insurance company, receiving in return the individual policies. The insurance company will generally pay the benefits directly to the employees, but payment may also be made from the insurance company to the trust for transmittal to the employees.

Insured Plan—Annuities purchased through an insurance company. See Group Annuity Plan, Group Permanent Plan, Individual Policy Contract Pension Trust, Deposit Administration Plan.

Life Expectancy—The average number of years an individual of any given age may be expected to live, based on averages obtained from a mortality table.

Level Annual Premium—The cost of providing a pension is determined actuarially. The contributions, or premiums, are paid into a fund or to the insurance company, in equal instalments during the employee's participation in the plan so that upon retirement the benefit is fully funded.

Loading—The amount added to the net or pure premium for any type of insurance or annuity to cover administrative expenses and contingency reserves. For group annuities it usually amounts to about 5 or 8 percent of the premium.

Minimum Pension—If the pension provided by the formula is less than a specified amount, the fund will provide an additional amount to bring the pension up to this level.

Modified Refund Annuity—See Annuity Cash Refund.

Money-Purchase Plan—A type of plan under which contributions of both the employer and the employee are fixed as flat amounts, or flat percentages of the employee's salary. Either at retirement, or as contributions are paid, a benefit is provided for the employee of whatever amount the accumulated contributions, or current contributions, for him will produce according to the premium or actuarial tables adopted.

Mortality Experience—The rate at which participants in a pension plan have died or are assumed to die. Also, the financial effect of the actual deaths which have occurred on the operation of a plan.

Mortality Table—A table based on past experience which indicates the average number of years men and women at each age may be expected to live.

Noncontributory Pension Plan—One in which the employer pays the entire cost of the premiums or of building up a fund from which pensions are paid.

Nonqualified Plan—A plan which does not meet the requirements of the Internal Revenue Code. This type of plan is disadvantageous taxwise.

OASI—Old age and survivors insurance in the Social Security Act.

Option—Choice. Under many plans employees have the right under specified conditions to exercise certain choices or elect certain options, such as that of retiring before normal retirement age on an actuarially reduced pension or of choosing some other type of annuity actuarially equivalent to the normal type which they would otherwise receive under the plan.

Ordinary Life Pension Trust—A trust-funded pension plan which provides death benefits through the purchase of ordinary or whole life insurance contracts for employees covered. The trust pays premiums on the insurance coverage until the employee reaches retirement age. The trust also accumulates, in an auxiliary fund, the additional sums necessary to purchase the retirement benefits of the plan for the employees, using the paid-up cash value of the life insurance policy for each employee as part of the purchase price of the annuity.

Participation—Membership in a plan, most frequently used in connection with contributory plans. Although all employees may be "covered" by a plan, in the sense that they may eventually be entitled to participate, some may not participate because they have not yet met the age or service eligibility conditions or, if participation is voluntary, because they do not wish to contribute.

Past Service—Years of service with an employer prior to adoption of the plan.

Past Service Benefit—Pension credits for all or part of the individual's years of service with the company prior to the adoption of the plan.

Past Service Funding—Method of funding the past service liability. This cost may be amortized over a period of years. The Internal Revenue Code specifies that the employer may not deduct more than one tenth of the original liability in any one year for income-tax purposes. The minimum contributions that must be made for past-service is the payment into the pension fund of interest on the past-service liability.

Past Service Liability—The cost of providing pensions for service rendered prior to the adoption of the pension plan. The cost, which is determined actuarially, will depend upon the age, sex and years of service of the working force and upon the number of years of past service which are credited under the plan.

Pay-as-you-go Plan—Employer pays for pensions out of current income as they become due. No advance funding.

Pension Committee—In general, it has supervision over the operation of the plan within the organization. May be composed of management representatives, or have union representation on the committee.

Pension Trust Fund—A fund consisting of money contributed by the employer, and, in some cases, the employee, to provide pension benefits. Contributions are paid to a trustee (either corporate or individual) who invests the money, collects the interest and earnings, and disburses the benefits under the terms of the plan and the trust agreement. A pension trust fund may be wholly self-administered (see Self-administered trusteed plan); or the plan may be partially insured with benefits purchased by the trustee, often at retirement, from an insurance company.

Premium—The amount of money a policyholder agrees to pay an insurance company for an insurance policy or an annuity, in consideration of which the insurance company guarantees the payment of specified benefits. May be a single sum or a series of periodic payments. Synonymous with purchase payment or contribution.

Present Value—The present or discounted value of a future sum is the amount which invested at the given or assumed rate of compound interest will accumulate to the future sum at the end of the specified period. If the interest rate is 3 percent, compounded annually, the present value of $1 payable a year from date is $.9709, the sum which invested at 3 percent would amount to $1 at the end of a year; the present value of $1 at the end of ten years is $.7441.

Primary Insurance Amount (Benefit)—The basic federal old age insurance benefit payable to a retired worker on the basis of his earnings in covered employment. The Social Security Act also provides benefits for certain dependents and survivors.

Prior Service—See Past Service.

Profit-Sharing Retirement Benefit Plan—The employer's contributions to the plan are based on a percentage of the company's profits, according to a predetermined formula. The funds are deposited in a trust to the account of the participants according to a formula. The employee's retirement benefit is dependent upon the funds to his credit. Benefits cannot be actuarially determined in advance.

Qualified Pension Plan—(See Approved pension plan.)

Retirement, Compulsory (Automatic)—The employee must retire when he reaches the normal retirement age.

Retirement, Deferred—The employee is permitted to work after the normal retirement date on a year by year basis. If the employee works beyond the age of normal retirement, he does not normally receive a larger pension.

Retirement, Early—Employee is permitted to retire before the normal retirement age, with the consent of the employer. The employer may also request early retirement, with the consent of the employee.

Retirement, Normal Age—The age at which retirement benefits normally become payable—at which an employee is entitled to retire.

Self-Administered Trusteed Plan—An arrangement under which contributions to provide pension benefits are deposited with a trustee, normally a trust company, who invests the money, accumulates the earnings, and pays benefits directly to the eligible employees. Used loosely to mean any plan that is not insured.

Severance Benefits—The benefits, if any, payable on termination of employment prior to retirement for reasons other than death. Usually consists of a refund of employee contributions with or without interest or the granting of certain vested rights.

Social Security, Integration—A regulation of Bureau of Internal Revenue which instructs employers regarding the manner in which benefits under the private plan and federal plan must be integrated so that the private plan does not discriminate in favor of higher-paid employees.

Split Funding—Combines an insured fund operated on the deposit administration principle, with the trust fund utilizing (but not restricted to) common stock investment.

Supplemental Payments—Additional pension, usually paid out of current income, given to retired employees.

Surrender Charge—A charge for the cancellation of an insurance or annuity policy. When an employee in good health withdraws from a group annuity plan the total contributions are returned or credited back with interest but minus a surrender charge, usually of 4 percent of the total. If the plan is contributory the employer almost invariably absorbs this cost. The good health requirement, which seldom becomes an issue, is based on the fact that the premium rates have already been discontinued for mortality.

Suspension—Some contributory plans which do not permit employees to withdraw from the plan while continuing in employment do permit them on application to suspend contributions temporarily. The term is also used to refer to a temporary interruption of employer contributions which may sometimes be permitted by an insurance company and/or the Secretary of the Treasury without terminating the plan.

Termination of Plan—A provision in the pension plan for allocating all available assets, in case it is discontinued. The clause stipulates the order of precedence for paying retirement benefit. A pension plan may not be terminated unilaterally by an employer without bargaining with the appropriate union representative. Termination must be the result of "business necessity" if the employer is not to lose income tax deductions previously claimed because of the plan.

Trustee—Has general supervision over the trust fund and the investment of the fund. The trustee may be an individual, a bank or a committee.

Turnover—Ratio of participants who leave employment through quits, discharge, etc. to the total participants at any age or length of service.

Underwrite—To insure.

Unfunded Plan—No financial provision made for payment of pensions, which are financed out of current income.

Unit Benefit Plan—A type of pension plan providing retirement benefits expressed as a definite amount or percentage for each year of service with the employer. The plan may define the benefit as a small unit of annuity for each year of membership in the plan, usually a percentage of the employee's earnings, such as 1 percent. The total of these units is the amount he will receive each year upon retirement. Sometimes referred to as a *unit-purchase* type of plan.

Variable Annuity—See annuity, variable.

Vesting Rights—Vesting permits the employee to receive certain rights to the employer's contributions upon termination of employment. The amount of vesting may depend upon the employee's years of service and/or age. Ordinarily, the employee does not receive the amount due him under the vesting rights in cash, but in an annuity payable upon retirement.

APPENDIX B

Text of American Can Company Pension Plan

This Agreement is made October 21, 1955, between the American Can Company, a corporation of the State of New Jersey (hereinafter referred to as the "Company") and the International Association of Machinists (hereinafter referred to as the "Union").

The parties agree that the Pension Plan established effective July 1, 1950, as amended effective May 1, 1955, shall be further amended, effective December 1, 1955, to read as follows:

I—EFFECTIVE DATE

Section 1. Contingent upon and subject to obtaining and retaining from the Commissioner of Internal Revenue a currently effective ruling or rulings holding that the amended Pension Plan described in this Agreement is exempt under the provisions of the Internal Revenue Code, the Company shall provide, without cost to the employees covered hereunder, the amended Pension Plan set forth herein effective December 1, 1955, for the employees who from time to time during the term of this amended Pension Plan shall be in any of the bargaining units designated in Appendix A to the Labor Agreement.

Section 2. Any employee who, prior to December 1, 1955, became entitled to receive a pension under this Plan as it was effective on July 1, 1950, or May 1, 1955, or who would have been so entitled except for the deduction of primary Social Security benefits or Workmen's Compensation, shall become entitled on December 1, 1955, to receive a pension in the amount set forth in Article VI of this Plan, as amended effective December 1, 1955, on the basis of his accredited service at the time of his retirement.

II—DEFINITIONS

Section 1.

1. "Pension Plan" means the amended Pension Plan established by this Agreement.
2. "Company" means American Can Company, a corporation of the State of New Jersey.
3. "Union" means International Association of Machinists.
4. "Trustee" means a trustee or trustees of the Plan Fund.
5. "Labor Agreement" means the collective bargaining agreement between the Company and the Union which may be in effect at the particular time.
6. "Employee" means an employee in the bargaining units covered by the Labor Agreement, employed in a Company plant located in the United States.
7. "Accredited service" shall be defined, calculated, and applied on the following basis:

   One year of accredited service is defined as an accumulation of twelve months of accredited service. One month of accredited service is a calendar month in which an employee performs work for the Company on or for 50 per cent or more of the regularly scheduled working days in that calendar month; provided, however, that each calendar year in which an employee has worked 1200 hours or more shall be counted as twelve months of accredited service and each calendar year in which an employee has worked 600 hours or more but less than 1200 hours shall be counted as six months of accredited service.

For the purpose of accredited service, time worked shall include the following:

a. Time on Company paid vacation.
b. Time lost because of established disability due to illness or injury up to a total of twenty-six consecutive weeks for any one absence.
c. Time on authorized absence not to exceed four weeks in a calendar year for National Guard, Naval Reserve, or similar encampments and cruises.
d. Time lost because of absence of any employee for military, naval, or merchant marine service to the extent that such absence may be required to be credited by law.
e. Time lost by local union officers and grievance committeemen engaged in negotiations or attending scheduled local meetings with plant management (such

as safety committee or grievance meetings) up to the number of hours in the employee's regular shift, but not more than eight.

f. Time on Company paid holidays.

g. Time lost for jury service up to the number of hours in the employee's regular shift, but not more than eight.

h. Time paid for, as report-in or recall pay, but not worked.

i. Time paid for pursuant to an arbitrator's award or settlement in lieu thereof, but not worked.

Months of accredited service are cumulative. Credit for service prior to January 1, 1947, shall be not less than the amount of service credited to the employee for vacation purposes as of that date. Credit for service between January 1, 1947, and December 1, 1955, shall be calculated under the provisions of the Pension Agreements effective July 1, 1950 and May 1, 1955. Quits or discharges occurring after January 1, 1947, shall cancel all previously accumulated months of accredited service.

8. "Retirement pension" means a pension benefit under this Plan to which an employee may be entitled when he:
   a. Retires voluntarily, or
   b. Reaches regular retirement age while receiving a disability pension (at which time he shall be deemed to have retired), or
   c. Is medically retired.
9. "Disability pension" means a pension benefit under this Plan to which an employee under regular retirement age who is permanently and totally disabled as defined herein may be entitled.
10. "Regular retirement age" means age 65, which is deemed to be attained on the first of the month following the month in which his sixty-fifth birthday occurs.
11. "Medical retirement" means retirement of an eligible employee at or after age 65 because such employee is incapable of satisfactorily performing his job or any other job to which he may be entitled under the seniority provisions of the Labor Agreement, as set forth in Section 3 of Article IV.
12. "Early retirement age" means under age 65, but not less than age 60, which is first deemed to be attained on the first of the month following the month in which his sixtieth birthday occurs.
13. The term "actuarially equivalent" where used in this Pension Plan means an actuarial equivalent based on the 1937 Standard Annuity Table with interest at 2½ per cent per annum compounded annually and without either loading or rating.

III—ELIGIBILITY

Section 1. An employee shall be eligible for a retirement pension on and after December 1, 1955, if he has at least fifteen years of accredited service with the Company and has reached the retirement age defined in Article IV.

Section 2. An employee shall be eligible for a disability pension on and after December 1, 1955, if he has at least fifteen years of accredited service with the Company and if he shall have become totally and permanently disabled through unavoidable cause, and until his regular retirement age when he shall be entitled to receive a retirement pension. An employee shall be deemed to be totally and permanently disabled and shall be entitled to a disability pension only (a) if he has been totally disabled by bodily injury or disease so as to be prevented thereby from engaging in any occupation or employment for remuneration or profit and (b) after such total disability shall have continued for a period of six consecutive calendar months, and in the opinion of a qualified physician, it will be permanent and continuous during the remainder of his life. Such disability shall be deemed to have resulted from an unavoidable cause unless it (1) was contracted, suffered, or incurred while the employee was engaged in, or resulted from his having engaged in, a criminal enterprise, or (2) resulted from his habitual drunkenness or addition to narcotics, or (3) resulted from a self-inflicted injury. Total and permanent disability resulting from any of such enumerated causes, or from future service in the armed forces and which prevents him from returning to employment with the Company and for which he receives a military pension, shall not entitle an employee to a pension under this Section 2 of Article III. Such a disability pension shall continue only so long as such person shall be totally and permanently disabled. The permanency of any total disability may be verified by medical examination prior to regular retirement age at any reasonable time.

Section 3. An applicant for a retirement pension or a disability pension shall file his application on a form to be provided by the Company, and shall file such application with the Company or with such representative as may be designated by the Company for the purpose. The Company may require any applicant for a pension to furnish to it such information as may reasonably be required.

IV—RETIREMENT AGE

Section 1. An employee who has completed at least fifteen years of accredited service with the Company may retire voluntarily on or after his regular retirement age.

Section 2. An employee who has completed at least fifteen years of accredited service with the Company may, upon application and with Company's consent, retire before his regular retirement age after attaining his early retirement age and, in such case, shall be eligible for an early retirement pension as provided in Article VI.

Section 3. An employee eligible for a retirement pension shall be medically retired if, at any time after attaining regular retirement age, he shall be incapable, by reason of age or other non-temporary condition, of performing his job, or any other job to which he may be entitled under the seniority provisions of the Agreement, in a safe and satisfactory manner. The Company shall have the right to require that any employee who there is reason to believe should be medically retired shall be examined by a Company doctor or other doctor appointed by the Company. If upon such examination it shall be found that the employee should be medically retired, he shall be medically retired. If the employee should disagree with such finding, he shall nevertheless be medically retired subject to the procedures and remedies set forth in Article IX, Section 2.

Section 4. For purposes of this Pension Plan only, no employee shall continue to accrue accredited service beyond the first of the month following the month in which his 72nd birthday occurs, or the first day thereafter on which he becomes eligible for a pension under this Pension Plan, whichever occurs later.

V—DEFERRED VESTED RETIREMENT PENSION

Section 1. Notwithstanding any other provision of the Pension Plan, any employee who shall be laid off and not recalled within two years, or whose employment shall be terminated as a result of a plant closing, after he shall have reached his fortieth birthday and who at such time shall have fifteen or more years of accredited service, shall be eligible, upon making application therefor, as specified in Section 2 of this Article V, to receive a deferred vested retirement pension in the amount provided in Section 4 of Article VI.

Section 2. Application for a deferred vested retirement pension must be made to the Company by an applicant otherwise eligible therefor, but not earlier than ninety days prior to his regular retirement age, and not later than his seventieth birthday; otherwise, no deferred vested retirement pension shall be payable to him at any time.

Section 3. If an employee eligible for a deferred vested retirement pension shall be recalled by the Company prior to his regular retirement age and prior to his application for a deferred vested retirement pension, his eligibility and benefits under this Pension Plan shall be determined upon the basis of his accredited service prior to such layoff plus his accredited service after recall.

Section 4. If a person eligible for a deferred vested retirement pension shall be re-employed by the Company after termination as a result of a plant closing prior to his regular retirement age and prior to his application for a deferred vested retirement pension, his eligibility and benefits under this Pension Plan shall be determined upon the basis of the accredited service which he had accumulated prior to such termination plus his accredited service after re-employment.

VI—AMOUNT OF PENSIONS

Section 1. The monthly amount of a retirement pension for an eligible employee who shall retire on or after his normal retirement age shall equal $2.50 multiplied by the number of years (and fractions thereof) of his accredited service at the time of retirement.

Section 2. The monthly amount of a retirement pension for an eligible employee who shall retire before his regular retirement age, but at or after his early retirement age shall be either of the following, as the employee may elect:

a. A deferred retirement pension, commencing at age 65 as set forth in Section 8 of this Article, in the full amount determined in accordance with Section 1 of this Article, but based upon accredited service to the time of early retirement, or

b. An immediate retirement pension, commencing at early retirement, in a reduced amount which shall be actuarially equivalent in value to the deferred pension provided for in sub-section (a) above (see Appendix A, attached).

Section 3. The monthly amount of a disability pension for an eligible employee who shall become totally and permanently disabled shall equal $3.00 multiplied by the number of years (and fractions thereof) of his accredited service at the time of such total and permanent disability, provided, however, no disability pension will be in an amount less than $90 per month.

Section 4. The monthly amount of a deferred vested retirement pension for a person eligible under the provisions of Article V shall be $2.50 multiplied by the number of years of accredited service (and fractions thereof) at the time of layoff or termination as a result of a plant closing, payable upon application as defined in Section 2 of Article V, but not before his regular retirement age.

Section 5. There shall be no deduction from any pension on or after December 1, 1955, by reason of Workmen's Compensation or any Public Pension (any annuity, pension or payment of similar kind by reason of any law of the United States of America or of any foreign country, or of any state, district, territory or subdivision of the foregoing). If, however, an employee entitled to a pension pursuant to this Pension Plan is or shall become, or upon application would become, entitled to any annuity, pension, or payment of similar kind from any source or fund directly or indirectly maintained by the Company or any of its subsidiaries or affiliates (any such annuity, pension, or payment of similar kind hereinafter referred to as Other Pension), then the amount of the pension payable to such person for any period shall be reduced by the amount of such Other Pension paid or payable to him or that would upon application become payable to him during the time any pension is payable under this Pension Plan; provided, however, that if such person shall have contributed to the source or fund out of which such Other Pension shall be paid or become payable or would become payable upon application, then the amount by which the pension payable pursuant to this Pension Plan for any period shall be reduced in accordance with the foregoing provisions of this Section 5 of Article VI shall be decreased by the amount of that part of such Other Pension during the time any pension is payable under this Pension Plan which shall be attributable to the contributions which such person shall have made to such source or fund.

Section 6. If any employee is or shall become entitled to or shall be paid any discharge, liquidation or dismissal or severance allowance or payment of similar kind by reason of any plan of the Company, or in respect of which the Company shall have directly or indirectly contributed, or by reason of any law of the United States of America or of any foreign country, or of any state, district, territory or subdivision of, or subject to the jurisdiction of any of the foregoing, then the total amount paid or payable to him in respect of any such allowance or payment shall be deducted from the amount of any pension to which such person would otherwise be entitled under this Pension Plan upon retirement; provided, however, that if such person shall have contributed to the source or fund out of which such allowance or payment shall be paid or become payable, then the amount which shall be deducted from or charged against the amount of any such pension in accordance with the foregoing provisions of this Section 6 of Article VI shall be decreased by the amount of that part of such allowance or payment which shall be attributable to the contributions which such person shall have made to such source or fund.

Section 7. Each retirement pension shall be paid in monthly installments, provided, however, that the Company in its sole discretion may, where the amount payable, after deductions, is less than three hundred dollars ($300) per year, pay such pensions in quarterly, semi-annual, or annual installments which shall be actuarially equivalent in value to the monthly pension payments. The first monthly installment of any retirement pension due, except in the case of a medical retirement, shall be payable for the first full calendar month of retirement (unless the employee has elected a deferred retirement pension under sub-section (a) of Section 2 of this Article VI) and shall be paid during such first full calendar month of retirement provided the application for retirement pension is made not later than the close of the month in which the applicant retires. If application for retirement pension is made after the close of the month in which the applicant retires, the first monthly installment of the retirement pension shall be payable for the calendar month in which such application is made and paid during the month next following such month. In the case of a medical retirement, the first monthly installment of a retirement pension shall be payable for the month in which the retirement occurs. The last monthly installment of any retirement pension shall be payable for the month in which the death of such person shall occur.

Section 8. Each deferred retirement pension under sub-section (a) of Section 2 of this Article VI shall be paid in monthly installments, provided, however, that the Company in its sole discretion may, where the amount payable, after deductions, is less than three hundred dollars ($300) per year, pay such pensions in quarterly, semi-annual, or annual installments which shall be actuarially equivalent in value to the monthly pension payments. The first monthly installment of each deferred retirement pension shall commence with the first day of the month in which the employee is deemed to attain his regular retirement age. The last monthly installment of such deferred retirement pension payment shall be payable for the month in which the death of such person shall occur.

Section 9. Each deferred vested retirement pension under Article V shall commence with the first day of the month in which the employee is deemed to attain his regular retirement age or with the first day of any subsequent month in which application is made, whichever is later.

Section 10. Each disability pension shall be paid in monthly installments. The first monthly installment of any disability pension due shall be payable for the month in which such disability is deemed to be total and permanent as defined in Section 2 of Article III, and the last monthly installment of such disability pension shall be payable for the month in which such total and permanent disability shall end or in which the death of such person shall occur or until the pensioner reaches regular retirement age, whichever is earliest. Monthly disability pension payments may be delayed, in the discretion of the Company, until it is established that the disability is total and permanent.

VII—JOINT AND SURVIVOR'S OPTIONS

Section 1. If an eligible employee shall previously have made application in accordance with Section 2 of this Article VII, there shall be payable, after he shall have retired, in lieu of the retirement pension that would otherwise then be payable to him under this Pension Plan, payments in accordance with either of the following options as of the date that he commences to receive retirement pension benefits:

> *Option 1:* Monthly installments of his retirement pension shall be in a reduced amount actuarially equivalent in value (as illustrated in Appendix B) to the pension that would otherwise be payable to him under this Pension Plan; and after his death monthly payments in the same reduced amount shall be made to his beneficiary (if surviving) named in his application; or
>
> *Option 2:* Monthly installments of his retirement pension shall be in a reduced amount actuarially equivalent in value (as illustrated in Appendix C) to the pension that would otherwise be payable to him under this Pension Plan; and after his death monthly payments at a rate equal to 50 per cent of such reduced amount shall be made to his beneficiary (if surviving) named in his application.

Section 2. Any such application by an employee shall not be given effect unless: (a) five years have elapsed between the date of such application and the date of his retirement, or (b) he shall have furnished evidence then satisfactory to the Company, either at the time of such application or at the time of retirement, that he is then in good health. No revocation of such an application by an employee shall be given effect unless (a) the date of his retirement is five or more years after the date of revocation, or (b) the Company shall consent to the revocation. Such revocation of an application shall not in any case require the consent of the beneficiary. Any such application which shall cease to be of effect because of revocation or otherwise shall place the employee in the same position as though he had not made application for either option.

Section 3. An employee shall have the right to change the designated beneficiary only under the circumstances and subject to the conditions for making a new application.

Section 4. If an employee shall have made application for either of such options and shall die before his retirement, such application shall cease to be of effect and the beneficiary named in such application shall not be entitled to any payments under this Plan.

Section 5. If an employee shall have made application for either of such options and the beneficiary named in such application shall die prior to the retirement of such employee, the application of such employee shall cease to be of effect.

Section 6. If an employee shall have made application for either of such options and the beneficiary named in such application shall die after such employee shall have retired, but prior to the death of such employee, such employee shall continue to receive monthly payments in a reduced amount in accordance with such option.

Section 7. Each such reduced retirement pension shall be paid in accordance with the provisions of Article VI except that the last monthly installment payable to such person shall be payable to the beneficiary for the month in which the death of such person shall occur, and the first monthly installment that shall be payable to his beneficiary shall be payable for the month next following the month in which such person shall die. The last monthly installment shall be payable to such beneficiary or to his legal representative for the month in which the death of such beneficiary shall occur.

VIII—ADMINISTRATION

Section 1. The Company shall establish the procedures and administer this Pension Plan subject only to the terms and provisions of this Agreement.

Section 2. The Company shall, during the term of this Agreement establish a fund, which on a sound actuarial basis shall be estimated to be sufficient to pay the pensions which are granted hereunder during the term of this Agreement. The Company will establish such fund with a bank or banks or a trust company or companies selected by the Company as trustee. The Company's contributions will be made into the fund, the assets of which will be held, invested, and applied by the trustee.

Section 3. The Company shall report annually to the Union concerning the operation of the Pension Plan and from time to time during the term of this Agreement, shall make available such additional information as shall be reasonably required for the purposes of enabling the Union to be properly informed concerning the operation of the Pension Plan.

IX—APPEALS PROCEDURE

Section 1. If any difference shall arise between the Company and an employee or applicant as to whether an employee or applicant is entitled to a pension hereunder or as to the amount of such pension and agreement cannot be reached between the Company and the Union, then, except as provided in Section 2 of this Article IX, such question shall be referred to an arbitrator to be selected by the Company and the Union. If the Company and the Union are unable to agree upon an arbitrator, then, upon application of either party, the Federal Mediation and Conciliation Service will appoint an arbitrator. The arbitrator shall have authority only to decide the question pursuant to the provisions of this Agreement applicable to the question, but he shall not have authority in any way to alter, add to or subtract from any of such provisions. The decision of the arbitrator on any such question shall be binding on the Company, the Union, and the employee or applicant. The expense of arbitration shall be shared equally by the Company and the Union.

Section 2. If any difference shall arise between the Company and any employee as to whether the condition of such employee is such as to require his medical retirement under the provisions of Section 3 of Article IV or as to whether such employee is or continues to be totally and permanently disabled, as defined in Section 2 of Article III, and if agreement cannot be reached between the Company and the Union, such difference shall be resolved as follows:

The employee shall be examined by a physician appointed for the purpose by the

Company and by a physician appointed for the purpose by the Union. If they shall disagree concerning the question, then the question shall be submitted to a third physician selected by such two physicians. The opinion of the third physician, after examination of the employee and consultation with the other two physicians, shall decide such question. The fees and expenses of the third physician shall be shared equally by the Company and the Union.

If an employee shall have been medically retired by the Company and shall have protested such retirement and if it shall be finally determined that he should not have been so retired, then the Company shall reinstate such employee and compensate him for the time lost, less any retirement pension which may have been paid him prior to such reinstatement.

Section 3. By reason of the fact that the Pension Plan as set forth in this Agreement makes specific provision for adjustment of all differences which may appropriately arise in connection with the Pension Plan, it is understood and agreed that the grievance and arbitration procedures set forth in the Labor Agreement, shall not apply to the provisions of this Agreement and the Pension Plan as set forth herein.

X—MISCELLANEOUS

Section 1. No benefit shall be subject in any way to alienation, sale, transfer, assignment, pledge, attachment, garnishment, execution, or encumbrance of any kind, and any attempt to accomplish the same shall be void.

Section 2. No employee prior to his retirement under conditions of eligibility for retirement pension benefit or prior to becoming permanently and totally disabled under conditions of eligibility for disability benefits shall have any right or interest in or to any portion of any funds which may be provided hereunder for the purpose of paying pensions under this Agreement and no employee or person receiving a pension or any other person shall have any right to pension benefits under this Agreement except to the extent herein provided.

Section 3. No employee covered by this pension agreement shall be eligible to enter into participation in any other pension or annuity plan of the Company. As of July 1, 1950, further participation in any such pension or annuity plan was discontinued for all employees then covered by the Labor Agreement and for those employees who thereafter came or shall come under the Labor Agreement; no such employee shall become eligible for benefits other than those which on or before July 1, 1950, or subsequent date of coverage by the Labor Agreement, had accured to such employee.

Section 4. The employee's employment rights and the Company's right to discharge shall not be enlarged or affected by reason of this Pension Plan except in cases of medical retirement, as provided in Section 3 of Article IV.

Section 5. The Company will advise each employee, at the time of delivery of his first pension check, that the pension is pursuant to this Agreement between the Company and the Union.

Section 6. An employee who receives a retirement pension under the provisions of this Pension Plan, shall terminate his status as an employee as of date of retirement.

XI—DURATION OF PENSION PLAN

Section 1. Notwithstanding the provisions of the Labor Agreement, the provisions of this Agreement and the Pension Plan herein set forth shall remain in effect without change and without being subject to renegotiation until and including November 30, 1959.

Either party may on or before October 2, 1959, give notice to the other party of the desire of the party giving such notice to negotiate with respect to pensions. If such notice is given, the parties shall meet within thirty days after October 2, 1959, to negotiate with respect to pensions, and if the parties shall not agree with respect to such matter by midnight November 30, 1959, either party may thereafter resort to strike or lockout, as the case may be, in support of its position in respect of such matter.

AMERICAN CAN COMPANY   INTERNATIONAL ASSOCIATION OF MACHINISTS

Changes in American Can Company Pension Plan

It is understood and agreed that the Pension Plan dated October 1, 1955, as amended December 1, 1956, between the American Can Company, a corporation of the State of New

Jersey (hereinafter referred to as the "Company") and the International Association of Machinists (hereinafter referred to as the "Union") shall be further amended, effective December 1, 1959, except as specified here to accomplish the following:

1. Pay to each employee retiring under the pension plan on or after December 1, 1959, except in the case of disability or deferred vested pensions, an amount (to be called *special retirement payment* and to be paid from the pension fund) equal to *3 months' full pay minus any vacation* he may have received or is eligible to receive for the year in which he retired. Regular monthly pension payments will commence with the month *following the three months* for which such special retirement payment was paid.
2. For employees retiring on or *after December 1, 1959,* the monthly pension for each year of accredited service shall be increased from $2.50 to *$2.75.*
3. An employee terminated by reason of permanent shutdown of a plant occurring on or after December 1, 1959, who is *age 60* or over and has *15 or more years of accredited service* on the date of such shutdown will be eligible for a *full retirement pension.*
4. Accredited service, as defined in Article II, will be modified to conform with any changes agreed upon with respect to accredited service, *Article 14, of the Labor Agreement.*
5. An employee eligible for a disability pension prior to March 1, 1960 shall continue to receive the present amount of his disability pension; however, for an employee becoming entitled to a disability pension beginning on or after *March 1, 1960,* the monthly amount thereof shall be the greater of
   (a) The larger of (i) $100, or (ii) $3.00 per month times the number of years (and fraction of a year) of accredited service, *minus in either case, the amount of any disability* insurance benefit under the Social Security Act to which he may be entitled for that month; or
   (b) $2.75 per month times the number of years (and fraction of a year) of accredited service.

Each person applying for a disability pension must also apply for disability benefits under the Social Security Act unless his age is such that he cannot become eligible therefor. An applicant for a disability insurance benefit shall be deemed not entitled to such benefit prior to the month in which it shall be granted if he shall agree to refund any excess payment from his first disability insurance benefit check.

6. (a) The retirement pension of each employee who retired prior to December 1, 1959, and who did not elect a joint and survivor pension, or who is under age 65 will be increased by a flat *$5.00* per month effective December 1, 1959.
   (b) The retirement pension of an employee over age 65 who elected a joint and survivor pension or the pension payable to a survivor under an election shall be increased by an amount equal to that percentage of $5.00 which the pension of such employee or of such survivor bears to the pension which would be payable to such employee if no election had been made, or to the pension payable, in the absence of an election, to the employee on whose pension the survivor pension is based, as the case may be.
7. The foregoing changes are contingent upon continued tax-exempt qualifications of the pension plan as so modified.

APPENDIX C

District No. 15 Machinists Pension Fund Pension Plan

By Resolution dated August 6, 1958, the Board of Trustees of the District 15 Machinists Pension Fund adopted the following Pension Plan:

Article I. DEFINITIONS

Section 1—Trust Agreement. The term "Trust Agreement" shall mean the Agreement and Declaration of Trust establishing the District 15 Pension Fund entered into as of January 1, 1958, together with any amendments thereto.

Section 2—Trustees. The term "Trustees" shall mean the persons who are acting as "Employer Trustees" and "Union Trustees" pursuant to the provisions of the Trust Agreement.

Section 3—Pension Fund. The term "Pension Fund" shall mean the District 15 Machinists Pension Fund established by the Trust Agreement and its trust estate.

Section 4—Union. The term "Union" shall mean District 15 of the International Association of Machinists and any affiliated Local Union or Local Lodge.

Section 5—Contributing Employer. The term "Contributing Employer" shall mean any person, company, or business organization which is or shall become a party to the Trust Agreement and which has agreed or shall agree in a collective bargaining agreement with a Union to make contributions to the Pension Fund provided that such employer is accepted by the Trustees for participation in the Pension Fund in accordance with the provisions of Article II. In the case of an employer having more than one place of business, the term "Contributing Employer" shall only apply to the place of business covered by the collective bargaining agreement requiring contributions to the Pension Fund.

Section 6—Employer. The term "Employer" shall mean any person, company or business organization which has in effect a collective bargaining agreement with the Union, but shall only include places of business covered by said collective bargaining agreement.

Section 7—Covered Employee. The term "Covered Employee" shall mean a person covered by a collective bargaining agreement between a Contributing Employer and the Union which such agreement provides for periodic contributions to the Pension Fund.

The term "Covered Employee" shall not include any self-employed person or a person who is an employer or an officer of a corporation or a partner or owner of a company or business organization which is a Contributing Employer or Employer, as such terms are defined in Sections 5 and 6 of this Article.

Section 8—Covered Employment. The term "Covered Employment" shall mean employment for which a Contributing Employer is obligated by his collective bargaining agreement with the Union to contribute to the Pension Fund.

Section 9—Contribution Date. The term "Contribution Date" shall mean the first date for which a Contributing Employer was or shall be obligated by a collective bargaining agreement with the Union to make contributions to the Pension Fund.

Section 10—Past Service. The term "Past Service" shall mean periods of employment prior to the Contribution Date as hereinafter set forth in Article III, Section 2.

Section 11—Future Service. The term "Future Service" shall mean periods of Covered Employment subsequent to the Contribution Date as hereinafter set forth in Article III, Section 3.

Section 12—Credited Service. The term "Credited Service" shall mean the sum of any Past Service and any Future Service for which credit is allowed as hereinafter set forth in Article III, Section 3.

Section 13—Retirement. The term "Retirement" shall mean withdrawal from employment with any firm, company or corporation in any job covered by a collective bargaining agreement with any District or Lodge of the International Association of Machinists. The term "Retirement" shall also mean ceasing to act as a full-time paid officer or employee of a Contributing Union as hereinafter defined.

Section 14—Contributing Union. The term "Contributing Union" shall mean the Union or any affiliated Local Union or Lodge which has entered into an agreement with the Trustees in which it agrees to make contributions to the Pension Fund on behalf of its full-time salaried employees. Upon being accepted as a "Contributing Union" the term "Contributing Employer" as defined in Section 5 shall be deemed to apply to full-time salaried employees of such Union and the phrase "collective bargaining agreement" as used in this Article shall be deemed to include the agreement between the Union and the Trustees requiring the Union to contribute to the Pension Fund.

Section 15—Pensioner. The term "Pensioner" shall mean a person who is in Retirement and who is receiving benefits under this Plan.

Article II. BASIS OF PARTICIPATION IN FUND

Section 1. Any employer who enters into a collective bargaining agreement with the Union requiring contributions to the Pension Fund shall be accepted for participation by the Trustees if the Employer and Union enter into the standard collective bargaining clause adopted by the Trustees for participation in the Pension Fund subject to the limitations concerning participation after July 1, 1960 set forth in Article VIII, Section 1.

If a collective bargaining agreement between any Employer and the Union, or any other agreement or understanding between the Employer and the Union, provides for compulsory retirement, the Employer may only be accepted for participation by the Trustees if the employer is required to contribute to the Fund such amount in excess of the standard contribution rate as is established by the Trustees, in their sole discretion.

Section 2. A Contributing Employer's participation in the Pension Fund may be terminated by the Trustees if the Contributing Employer shall fail to pay the Pension Fund such sums of money as shall have been agreed upon in the collective bargaining agreement between the Contributing Employer and the Union in accordance with the rules of the Trustees for remitting such contributions.

Article III. CREDITED SERVICE

Section 1—Outline. The purpose of this Article is to define the manner in which Covered Employees accumulate credit toward eligibility for a pension. The general intention is to provide benefits to a Covered Employee who retires after long years of service. This Article also defines the circumstances under which a Covered Employee loses the pension credits which he may previously have accumulated.

Section 2—Credits for Periods Before the Contribution Date (Past Service). To qualify for any past service credits a Covered Employee must meet the following requirements:

(a) The Covered Employee must have worked at least 126 days in the calendar year preceding the Contribution Date which is applicable to his earliest entrance into Covered Employment; such work must have been in a job classification and at a plant location both of which were covered under a collective bargaining agreement between an Employer and the Union.

One exception to this requirement shall be granted to those Covered Employees who prove, on the basis of medical evidence satisfactory to the Trustees, that their failure to work 126 days during the calendar year preceding the Contribution Date was due to total disability.

Another exception to the requirement set forth in the first paragraph hereof shall be made if a Contributing Employer and the Union did not have a collective bargaining agreement in effect during the calendar year preceding the Contribution Date, in which such event, work during said period for such employer in any job classifications covered by the collective bargaining agreement as of the Contribution Date may be counted toward the 126 day requirement in the calendar year preceding the Contribution Date.

(b) In order to receive a year of pension credit based on Past Service, a Covered

Employee who qualified for Past Service credit in accordance with (a) of this Section must have been employed in creditable employment as defined in (c) of this Section for at least 126 days of any calendar year for which Past Service credit is sought.

(c) For Covered Employees who qualify for Past Service credit in accordance with (a) of this Section, Past Service credit shall be granted for periods of employment with an employer who becomes a Contributing Employer prior to the Retirement of the Covered Employee, provided that such employment was in a job classification which was at the time or subsequently became covered by a collective bargaining agreement.

(d) It is recognized that it may be difficult or impossible for many employees to obtain verification of their employment in years prior to 1937. Accordingly, the presumption is established that a Covered Employee who was a member of the Union prior to 1937 was engaged in creditable employment. Therefore, a Covered Employee shall be given one year of Past Service credit for each calendar year prior to the year 1937 during which he was a member of the Union for at least six months.

Section 3—Credit for Periods of Employment On or After the Contribution Date (Future Service). For the period commencing on and after his Contribution Date a Covered Employee shall receive one year of Future Service credit for each calendar year during which contributions were made on his behalf for 1600 or more straight-time hours. For any calendar year in which contributions were made for 1200 to 1599 straight-time hours, a Covered Employee shall receive three-fourths of a year of Future Service credit. For a calendar year in which contributions were made for 800 to 1199 straight-time hours a Covered Employee shall receive one-half year of Future Service credit. For a calendar year in which contributions were made for 400 to 799 straight-time hours a Covered Employee shall receive one-fourth of a year of Future Service credit.

Section 4—Continuity of Future Service.

(a) Purpose. These Pension Regulations are intended to provide benefits to Covered Employees who remain in Covered Employment more or less continuously over a period of years and up to the time when they retire on a pension. Consequently, if a Covered Employee leaves Covered Employment for a substantial period of time, the Regulations provide for a cancellation of that Covered Employee's previous pension credits. This Section defines what is meant by a break in Covered Employment and provides that if a break occurs, previous pension credits are to be cancelled for the person involved. The period of permissible absence is extended for limited grace periods if absence is due to certain causes set forth below.

(b) General Rule. It shall be considered a break in employment and a Covered Employee's previous Credited Service shall be cancelled if he leaves Covered Employment and subsequently fails to earn one year of Future Service in four consecutive calendar years. This section shall not apply to a Covered Employee who has attained age 55 and has 15 years of Credited Service.

Grace Periods. A Covered Employee shall be allowed a grace period if his absence from Covered Employment is due to disability, involuntary unemployment, authorized leave of absence, strike or lockout, employment with an Employer who is not a Contributing Employer or employment with the Union. In the case of disability, the maximum grace period shall be three calendar years and the disability must be established on the basis of medical evidence satisfactory to the Trustees. In the case of involuntary unemployment, the maximum grace period shall be one year. In the case of authorized leave of absence, the maximum grace period shall be one year. In the remaining circumstances, the grace period shall be the duration of the strike or lockout, employment with an Employer who is not a Contributing Employer or employment with the Union.

Section 5—Future Service Credit for Non-Work Periods.

(a) This Section recognizes certain periods when a Covered Employee is not actually working in Covered Employment but is to receive Future Service credit just as if he were working in Covered Employment. Periods of absence from Covered Employment are to be credited as if they were periods of work in Covered Employment only if they were due to the following reasons:

(i) military service in the Armed Forces of the United States or Canada in time of war, emergency or pursuant to a national conscription law, provided the employee makes himself available for Covered Employment within 90 days after discharge or separation, or 90 days after recovery from a disability continuing after his discharge or separation from military service, but excluding periods of voluntary re-enlistment not effected during national emergency or time of war;

(ii) disability for which the Covered Employee is receiving benefits under a Workmen's Compensation Law up to a maximum of 12 months:

(iii) disability for which the Covered Employee is receiving weekly accident and sickness benefits under the New York State Disability Benefits Law or the New Jersey Temporary Disability Benefits Law up to a maximum of 26 weeks.

(b) In order to receive credit for non-working periods occurring after the Contribution Date, a Covered Employee shall bear the burden of furnishing written notice to the Trustees of his claim for non-work credit, and such written notice must be submitted not later than 12 months after the period for which credit is sought.

(c) Whenever a month of Future Service is credited under this Section, and hours for which contributions are made to the Pension Fund during that month shall not be counted toward the total hours credited in that calendar year.

Section 6. Anything to the contrary notwithstanding, nothing in this Plan shall be construed so that more than one year of Credited Service shall be earned in any one calendar year.

Article IV. BENEFITS AND ELIGIBILITY

Section 1—Outline. These Rules and Regulations establish pensions for Covered Employees provided that they meet the specified requirements as to age and years of service in Covered Employment. An outline of these different types of pensions may be helpful in understanding the provisions which follow:

First—there is a Normal Pension for a Covered Employee who has attained age 65 and who has accumulated 25 years of credited service.

Second—there is a Reduced Pension for a Covered Employee who does not have sufficient pension credits to qualify for the Normal Pension but who has attained age 65 and has accumulated at least 15 years of credited service. This pension is in a reduced amount, based on the Covered Employee's past credits in relation to the credits he would need for the Normal Pension.

Third—there is an Early Retirement Pension that is provided for a Covered Employee who wants to retire between ages 55 and 65 and who has at least 15 years of credited service. For an Early Retirement Pensioner the benefit amount is reduced to take account of his earlier age at retirement.

Fourth—there is a Disability Pension for Covered Employees who become permanently and totally disabled between the ages of 50 and 64 and who have accumulated at least 15 years of credited service.

Section 2—Eligibility for a Normal Pension. A Covered Employee shall be entitled to retire on a Normal Pension if he meets these three requirements:

(a) he has attained age 65;
(b) he has at least 25 years of Credited Service; and
(c) he has at least 6 months of Future Service credit. (See Section 15 below.)

Section 3—Amount of a Normal Pension. The Normal Pension shall be $75 per month.

Section 4—Eligibility for a Reduced Pension. A Covered Employee who is not entitled to retire on a Normal Pension shall be entitled to retire on a Reduced Pension if he meets these three requirements:

(a) he has attained age 65;
(b) he has at least 15 years but less than 25 years of Credited Service; and
(c) he has at least 6 months of Future Service credit. (See Section 15 below.)

Section 5—Amount of Reduced Pension. The amount of the Reduced Pension shall be proportional to the amount of the Normal Pension based upon the ratio the employee's actual Credited Service bears to 25 years.

Section 6—Eligibility for Early Retirement Pension. A Covered Employee shall be entitled to retire on an Early Retirement Pension if he meets these three requirments:

(a) he has attained age 55;
(b) he has at least 15 years of Credited Service; and

(c) he has at least 6 months of Future Service credit. (See Section 15 below.)

Section 7—Amount of Early Retirement Pension. The amount of the Early Retirement Pension shall be the amount of the Normal or Reduced Pension to which the employee would have been entitled if he were 65 years of age, reduced by ½ of 1% for each month by which the employee is younger than 65 on the date of Retirement.

Section 8—Eligibility for a Disability Pension. An Employee shall be eligible to retire on a Disability Pension if he becomes totally and permanently disabled as hereinafter defined after:

(a) he has attained age 50 but not age 65; and

(b) he has at least 15 years of Credited Service; and

(c) he has earned Future Service credit for at least 6 months after his Contribution Date. (See Section 15 below.)

Section 9—Total and Permanent Disability Defined. An Employee shall be deemed permanently and totally disabled within the meaning of this Plan only if the Board of Trustees shall in its sole and absolute judgment find on the basis of medical evidence that:

(a) such employee is totally unable, as a result of bodily injury or disease, to engage in or perform the duties of any occupation for remuneration of profit, and

(b) Such disability will be permanent and continuous for the remainder of his life.

An employee applying for a Disability Pension shall be required to submit to an examination by a physician or physicians selected by the Trustees and may be required to submit to re-examination periodically as the Trustees may direct. The Trustees may in their sole and absolute discretion require, or accept, as sole proof of total disability the determination by the Social Security Administration that the Employee is entitled to a Social Security Disability benefit in connection with his Old Age and Survivors Insurance coverage.

Section 10—Waiting Period. The first monthly payment of the disability pension shall commence with the seventh month of disability and shall continue thereafter if the Pensioner remains totally and permanently disabled as herein defined.

Section 11—Amount of Disability Pension. The amount of the Disability Pension shall be $75 per month for Employees who retire after 25 years of Credited Service. For employees who have 15 through 24 years of service, the amount of the Disability Pension shall be proportional to $75 based upon the ratio which the employee's actual Credited Service bears to 25 years.

Section 12—Earnings by Disability Pensioner. A Disability Pensioner shall report any and all earnings from employment to the office of the Pension Fund in writing within 15 days after the end of each month in which he has had earnings in any sort of employment or pursuit. If a Disability Pensioner fails to make timely report as required by this Section, he shall be disqualified from benefits for six months for each such violation. If a Disability Pensioner who would have been qualified for an Early Retirement Pension at the time of his Retirement shall subsequently cease to be disabled he shall then be entitled to apply for an Early Retirement Pension which shall become effective as of the month his Disability Pension terminates and shall be based on his attained age when he first retired on a Disability Pension.

Section 13—Eligibility for a Deferred Pension. An Employee who has at least 15 years of Credited Service and who retires after reaching age 50 but before reaching age 55 and after he has earned Future Service credit for at least 6 months after his Contribution Date (see Section 15 below) shall be entitled to a Deferred Pension payable beginning with the first calendar month after he attains age 65.

Section 14—Amount of a Deferred Pension. The amount of the Deferred Pension shall be $75 per month for employees who had 25 years of Credited Service when they retired or $3 per year for each year of Credited Service from 15 through 24 years of Credited Service.

Section 15. The requirement for six months of Future Service Credit shall be waived if the Contribution Date was earlier than July 1, 1958. In such case, however, no pension benefit shall be payable for any month preceding the 7th month after the Contribution Date or attainment of entitlement to benefits under the provisions of this Plan, whichever is later.

Section 16. The amount of any pension paid in accordance with the provisions of this article, if it is not already a multiple of 50¢ shall be rounded to the next higher multiple of 50¢.

Article V. BENEFIT PAYMENTS

Section 1—Generally. An Eligible Employee who makes application in accordance with this Plan shall be entitled upon Retirement to receive the monthly benefit provided, for the remainder of his life, subject to all of the provisions of this Plan. Benefits shall be payable commencing with the first full calendar month in which the Employee has fulfilled all the conditions for entitlement to benefits, including the requirement for advance application set forth in Article VI, Section 1, and ending with the payment for the month in which the death of the Pensioner occurs or with the sixieth payment as hereinafter described if the Pensioner has died before that time. No pension benefits shall be payable for any month in which weekly accident and sickness benefits are paid under the New York State Disability Benefits Law or the New Jersey Temporary Disability Benefits Law.

Section 2—Sixty Certain Payments. If a Pensioner who is receiving a Normal or Reduced Pension dies before he has received sixty monthly pension payments, his monthly pension amount shall be continued to his designated beneficiary, if any, until sixty such payments have been made, including the payments to both the Pensioner and his beneficiary. If no beneficiary has been named or if the last named beneficiary has predeceased the pensioner or dies before 60 payments have been made, no further benefits shall be payable.

Section 3—Designation of Beneficiary. A Pensioner receiving a Normal or Reduced Pension shall designate a beneficiary and, if he wishes, one contingent beneficiary, in writing in the form and the manner required by the Trustees and may change his designation in the same manner. The Trustees shall be the sole judges of the effectiveness of the designation or change thereof.

Section 4—Commencement of Benefit Payments. Benefits under this Plan shall first be payable for the month of July 1, 1958, and thereafter.

Section 5—Duplication of Pensions. A Pensioner shall not be entitled to the payment of more than one type of pension benefit under this Plan at any one time.

Section 6—Incompetence or Incapacity of Pensioner. In the event it is determined that any Pensioner is unable to care for his affairs because of mental or physical incapacity, the Trustees may pay the benefits due such Pensioner to his legal guardian, committee, or legal representative or, in the absence of any of them, to any relative by blood or connection by marriage who is deemed by the Trustees to be equitably entitled thereto.

Section 7—Waiver of Benefits. Any Pensioner who is eligible for or who is receiving any other pension benefit, the receipt of which is dependent upon his not exceeding certain income limits, may, if he so elects, by signing and acknowledging a written waiver and delivering the same to the Trustees, waive all or any part of his pension benefits under this Plan provided, however, that such waiver may not be withdrawn except upon 30 days' written notice by registered mail to the Trustees and after having executed such waiver, the Pensioner shall at no time be entitled to make claim for the benefits which have been waived and withdrawal of such waiver shall not be effective until 30 days after the receipt thereof by the Trustees.

Article VI. APPLICATIONS AND PROOF

Section 1—Applications. Application for a pension must be made in writing in a form and manner prescribed by the Trustees and must be filed with the Trustees at least three months in advance of the first month for which benefits are payable except that any application received by October 1, 1958 shall be considered timely for benefits that are to begin prior to that date.

Section 2—Information and Proof. Every Employee or Pensioner shall furnish, at the request of the Trustees, any information or proof reasonably required for the administration of the Plan or for the determination of any matter that the Trustees may legitimately have before them. Failure to furnish such information or proof promptly and in good faith shall be sufficient reason for the denial of benefits to such Employee or the suspension or discontinuance of benefits to such Pensioner. The falsity of any statement material to an application or the furnishing of fraudulent information or proof shall be sufficient reason for the denial, suspension or discontinuance of benefits under this Plan and in any such case the Trustees shall have the right to recover any benefit payments made in reliance thereof.

Section 3—Actions of Trustees. The Trustees shall be the sole judges of:

(a) the standard of proof required in any case
(b) the application and interpretation of this Plan
(c) entitlement to or amount of pension
(d) the crediting of Service Credit

and the decisions of the Trustees with respect to any of the foregoing shall be final and binding on all parties.

Article VII. RETURNS TO EMPLOYMENT

Section 1—Notice. A Pensioner shall notify the Trustees in writing within 15 days after a return to employment with any firm, company or corporation in any job covered by a collective bargaining agreement with any District or Lodge of the International Association of Machinists.

Section 2—Loss of Pension Benefits. If notice has been given in accordance with Section 1 above, no pension benefit shall be payable for any month of such employment or for six months after termination of such employment. If the Pensioner has failed to furnish notice in accordance with Section 1 of this Article, the Trustees shall have the right, in their sole discretion, to impose a penalty of loss of pension benefits for periods in excess of 6 months after termination of employment.

Section 3—Return to Employment of Reduced Pensioner. A Pensioner who is receiving a reduced pension and who returns to employment as defined in Section 1 above shall not become entitled to an increased pension on cessation of such employment as a result of his increased age or accumulation of additional Credited Service.

Section 4—Return to Employment of Early Retirement Pensioner. An Early Retirement Pensioner may re-enter Covered Employment and may then resume the accrual of Service Credit. An Employee who has once retired on an Early Retirement Pension and thereafter re-enters Covered Employment, shall not again be eligible to retire on an Early Retirement Pension. An Employee who has received Early Retirement Pension benefits and who, after returning to Covered Employment again is eligible to retire in accordance with the rules set forth in this Plan, shall receive upon such subsequent Retirement an amount not greater than his original Early Retirement Pension benefit until such time as the difference between his Early Retirement Pension and subsequent pension equals the amount paid him previously as an Early Retirement Pension Benefit; thereafter he shall receive the amount due him in accordance with the rules of this Plan.

Section 5—Return to Employment of Disability Pensioner. A Disability Pensioner who recovers from disability after attaining age 65 and who returns to work in Covered Employment, shall no longer be entitled to Disability Pension benefits but he may apply for and receive a Normal Pension when qualified. He will retain the Credited Service accumulated prior to receiving his Disability Pension but no credit will be given for the period during which he received the Disability Pension.

Article VIII. NEW AND TERMINATING EMPLOYERS

Section 1—New Employers. This Pension Plan covers the Employees of Employers who become Contributing Employers on or before July 1, 1960. Subsequent to that date no new or additional employer may be admitted to participation in the Pension Plan except upon approval by the Trustees. The participation of any such new or additional employer shall be subject to such terms and conditions as the Trustees may prescribe including, but not limited to, the imposition of waiting periods in connection with the commencement of benefits, a requirement for retroactive contributions or the granting of a lower scale of benefits. In adopting applicable terms or conditions, the Trustees shall take into account such requirements as they, in their sole discretion, may deem necessary to preserve the actuarial soundness of the Pension Fund and to preserve an equitable relationship with the contributions required from presently participating Employers and the benefits provided to their Employees.

Section 2—Terminations. If participation in the Pension Fund is terminated, or if an employment ceases to be Covered Employment as defined herein, the following provisions shall apply:

(a) Such employment shall not be credited after the date of termination or after it ceases to be Covered Employment as the case may be;

(b) Service Credit accumulated on the basis of such Covered Employment prior to termination shall not be cancelled simply by virtue of the termination;

(c) The employees affected shall continue to be treated as participants in this Pension Plan and shall not be rendered ineligible for benefits because of the termination, except as a break in Covered Employment may be incurred in accordance with the provisions of the Plan.

Article IX. AMENDMENT, TERMINATION AND GENERAL PROVISIONS

Section 1—Amendment. The Trustees may amend or modify these Regulations at any time in accordance with the Agreement and Declaration of Trust establishing the Pension Fund, except that no amendment or modification may reduce any pension benefits which have been approved for payment prior to amendment, so long as funds are available for payment of such benefits, nor may any amendment or modification revert any of the assets of the Pension Fund to any Employer or the Union.

Section 2—Actuarial Reviews. These Rules and Regulations have been adopted by the Trustees on the basis of an actuarial estimate which has established (to the fullest extent possible) that the income and accruals of the Fund will be fully sufficient to support this benefit plan on a permanent basis. However, it is recognized as possible that, in the future, the income and/or the liabilities of the Fund may be substantially different from those previously anticipated.

It is understood that this Pension Plan can be fulfilled only to the extent that the Fund has assets available from which to make the payments provided for. Consequently, the Trustees shall have prepared, annually, an actuarial evaluation of the Fund.

Upon the basis of all of the circumstances the Board of Trustees may from time to time amend these Regulations including any change in benefit amount, types of benefits, and conditions of eligibility and payment, except that no amendment shall in any way reduce any pension benefits which have been approved for payment prior to amendment, so long as funds are available for payment of such benefits.

Section 3—Discontinuance. If this Pension Plan is discontinued to the extent that the assets then remaining in the Pension Fund shall be sufficient and after providing for any administrative expenses, such assets shall be allocated for the purpose of paying retirement benefits to Pensioners (based on pension credits to the date of discontinuance of the Pension Fund) in the following order of precedence:

(a) to provide pensions to persons who shall have retired under the Plan prior to its discontinuance, without reference to the order of retirement;

(b) to provide pensions to Covered Employees age 65 or over on the date of discontinuance, without reference to the order in which they shall have reached normal retirement age;

(c) to provide pensions upon attainment of age 65 to Covered Employees less than 65 years of age on the date of discontinuance, with reference to the order in which they will attain age 65.

Section 4—Non-Assignment of Benefits. It is the intention of the Trustees to make it impossible for employees or Pensioners covered by these Rules and Regulations to unwisely imperil the provisions made for their retirement by their assigning, pledging or otherwise disposing of their retirement payments hereunder.

It is hereby expressly provided that no employer or Pensioner hereunder shall have the right to assign, alienate, transfer, sell, hypothecate, mortgage, encumber, pledge or anticipate any retirement payments or portions thereof (and any such assignment, alienation, transfer, sale, hypothecation, mortgage, encumbrance, pledge or anticipation shall be void and of no effect whatsoever).

So that such retirement payments or portions thereof shall not in any way be subject to any legal process, execution, attachment or garnishment or be used for the payment of any claim against any employee or Pensioner, or be subject to the jurisdiction of any bankruptcy court or insolvency proceeding by operation of law or otherwise, the Trustees shall have the right to terminate or postpone any pension payments to a Pensioner.

Section 5—Effective Date. The provisions of the Pension Plan shall be effective January 1, 1958.

APPENDIX D

Suggested Article—ADMINISTRATION OF THE PLAN

1. The Plan shall be administered by a Board of Administration, two (2) members of which shall be appointed by the Company (hereinafter referred to as the Company members), and two (2) members of which shall be appointed by the Union (hereinafter referred to as the Union members). These members shall serve without compensation from the Fund. In the event of a deadlock, an impartial chairman shall be selected by mutual agreement of the Company and the Union members of the Board, but shall vote at meetings of the Board only for the purpose of breaking such deadlock. The fees and expenses of the Impartial Chairman shall be paid from the Fund.

2. Either the Company or the Union at any time may remove a member appointed by it and may appoint a member to fill any vacancy among the members appointed by it. Both the Company and the Union shall notify each other in writing of the members respectively appointed by them before any such appointment shall be effective.

3. The Board shall have such powers as are necessary for proper administration of the Plan, including the following:

(a) To prescribe procedure to be followed by employees in filing applications for benefits, and for the furnishing of evidence necessary to establish employees' rights to such benefits.

(b) To make determinations as to the rights of any employee applying for or receiving retirement benefits, and to afford any such individual dissatisfied with any such determination, the right to a hearing thereon;

(c) To develop procedures for the establishment of credited service of employees, and after affording employees an opportunity to make objection with respect thereto, to establish such service conclusively in advance of retirement;

(d) To have made periodic (not more often than once a year) actuarial valuations of the Plan by an actuary designated by the Board;

(e) To obtain from the Company, from the Union, the Trustee, the actuary and from the employees such information as shall be necessary for proper administration of the Plan, including all actuarial valuations and all trustees' reports on assets and on receipts and disbursements under the Trust Fund. Any actuarial valuation hereunder shall include as a minimum a full statement of the actuarial assumptions employed, together with summary of the age, sex, and service data on which it is based.

(f) To authorize the Trustee to make all disbursements from the Trust Fund in accordance with the provisions of this Agreement, and to establish necessary procedures therefor;

(g) To prepare and distribute in such manner as the Board determines to be appropriate, information explaining the Plan;

(h) To furnish to the Company and the Union, upon request, such reports with respect to the administration of the Plan as are reasonable and appropriate.

4. To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the Board at least one (1) Union member and one (1) Company member. At all meetings of the Board, the Company members shall have a total of two votes and the Union members shall have a total of two votes, the vote of any absent member being divided equally between the members present appointed by the same party. Decisions of the Board shall be by a majority of the votes cast.

5. The Board and any member thereof shall be entitled to rely upon the correctness of any information furnished by the Trustee, the Union, or the Company. Neither the Board nor any of its members, nor the Union, nor any officer or any other representative of the Union, nor the Company, nor any officer or any other representative of the Company shall be liable because of any act or failure to act on the part of the Board, or any of its members, to any person whatsoever, except that nothing herein shall be deemed to relieve any such individual from liability for his own fraud or bad faith.

APPENDIX E

Suggested Article—TERMINATION OF THE PLAN

1. In the event of discontinuance of the Plan, the assets then remaining in the Fund, after providing the expenses of the Plan, shall be allocated by the Board, to the extent that they shall be sufficient, for the purpose of paying retirement benefits (the amount of which shall be computed on the basis of credited service to the date of discontinuance of the Plan) in the following order of precedence:

(a) To provide their retirement benefits to employees who shall have retired under the Plan prior to its discontinuance, without reference to the order of retirement;

(b) To provide Normal Retirement Benefits to employees aged 65 or over on the date of discontinuance of the Plan, without reference to the order in which they shall have reached age 65;

(c) To provide Disability Retirement Benefits to employees who shall have applied for such benefits prior to the date of discontinuance of the Plan and who are determined to have been eligible for such benefits under provisions of the Plan prior to such date of discontinuance, without reference to the order in which they filed application or met eligibility requirements;

(d) To provide Normal Retirement Benefits at age 65 to employees aged 60 or over but less than 65 on the date of discontinuance of the Plan, without reference to the order in which they shall reach age 65;

(e) To provide Normal Retirement Benefits at age 65 to employees aged 50 or over but less than 60 on the date of discontinuance of the Plan, without reference to the order in which they shall reach age 65;

(f) To provide Normal Retirement Benefits at age 65 to employees below the age of 50 on the date of discontinuance of the Plan, without reference to the order in which they shall reach age 65.

If, after having made provision in the above order of precedence for some but not all of the above categories, the assets then remaining in the Fund are not sufficient to provide completely for the benefits for employees in the next category, such benefits shall be provided for each such employee on a pro-rated basis.

2. For the purposes of determining whether or not an employee has, on the date of discontinuance of the Plan, sufficient years of credited service to be eligible to receive a retirement benefit under the provisions of subsections (d) (e) and (f) of Section 1 of this Article (but for no other purpose and in particular not for the purposes of determining the amount of the benefit) each employee who is on such date less than sixty-five (65) shall receive credit as though his period of service included the period between the date of discontinuance of the Plan and his sixty-fifth birthday.

3. Terminated employees with vested rights under the Plan, and any death benefits under the Plan, shall be included in the allocation specified in Section 1 of this Article in their appropriate categories, except that, within each category, employees and retired employees shall have precedence in the distribution of benefits.

4. Such allocation shall be accomplished through either (i) continuance of the Fund or a new Fund, or (ii) purchase of annuity contracts, provided, however, that the Board, upon finding that it is not practicable or desirable under the circumstances to do either of the foregoing with respect to some or all of the groups listed above may, with the unanimous consent of all its members, provide for allocation of a part or all of the assets of the Fund as cash payments of equivalent actuarial value to any or all of such groups, provided, however, that no change shall be effected in the order of precedence and basis for allocation above established.

5. Notwithstanding any other provisions of the Plan, for the purposes of this Article no employee shall cease to be an employee merely as a direct result of circumstances leading up to the termination of the Plan.

In the event of the termination of this Agreement, no part of the corpus or income of the Fund can be used for, or diverted to, purposes other than the exclusive use of the beneficiaries and employees covered by the Plan.

APPENDIX F

AGREEMENT AND DECLARATION OF TRUST

Establishing the

I.A.M. LABOR-MANAGEMENT PENSION FUND

THIS AGREEMENT AND DECLARATION OF TRUST is made and entered into as of May 1, 1960, in the City of Washington, District of Columbia, by and between the International Association of Machinists, AFL-CIO, (hereinafter referred to as the "IAM" or "International Union"), and various employers of members of the International Union who are or may become parties to this Agreement as hereinafter defined (hereinafter referred to as "Employers").

WITNESSETH:

WHEREAS, various Local and District Lodges of the International Union, and the International Union and Employers have entered into or expect to enter into collective bargaining agreements which provide, among other things, for the establishment of a Pension Fund and prescribe the contributions or payments to be made by the Employers to such Fund, and

WHEREAS, to accomplish the aforesaid purpose, it is desired to establish a Pension Fund as a Trust Fund for receiving contributions and providing benefits for eligible employees, and

WHEREAS, the said Trust Fund is to be known as the "I.A.M. Labor-Management Pension Fund," and

WHEREAS, it is desired to set forth the terms and conditions under which the said Fund is to be established and administered, and

WHEREAS, it has been mutually agreed that the Fund shall be administered by Trustees and it is desired to define the powers and duties of the Trustees and the nature of benefits to be provided.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants herein contained, it is mutually understood and agreed as follows:

ARTICLE I.

Unless the context or subject matter otherwise requires, the following definition shall govern in this Agreement:

Section 1. EMPLOYERS. The term "Employers" as used herein shall mean any Employer (including Employer Associations) who now or hereinafter has a collective bargaining agreement with a Local or District Lodge of the IAM, or the IAM, requiring periodic contributions to the Pension Fund created by this Trust Agreement and who in writing adopts and agrees to be bound by the terms and provisions of this Agreement and any amendments and modifications thereof. The term shall also include Employers who participate in this Fund by action of the Trustees pursuant to Article IV, Section 5 hereof, for the particular Employees affected. The term "Employers" may further include Local and District Lodges of the IAM and the IAM Pension Fund.

Section 2(a) EMPLOYEES.

(a) The term "Employees" as used herein means all persons within bargaining units represented by a Local or District Lodge of the IAM, or the IAM, who are employed by Employers who are covered by this Pension Fund.

(b) The term "Employees" may also include any full time employee of any Local or District Lodge of the International Association of Machinists, provided that the Local or District Lodge makes contribution in behalf of such full-time employee on the same basis and under the same conditions as are applicable to other Employers.

(c) The term "Employees" may also include such other class or classes of employees who are not within the bargaining unit represented by the Local or District Lodges of the IAM, or the IAM, but who are employed by an Employer making contribution in their behalf, provided that the acceptance of such class or classes is not discriminatory and in each case is subject to actuarial evaluation by the Trustees, whose decision with regard to their acceptance or rejection shall be final.

Section 3. IAM OR INTERNATIONAL UNION. The term "IAM" or "International Union", as used herein, shall mean the International Association of Machinists, AFL-CIO.

Section 4. LOCAL AND DISTRICT LODGES. The term "Local and District Lodges", as used herein, shall mean any Local or District Lodge affiliated with the IAM, which is accepted by the Trustees as a party to this Trust Agreement.

Section 5. TRUSTEES.

(a) The term "Employer Trustees" as used herein shall mean the Trustees appointed by the Employers, provided that such Trustees are actively employed by an Employer who is a party to this agreement and Declaration of Trust.

(b) The term "Union Trustees" as used herein shall mean the Trustees appointed by the IAM.

(c) The term "Trustees" as used herein shall mean the Employer Trustees and Union Trustees collectively, and shall include their successors when acting as Trustees.

Section 6. AGREEMENT AND DECLARATION OF TRUST. The term "Agreement and Declaration of Trust" as used herein shall mean this instrument, including any amendments hereto and modifications hereof.

Section 7. PLAN. The term "Plan" as used herein shall mean the program of pension benefits to be established by the Trustees pursuant to this Agreement and Declaration of Trust.

Section 8. FUND. The term "Fund" as used herein shall mean the IAM Pension Fund, the Trust Fund created pursuant to this Agreement and Declaration of Trust, and shall mean generally the money or other things of value which comprise the corpus and additions to the Trust Fund.

Section 9. CONTRIBUTIONS. The term "Contributions" as used herein shall mean the contributions made by the Employers to the Fund.

Section 10. BENEFITS. The term "Benefits" as used herein shall mean the pension benefits to be provided pursuant to the plan.

Section 11. COLLECTIVE BARGAINING AGREEMENTS. The term "Collective Bargaining Agreements" as used herein shall mean the Collective Bargaining Agreements in force and effect between IAM Local Lodges or District Lodges, or the IAM itself, plus any amendments thereto which provide for contributions to be made to the Fund created by this Agreement and Declaration of Trust.

Article II. GENERAL

Section 1. ESTABLISHMENT OF FUND. As hereby created the I.A.M. Labor-Management Pension Fund shall comprise the entire assets derived from Employer contributions made to or for the account of this Fund under collective bargaining agreements, together with any and all investments made and held by the Trustees, or moneys received by the Trustees as contributions or as income from investments made and held by the Trustees or otherwise, and any other money or property, received and/or held by the Trustees for the uses, purposes and trust set forth in this Agreement and Declaration of Trust.

Section 2. GENERAL PURPOSE. The Fund shall be a Trust Fund and shall be used for the purpose of providing Pension Benefits, as decided by the Trustees, and shall further provide the means for financing the expenses of the Trustees and the operation and administration of the Fund, in accordance with this Agreement and Declaration of Trust.

Article III. TRUSTEES

Section 1. IAM AND EMPLOYER TRUSTEES. The operation and administration of the Pension Fund shall be the joint responsibility of the Trustees appointed by the Employers and the Trustees appointed by the IAM. The number of Trustees may be increased from time to time but there shall always be an equal number of Employer and IAM Trustees, and in no event shall there be more than five Employer Trustees and five IAM Trustees. The Trustees shall determine the procedure and basis for naming additional Trustees.

Section 2. TRUSTEES. The Trustees shall be:

(a) IAM Trustee: (b) Employer Trustee:

Section 3. ACCEPTANCE OF TRUSTEESHIP. The Trustees shall immediately meet and sign this Agreement and Declaration of Trust which establishes the Pension Fund. The Trustees, by affixing their signatures at the end of this Agreement and Declaration of Trust, agree to accept the trusteeship and act in their capacities strictly in accordance with the provisions of this Agreement and Declaration of Trust.

Section 4. TERM OF TRUSTEES. Each Trustee above named, and each successor Trustee shall continue to serve as such until his death, incapacity, resignation, inability to serve because of termination of employment with employer or union, or removal, as herein provided.

Section 5. FORM OF NOTIFICATION. In case any Trustee shall be removed, replaced, or succeeded, a statement in writing by the aforesaid International Union shall be sufficient evidence of the action taken by the International Union, and a statement in writing signed by the Chairman, or Acting Chairman, of the then Employer Trustees shall be deemed sufficient evidence of any action taken with respect to the removal or replacement of the Employer Trustee. Any resignation by a Trustee shall be by registered mail addressed to the office of the Fund.

Section 6. SUCCESSOR TRUSTEES. Any Successor Trustee shall immediately upon his designation as Successor Trustee and his acceptance in writing filed with the Trustees become vested with all the property, rights, powers and duties of a Trustee hereunder with like effect as if originally named as a Trustee and all the Trustees then in office and any Corporate Trustee or Corporate Agent appointed pursuant to Article IV, Section 3 of this Trust Agreement and all other necessary persons shall be notified immediately.

Article IV. POWERS, DUTIES AND OBLIGATIONS OF TRUSTEES

Section 1. PROPERTY AND ASSISTANCE. The Trustees are authorized and empowered to lease or purchase such premises, materials, supplies and equipment, and to hire and employ and retain such legal counsel, investment counsel, administrative, accounting, actuarial, clerical and other assistants or employees as in their discretion they may find necessary or appropriate in the performance of their duties.

Section 2. CONSTRUCTION OF AGREEMENT. The Trustees shall have the power to construe the provisions of this Agreement and Declaration of Trust and the terms used herein and any construction adopted by the Trustees in good faith shall be binding upon the International Union, the Local and District Lodges, the Employers and the Employees and their families, dependents, beneficiaries and/or legal representatives.

Section 3. GENERAL POWERS. The Trustees are hereby empowered, in addition to other such powers as set forth herein or conferred by law:

(a) To establish and administer a Pension Plan on behalf of the Employees referred to in this instrument.

(b) To enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust and for the administration of the Trust Fund and do all acts as they, in their discretion, may deem necessary and advisable.

(c) To compromise, settle, arbitrate, and release claims or demands in favor of or against the Trust Fund or the Trustees on such terms and conditions as the Trustees may deem advisable.

(d) To establish and accumulate as part of the Trust Fund a reserve or reserves, adequate, in the opinion of the Trustees, to carry out the purposes of such Trust.

(e) To pay out of the Fund all real and personal property taxes, income taxes and other taxes of any and all kinds levied or assessed under existing or future laws upon or in respect to the Fund or any money, property, or securities forming a part thereof.

(f) To make appropriate allocations of common administrative expenses and disbursements shared or to be shared with any other Plan or Fund.

(g) To receive contributions or payments from any source whatsoever to the extent permitted by law.

(h) To invest and reinvest the Pension Funds in any type of investments and to take any and all action with respect to holding, buying, selling or maintaining such investments as they, in their sole discretion, may deem appropriate.

(i) In their discretion and to the extent they deem it wise, beneficial or necessary to appoint a bank or banks or trust companies whose capital and surplus is not less than $50,000,000, to be designated as (1) "Corporate Trustee", and to enter into and execute a trust agreement or agreements with such bank or banks or trust company or trust companies, to provide for the investment and reinvestment of assets of the Pension Fund, with such other provisions incorporated therein as may be deemed desirable in the Trustees' sole discretion for the proper management of the Pension Fund and without limit with respect to the powers which the Trustees may grant to such Corporate Trustee, in such agreement to the extent permitted by law or as (2) "Corporate Agent."

(j) To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder.

(k) To establish on escrow bank accounts or accounts to the extent deemed necessary in their discretion pending adoption of a Pension Plan.

(l) To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary to accomplish the general objective of enabling the employees to obtain pension benefits in the most efficient and economical manner.

Section 4. COMPENSATION. The Union and Employer Trustees shall not receive compensation for the performance of their duties.

Section 5. AUTHORITY TO ENTER INTO AGREEMENTS WITH OTHER TRUSTEES: The Trustees are hereby given authority to enter into agreements with Trustees of other Pension Plans to which Local and District Lodges of the International Association of Machinists and the IAM are parties to permit such other pension funds to join or merge with this Fund.

Section 6. PERSONAL LIABILITY. Neither the Trustees nor any individual or successor Trustee shall be personally answerable or personally liable for any liabilities or debts of the Fund contracted by them as such Trustees, or for the non-fulfillment of contracts, but the same shall be paid out of the Fund and the Fund is hereby charged with a first lien in favor of such Trustee for his or their security and indemnification for any amounts paid out by any such Trustee for any such liability and for his and their security and indemnification against any liability of any kind which the Trustees or any of them may incur hereunder; provided, however, that nothing herein shall exempt any Trustee from liability arising out of his own willful misconduct, bad faith or gross negligence, or entitle such Trustee to indemnification for any amounts paid or incurred as a result thereof.

The Trustees and each individual Trustee shall not be liable for any error of judgment or for any loss arising out of any act or omission in the execution of their duties so long as they act in good faith and without gross negligence; nor shall any Trustee, in the absence of his own willful misconduct, bad faith or negligence, be personally liable for the acts or omissions (whether performed at the request of the Trustees or not) of any other Trustee, or of any agent or attorney elected or appointed by or acting for the Trustees.

The Trustees shall be fully protected in acting upon any instrument, certificate, or paper believed by them to be genuine and to be signed or presented by the proper person or persons, and shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

Neither the Employers, nor the Local and District Lodges of the International Association of Machinists, or the IAM, shall in any way be liable in any respect for any of the acts, omissions or obligations of the Trustees, individually or collectively.

The Trustees may from time to time consult with the Trust's legal counsel and shall be fully protected in acting upon such advice of counsel to the Trust as respects legal questions.

Section 7. BOOKS OF ACCOUNT. The Trustees shall keep true and accurate books of account and records of all their transactions, which shall be audited annually or oftener by a certified public accountant selected by the Trustees. A copy of such audit shall be available at all times upon reasonable notice for inspection by signatories to this Agreement at the principal office of the Fund.

Section 8. EXECUTION OF DOCUMENTS. The Trustees may authorize an Employer Trustee and a Union Trustee or any joint group equally composed of Employer and Union Trustees to jointly execute any notice or other instrument in writing and all persons, partnerships, corporations, or associations may rely thereupon that such notice or instrument has been duly authorized and is binding on the Fund and the Trustees.

Section 9. DEPOSIT AND WITHDRAWAL OF FUNDS. All moneys received by the Trustees hereunder shall be deposited by them in such bank or banks as the Trustees may designate for that purpose and all withdrawals of moneys from such account or accounts shall be made only by checks signed by the Trustees authorized in writing by the Trustees to sign such checks. Except as hereinafter provided, no check shall be valid unless signed by two persons of whom one shall be a Union Trustee and one an Employer Trustee.

The Employer Trustees shall designate in writing the name or names of any Employer Trustee who may sign checks in the above manner, and the Union Trustees shall likewise designate in writing the name or names of the Union Trustees who may sign checks in the above manner.

The Trustees may, in their discretion, designate and authorize an Employee of the Fund to sign checks upon such separate and specific bank account or bank accounts as the Trustees may designate and establish for that purpose.

Section 10. SURETY BONDS. The Trustees and any employees of the Trustees who are empowered and authorized to sign checks as aforesaid shall each be bonded by a duly authorized surety company in such amounts as may be determined from time to time by the Trustees. Each such employee employed by the Trustees who may be engaged in handling moneys of the Trust Fund shall also be bonded by a duly authorized surety company in the same manner. The cost of the premium on such bonds shall be paid out of the Fund.

Article V. CONTRIBUTIONS TO THE FUND

Section 1. RATE OF CONTRIBUTIONS. In order to effectuate the purposes hereof, each Employer shall contribute to the Fund the amount required by the Collective Bargaining Agreement between the Local or District Lodge of the International Association of Machinists, or the IAM, and the Employer. The rate of contribution shall at all times be governed by the aforesaid Collective Bargaining Agreement then in force and effect, together with any amendments, supplements or modifications thereto.

Section 2. EFFECTIVE DATE OF CONTRIBUTIONS. All contributions shall be made effective as required by the Collective Bargaining Agreement and shall continue to be paid as long as the Employer is so obligated pursuant to the Collective Bargaining Agreement with the Local or District Lodge of the International Association of Machinists, or the IAM, or until he ceases to be an Employer within the meaning of this Agreement and Declaration of Trust as hereinafter provided.

Section 3. MODE OF PAYMENT. All contributions shall be payable to the I.A.M. Labor-Management Pension Fund and shall be paid in the manner and form determined by the Trustees.

Section 4. DEFAULT IN PAYMENT. Nonpayment by an Employer of any contributions when due shall not relieve any other Employer of his obligation to make payment. In addition to any other remedies to which the parties may be entitled, an Employer in default for thirty (30) working days may be required at the discretion of the Trustees to pay such reasonable rate of interest as the Trustees may fix on the money due to the Trustees from the date when the payment was due to the date when payment is made, together with all expenses of collection incurred by the Trustees. The Trustees may take any action necessary to enforce payment of the contributions due hereunder, including, but not limited to, proceedings at law and in equity.

Section 5. REPORT ON CONTRIBUTIONS. The Employers shall make all reports on contributions required by the Trustees. The Trustees may at any time have an audit made by independent certified public accountants of the payroll and wage records of any Employer in connection with the said contributions and/or reports.

Article VI. PLAN OF BENEFITS

Section 1. BENEFITS. The Trustees shall have full authority to determine all questions of nature, amount and duration of benefits to be provided, based on what it is estimated the Fund can provide without undue depletion or excessive accumulation, provided, however, that no benefits other than pension or annuity benefits may be provided for or paid under this Agreement and Declaration of Trust.

Section 2. RECIPIENTS OF BENEFITS. Benefits may be provided in accordance with Section 1 of this Article for any Employee of a contributing Employer covered by a collective bargaining agreement between the Employer and the Local or District Lodge, or the IAM, or other classes of employees defined in Article 1, Section 2(a) (b) or (c).

Section 3. ELIGIBILITY REQUIREMENTS FOR BENEFITS. The Trustees shall have full authority to determine eligibility requirements for benefits and to adopt rules and regulatons settng forth same which shall be binding on the employees and their beneficiaries.

Section 4. METHOD OF PROVIDING BENEFITS. The benefits shall be provided and maintained by such means as the Trustees shall in their sole discretion determine.

Section 5. WRITTEN PLAN OF BENEFITS. The detailed basis on which payment of benefits is to be made pursuant to this Agreement shall be specified in writing by appropriate action of the Trustees subject, however, to such changes or modifications by the Trustees from time to time as they in their discretion may determine. All such changes or modifications shall similarly be specified in writing by appropriate resolution of the Trustees.

Section 6. APPROVAL OF PLAN. The Pension Plan adopted by the Trustees shall be such as will qualify for approval by the Bureau of Internal Revenue, U. S. Treasury Department, and will continue as a qualified Plan, so as to insure that the employer contributions to the Pension Fund are proper deductions for income tax purposes. The Trustees are authorized to make whatever applications are necessary with the said Bureau of Internal Revenue to receive and maintain approval of the Pension Plan.

Section 7. LIMIT OF EMPLOYER'S LIABILITY. The financial liability of any Employer shall in no event exceed the obligation to make contributions as set forth in its applicable collective bargaining agreement with the Local or District Lodge of the International Association of Machinists, or the IAM.

Article VII. MEETING AND DECISIONS OF TRUSTEES

Section 1. OFFICERS OF TRUSTEES. The Trustees shall meet as promptly as possible after the execution of this Agreement and Declaration of Trust and elect a Chairman and a Co-Chairman from among the Trustees. The terms of such officers shall commence on the date of their election and continue to the end of the calendar year or until his or their successors have been elected. At no time shall both offices be held by Trustees designated by the same parties.

Section 2. MEETINGS OF TRUSTEES. Meetings of the Trustees shall be held at such place or places as may be agreed upon by the Chairman and Co-Chairman and may be called by the said officers upon ten (10) days' written notice to the other Trustees and may be held at any time without such notice if all the Trustees consent thereto in writing.

Section 3. ACTION BY TRUSTEES WITHOUT MEETING. Action by the Trustees may also be taken by them in writing without a meeting, provided, however, that in such cases there shall be unanimous written concurrence by all of the Trustees.

Section 4. QUORUM. In all meetings of the Trustees, two Trustees shall constitute a quorum for the transaction of business providing that there is at least one Employer Trustee and one International Union Trustee present at the meeting and at all meetings the Employer Trustees and International Union Trustees shall have equal voting strength. The vote of any absent Trustee shall be cast by the Trustee present, designated by the same party with the same force and effect as if such absent Trustee were present.

Section 5. MAJORITY VOTE OF TRUSTEES. All action by the Trustees shall be by majority decision of the Employer and International Union Trustees. Such majority vote shall govern not only this Article but any portion of this Agreement and Declaration of Trust which refers to action by the Trustees. In the event any matter presented for decision cannot be decided because of a tie vote, or because of the lack of a quorum at two consecutive meetings, the matter may then be submitted to arbitration as hereinafter provided.

Section 6. MINUTES OF MEETINGS. The Trustees shall keep minutes of all meetings but such minutes need not be verbatim. Copies of the minutes shall be sent to all Trustees.

Article VIII. IMPARTIAL ARBITRATOR

Section 1. APPLICATION OF THIS ARTICLE. Either the Employer or the International Union Trustees may apply to the American Arbitration Association in the area in which the Fund maintains its principal office for the designation of an arbitrator who will decide any disputes among the Trustees or any other matter submitted to arbitration in accordance with the provision of Article VII, Section 5. The decisions of the arbitrator shall be final and binding.

Section 2. EXPENSES OF ARBITRATION. The cost and expense incidental to any arbitration proceedings, including the fee, if any, of the impartial arbitrator, shall be proper charge against the Fund and the Trustees are authorized to pay such charges.

Article IX. EXECUTION OF AGREEMENT AND DECLARATION OF TRUST

Section 1. COUNTERPARTS. This Agreement and Declaration of Trust may be executed in any number of counterparts. The signature of a party on any counterpart shall be sufficient evidence of his execution thereof.

Section 2. WRITTEN INSTRUMENTS. An Employer may adopt and become a party to this Agreement and Declaration of Trust by executing a counterpart hereof or by executing any other written instrument wherein he agrees to participate in the Fund pursuant to the terms of this Agreement and Declaration of Trust.

Article X. AMENDMENT TO AGREEMENT AND DECLARATION OF TRUST

Section 1. AMENDMENT BY TRUSTEES. This Agreement and Declaration of Trust may be amended in any respect from time to time by the Trustees, provided that each amendment shall be duly executed in writing by the Trustees and annexed hereto. As to any amendment, the Trustees in their discretion shall have full power to fix the effective date thereof. Notice of the proposed amendment shall be given at the time the notice of meeting is given, unless waived by the Trustees.

Section 2. LIMITATION OF RIGHT TO AMENDMENT. No amendment may be adopted which will alter the basic principles of this Agreement and Declaration of Trust, be in conflict with the Collective Bargaining Agreements with the International Union, Local and District Lodges, as such Agreements affect contributions to the Fund created hereunder, be contrary to the laws governing trust funds of this nature, or be contrary to any agreements entered into by the Trustees.

Section 3. NOTIFICATION OF AMENDMENT. Whenever an amendment is adopted in accordance with this Article, a copy thereof shall be distributed to all Trustees, and the Trustees shall so notify all necessary parties and shall execute any instrument or instruments necessary in connection therewith.

Article XI. TERMINATION OF TRUST

Section 1. BY THE TRUSTEES. This Agreement and Declaration of Trust may be terminated by an instrument in writing executed by all the Trustees when there is no longer in force and effect a collective bargaining agreement between any Employer and any Local or District Lodge of the International Association of Machinists, or the IAM, requiring contributions to the Fund.

Section 2. BY THE PARTIES. This Agreement and Declaration of Trust may be terminated by an instrument in writing duly executed by the Employers and the International Union.

Section 3. PROCEDURE ON TERMINATION. In the event of the termination of this Agreement and Declaration of Trust, the Trustees shall apply the Fund to pay or to provide for the payment of any and all obligations of the Fund and shall distribute and apply any remaining surplus in such manner as will in their opinion best effectuate the purpose of the

Fund; provided, however, that no part of the corpus or income of said Fund shall be used for or diverted to purposes other than for the exclusive benefits of the employees, their families, beneficiaries, or dependents, or the administrative expenses of the Fund or for other payments in accordance with the provisions of the Fund. Under no circumstances shall any portion of the corpus or income of the Fund, directly or indirectly, revert or accrue to the benefit of any contributing Employer or Local or District Lodge of the International Association of Machinists, or the IAM.

Section 4. NOTIFICATION OF TERMINATION. Upon termination of the Fund in accordance with this Article, the Trustees shall forthwith notify each Local and District Lodge of the International Association of Machinists, the IAM, and each Employer and also all other necessary parties; and the Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust.

Article XII. MISCELLANEOUS PROVISIONS

Section 1. TERMINATION OF INDIVIDUAL EMPLOYERS. An Employer shall cease to be an Employer within the meaning of this Agreement and Declaration of Trust when he is no longer obligated, pursuant to a Collective Bargaining Agreement with Local and District Lodges of the International Association of Machinists, and the IAM, to make contributions to this Pension Fund, or, as determined by the Trustees, when he is delinquent in his contributions or reports to the Pension Fund.

Section 2. VESTED RIGHTS. No employee or any person claiming by or through such employee, including his family, dependents, beneficiary and/or legal representative, shall have any right, title or interest in or to the Fund or any property of the Fund or any part thereof except as may be specifically determined by the Trustees.

Section 3. ENCUMBRANCE OF BENEFITS. No moneys, property or equity, of any nature whatsoever, in the Fund, or policies or benefits or moneys payable therefrom, shall be subject in any manner by any Employee or person claiming through such Employee to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, mortgage, lien or charge, and any attempt to cause the same to be subject thereto shall be null and void.

Section 4. SITUS. The City of Washington, District of Columbia, shall be deemed the situs of the Trust Fund created hereunder. All questions pertaining to validity, construction and administration shall be determined in accordance with the laws of the District of Columbia.

Section 5. CONSTRUCTION OF TERMS. Wherever any words are used in this Agreement and Declaration of Trust in the masculine gender they shall be construed as though they were also in the feminine or neuter gender in all situations where they would so apply, and wherever any words are used in this Agreement and Declaration of Trust in the singular form they shall be construed as though they were also used in the plural form in all situations where they would so apply, and wherever any words are used in this Agreement and Declaration of Trust in the plural form they shall be construed as though they were also used in the singular form in all situations where they would so apply.

Section 6. CERTIFICATION OF TRUSTEES' ACTIONS. The Chairman and Co-Chairman of the Trustees may execute any certificate or document jointly on behalf of the Trustees and such execution shall be deemed execution by all the Trustees. All persons having dealings with the Fund or with the Trustees shall be fully protected in reliance placed on such duly executed document.

Section 7. NOTIFICATION TO TRUSTEES. The address of each of the Trustees shall be that stated on the signature page of this Agreement and Declaration of Trust. Any change of address shall be effected by written notice to the Trustees.

Section 8. SEVERABILITY. Should any provision in this Agreement and Declaration of Trust or in the Plan or rules and regulations adopted thereunder or in any collective bargaining agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the provision herein and therein contained unless such illegality shall make impossible or impractical the functioning of the Trust and the Plan, and in such case the appropriate parties shall immediately adopt a new provision to take the place of the illegal or invalid provision.

IN WITNESS WHEREOF, the undersigned do hereunto cause this instrument to be duly executed for and on behalf, individually, and by virtue of their offices as thereunto duly authorized.

FOR THE EMPLOYERS	FOR THE UNION
EMPLOYER TRUSTEE	UNION TRUSTEE
....	....

The undersigned employer having entered into a Collective Bargaining Agreement with Lodge No. ......, affiliated with the International Association of Machinists, AFL-CIO, which provides among other things for contributions to the I.A.M. Labor-Management Pension Fund, agrees to be bound by the foregoing Agreement and Declaration of Trust and hereby irrevocably designates as its representative on the Board of Trustees, such Trustee or Trustees as are named in said Agreement as Employer Trustees together with their successors selected in the manner provided in the within Agreement and agrees to be bound by all actions taken by said Employer Trustees pursuant to the said Agreement and Declaration of Trust.

Dated: ....

....

By ....

FOR PLANT OR TERMINAL LOCATED AT:

....
Street Address

....
City State

APPENDIX G

I.A.M. LABOR-MANAGEMENT PENSION FUND

"Standard Form of Participation Agreement"

The undersigned Employer and I.A.M. Lodge represent that the only agreement between the said I.A.M. Lodge and Employer regarding pensions or retirement for employees covered by the Collective Bargaining Agreement between the I.A.M. Lodge and the Employer is as follows:

1. (a) Commencing with the 1st day of ...., 19...., and for the duration of the current Collective Bargaining Agreement between the said I.A.M. Lodge and Employer and any renewals or extensions thereof, the Employer agrees to make payments to the I.A.M. Labor-Management Pension Fund for each employee covered by the said Collective Bargaining Agreement, as follows:

For each day or portion thereof, for which an employee receives pay, the Employer shall make a contribution of ......¢ to the above named Pension Fund, but not more than $.................. per week for any one employee (5 x daily rate).

For purposes of this article, each day paid for, as well as days of paid vacation, paid holidays and other days for which pay is received by the employee, in accordance with the Collective Bargaining Agreement, shall be counted as days for which contributions are payable.

(b) The payments to the Pension Fund required above shall be made to the I.A.M. Labor-Management Pension Fund which was established under an Agreement and Declaration of Trust dated May 1, 1960, a copy of which has been signed by the Employer in the place provided at the end of such agreement as attached hereto.

(c) It is agreed that the Pension Plan adopted by the Trustees of the said Pension Fund shall at all times conform with the requirements of the Internal Revenue Code so as to enable the Employer at all times to treat contributions to the Pension Fund as a deduction for income tax purposes.

(d) It is agreed that all contributions shall be made at such time and in such manner as the Trustees require; and the Trustees shall have the authority to have an independent Certified Public Accountant audit the payroll and wage records of the Employer for the purpose of determining the accuracy of contributions to the Pension Fund.

(e) If an Employer fails to make contributions to the Pension Fund within twenty days after the date required by the Trustees, the I.A.M. Lodge shall have the right to take whatever steps are necessary to secure compliance with this Article, any provision of the Collective Bargaining Agreement to the contrary notwithstanding, and the Employer shall be liable for all costs for collecting the payments due together with attorney's fees and such penalties which may be assessed by the Trustees. The Employer's liability for payment hereunder shall not be subject to the Grievance Procedure or arbitration provided under the Collective Bargaining Agreement.

2. The parties agree that this Participation Agreement shall be considered a part of the Collective Bargaining Agreement between the I.A.M. Lodge and the Employer and that no other agreement between the Employer and I.A.M. Lodge regarding pensions or retirement is in effect or will be effective during the period covered by the said Collective Bargaining Agreement.

3. The expiration date of the present Collective Bargaining Agreement between the I.A.M. Lodge and the Employer is ...., 19...... Copies of any renewal or extension agreements will be promptly furnished to the Pension Fund office and, if not consistent with this Participation Agreement, can be used by the Trustees as the basis for termination of participation of the Employer.

FOR THE I.A.M. LODGE:

. . . .
(Insert Name and Number of Lodge)

By . . . .
Authorized Officer

FOR THE EMPLOYER:

. . . .
(Insert Name of Employer)

Address . . . .

By . . . .
Authorized Officer

For plants located at:

. . . .

. . . .

. . . .

Date . . . . 19. . . . .

APPENDIX H

Extract from IAM Executive Council Policy Statement on

Administration of Health and Welfare Funds

When a salaried union official serves as an employee representative or trustee in the administration of a health and welfare plan, such service should be considered as one of the functions regularly expected of him in his capacity of a union official, and not as an extra duty justifying additional compensation from the fund. The payment of any salary, fees, commissions or gratuities to officials already receiving full-time pay from the union should be expressly prohibited.

Union officials exercising responsibility or influence in administering welfare plans or placing insurance contracts should be completely free of compromising ties with outside agencies or persons, such as insurance carriers, agents, brokers, consultants, and others—doing or seeking to do business with the fund. Such ties cannot be reconciled with the primary responsibility of the officials to the welfare of the member-beneficiaries of the fund. At best, they produce a conflict of interest. At worst, they are an invitation to corruption. Express provisions should be made for the removal of any union official found to be using such ties to his own personal advantage, or to have accepted inducements, benefits or favors of any kind from such outside agencies or persons.

The same restrictions and remedial action should apply to other trustees of the fund, whether employer or neutral. If an insurance carrier or agent is involved in an improper transaction, the union should press action against the carrier or agent before appropriate state insurance authority, with a view to obtaining the cancellation of the carrier's or agent's right to do business in the state. If an employer is involved, the improper payment should be reported to the Federal Bureau of Internal Revenue.

Complete records of the financial operation of the fund should be maintained in accordance with the best accepted accounting practices, with regular audits by independent certified public accountants, not less than annually and preferably semi-annually. All accounts and audit reports should be open to inspection by any interested party, and a full annual report of fund operations should be provided to all member-beneficiaries.

Copies of the audit report and the reports to the member-beneficiaries should be provided to the General Vice-President in whose jurisdiction the fund operates, and to the Grand Lodge.

The investment of welfare fund reserves in the business of any contributing employer, or in any bank, insurance carrier or agency doing business with the fund, or in any enterprise in which any trustee, employee or agent of the fund, of the union or of a contributing employer is interested, should be clearly prohibited.

All refunds made by the insurance carrier or its agent should be viewed as fund property and used to increase the degree of protection provided by member-beneficiaries, or, if the fund is on a contributory basis, to reduce the amount of their contributions.

INTERNATIONAL ASSOCIATION OF MACHINISTS

1300 Connecticut Ave., Washington 6, D. C.

EXECUTIVE COUNCIL

International President	*General Secretary-Treasurer*
A. J. HAYES	ELMER E. WALKER

General Vice Presidents

Roy M. Brown	E. R. White	Harold J. Gibson
P. L. Siemiller	George P. Schollie	Joseph W. Ramsey
J. C. McGlon	Fred H. Coonley	George L. Watkins