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Proceedings of the

1981 Spring Meeting

April 29-May 1, 1981

Huntington, West Virginia

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INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
7226 Social Science Building, University of Wisconsin
Madison, Wisconsin 53706 U. S. A.

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INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
7226 Social Science Building, University of Wisconsin
Madison, WI 53706 USA. Telephone 608/262-2762

Industrial Relations Research Association Spring Meeting

April 29-May 1, 1981 — Huntington, West Virginia

Preface

PREFACE

1981 Spring Meeting
Industrial Relations Research Association

Following the tradition of past IRRA Spring Meetings, the program for the 1981 sessions in Huntington, West Virginia, focused on both regional industrial relations problems and those that presently face all sections of the nation. Unique to this program was that the host West Virginia chapter shared program assignments with two neighboring IRRA groups—the Tennessee and the Greater Cincinnati IRRA chapters.

The Tennessee chapter's contribution was a series of four papers on "Developments in Public-Sector Bargaining and Dispute Resolution," two of which described TVA experience in their region. The papers presented in the session organized by the Greater Cincinnati chapter examined challenges to labor and management in this decade—organizing, bargaining power, contract costing, and the handling of alcohol and mental illness cases in arbitration. The host chapter's presentation was a comprehensive and critical review of "Twenty Years of Manpower Training and Economic Development" in four papers that analyzed national, regional, and local experience.

In the two other sessions, "Industrial Relations in the South" and "Industrial Relations in the Coal Industry," topics of special regional concern, the speakers speculated on the industrial relations aspects of the migration of plants and population to the Sun Belt and on the current uncertainties in the UMW-BCOA bargaining relationship.

The luncheon speaker, Lawrence Barker, West Virginia Commissioner of Labor, addressed the issue of "runaway plants" and called for legislation that would enable "this country . . . to cope with plant closings and their disastrous effects on workers, communities, and small businesses."

The Association is grateful to Richard W. Humphreys, president of the West Virginia Chapter, and other officers and members of the Executive Board who were efficient planners and gracious hosts for the 1981 Spring Meeting. Our thanks also go to those who prepared and presented stimulating papers. And again this year we thank LABOR LAW JOURNAL for agreeing to publish our Spring Proceedings.

BARBARA D. DENNIS
Editor, IRRA

There Is a Better Way

By LAWRENCE BARKER

West Virginia Commissioner of Labor

SERIOUS PROBLEMS face the economy today, and the traditional approaches are no longer effective. My remarks are confined to one area that is presenting serious problems for the workers in America, their families, and their communities. This problem is sometimes referred to as "runaway plants," but it is much broader than that.

Many, many years ago James Madison wrote in *The Federalist,* Number 10, something that serves as a basis for explaining the nature of this problem. He said, "The diversity in the faculties of men, from which the rights of property originate, is not less an unsuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and view of the respective proprietors, ensues a division of society into different interests and parties. . . . The most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are debtors fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lessor interests, grow up of necessity in civilized nations and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operation of government."

It is impossible to sit quietly by as government and corporate economists predict a rise in unemployment and prescribe recessionary fiscal policies as the best solution to inflation. Beyond the marketplace, the boardroom, and the rise and fall of economic indicators lie human lives and individual tragedies.

Unemployment in this decade is structural. That is, it is not related to the worker's productivity. Productivity is largely due to advances in technology. There is no longer an escape valve. The Industrial North no longer exists.

A plant closes down and several hundred workers lose their jobs through no fault of their own as corporations search worldwide for cheaper labor. The community and the work force are in deep trouble.

Rather than expanding, the American economy is rapidly losing industries and narrowing its industrial base. We must continue to be a diversified state with a broad and firm industrial base. We cannot stake our future on the success or failure of a handful of industries, nor can we slide into an economy that provides only services while other states and other countries provide the manufactured goods.

I appreciate this opportunity to present my views on the serious economic dislocation problems of plant closings and the resulting impact on workers and local communities.

Impact of Closings

Reflecting a strong concern on the subject of plant closings, the AFL-CIO adopted a policy statement at the December 1979 convention. That statement, "Plant Closings and Relocations," points to the sudden plant closings in this country that are occurring with alarming frequency. These closings affect the large industrial cities as well as the small towns and rural areas. One popular myth is that the problem of capital mobility is confined to small regions, particularly in the nation's Frost Belt, and that it causes only limited temporary damage. The reality of the situation, shown by verifiable research, is that this simply is not the case.[1]

"The impact on particular communities can be devastating in economic, social, and personal terms. In urban areas, which often already have high rates of joblessness, plant shutdowns aggravate the unemployment problem. An estimated 900,000 jobs have been lost in the [N]ortheast and [M]idwest alone in the last ten years (1970-1980). The local tax base is further weakened; suppliers and retail stores may be forced to cut back on their operations or go out of business."[2] All of us must be concerned with the effects of plant closings and runaway industries on entire communities whose ability to function and deliver services is sorely impaired by millions of dollars in payroll losses, loss of taxable land, and idle plant equipment.

Many studies have shown that unregulated capital mobility devastates the economic base of whole regions when productive facilities shut down, and it creates not only serious unemployment but also terrible physical and emotional trauma for the victims of those shutdowns.

Dr. Harvey Brenner of Johns Hopkins University, who compared employment and health data from dozens of U. S. cities, found a frightening correlation between joblessness and an increase in mortality from heart attacks, liver disease, suicide, and other stress-related ailments. Professor Brenner looked at a 1.4 percent rise in American unemployment in 1970 and determined that it cost more than 51,000 deaths.[3] This fact can be described as the true extent of the killer disease—a disease called unemployment. As this kind of information becomes available to governments who are in a position of decisionmaking, they must face the consequences of allowing high unemployment. The consequences will be measured in life-and-death terms. High unemployment and high inflation are two of the most graphic indicators of national economic failure and human hardship in the United States. "Unemployment represents a tragic wast-

[1] Barry Bluestone and Bennett Harrison, *Capital and Communities: The Causes and Consequences of Private Disinvestment* (Washington, D. C.: The Progressive Alliance, 1980).

[2] AFL-CIO Convention, 1979.

[3] Brenner, "Reckoning," Granada TV Films, England.

age of the nation's greatest asset, its peoples' creative and productive power."[4]

Workers who lose their jobs because of plant closings may not be able to find new ones, or they may be forced to accept work at reduced pay. Family life is often disrupted, and the physical health of displaced workers declines at a rapid rate. After a 13-month study, it was found that suicide rates among workers displaced by plant closings is almost 30 times the national average.[5]

In 1979, West Virginia had seven plant closings, displacing 2,192 workers. In 1980, 16 plants closed in West Virginia, displacing 3,584 workers.[6]

Legislation Needed

Senator Colombo introduced legislation in the legislature's most recent session to deal with this grave economic and social problem. His bill would have created a community readjustment act that established an employee and community readjustment fund under the Governor's Office of Economic and Community Development. It would have required notification by employers of plant closings as well as relocations or reductions in operations, and it would have provided for payments and other responsibilities of employers. The bill failed to pass in this session.

Although this legislation, if reintroduced, is subject to change and improvement in upcoming legislative sessions, there is clear evidence that it is needed. It is crucially important that employers be required to recognize their responsibilities to their employees and to the communities in instances of plant shutdowns. They must provide protection for workers and their families, for they are the ones who must suffer the consequences of such corporate action.

"The devastating effect on workers and their communities from unannounced, sudden plant shut downs [sic] and relocations could be eased by legislation to require: advance notification, issuance of an economic impact statement, federal investigation, and basic employee protection of transfer rights, relocation expenses, severance pay, continuation of pension and health care benefits, and job retraining."[7] This is the view expressed by the AFL-CIO on proposed national legislation.

Playing on fears of job loss, corporations pit one community against another, one state and region against another, in the endless pursuit of cheaper labor, tax abatement, and other corporate advantages. This industrial tactic does, in fact, point to the need for national legislation in order to lessen the competition of states without protective legislation for industries.

Bills to deal with plant closings were introduced in 19 state legislatures in 1980.[8] All this action at the state level is praiseworthy, but the problem is too big to be handled effectively through state legislation only. The problem is national in scope. The areas that are gaining industry now will be the victims of plant closings in the future as corporations move on to more profitable climes. I am not against profits, of course. Everybody profits from them. But I am opposed to profits made at the expense of workers, their families, and whole communities. Workers in every state of this union must have protection. The protection must not be limited to a few states or regions.

Meeting the Challenge

An "early warning provision" to protect workers from sudden plant closure

[4] Lucas Aerospace Combine Shop Steward Committee's Alternative Corporate Plan, Mahoning Valley, Ohio, 1976.

[5] M. H. Brenner, *Mental Illness and the Economy* (Cambridge, Mass.: Harvard University Press, 1975), p. 18.

[6] Governor's Office of Economic and Community Development, "Closures, 1979" and "Closures, 1980."

[7] AFL-CIO Resolution, 1979.

[8] Bluestone and Harrison, cited at note 1.

has long been standard in many union contracts. These kinds of "early warnings" make it possible to meet some of the problems of affected workers. The United Food and Commercial Workers' contract with Armour, which provides six months' advance notice, is an example of such a system. With early notice and labor-management cooperation, workers can look for or train for a new job, with the same employer in the same plant or at another location. Employer-paid retraining is an important part of any innovative program. Thus, collective bargaining has an important role in helping to meet the challenge of economic dislocation.

In West Virginia, there is a classic example of failure to meet this challenge. Houdaille Industries, which manufactured automobile bumpers here in Huntington, faced a severe economic threat because of new and costly federal regulations. In the spring of 1978, the company and its union, with the help of the West Virginia Labor-Management Advisory Council, gained relief from the regulations, temporarily saving more than 500 jobs in that plant. However, in December 1980 Houdaille closed its Huntington operation, laying off its entire work force of 450 employees. Most of them remain unemployed within the geographic area today. Many are drawing the last bits of unemployment compensation and are facing foreclosure notices on their homes.

Houdaille is one of the nation's largest machine and tool manufacturing companies. Headquartered in Fort Lauderdale, Florida, it operates plants throughout the nation. Although the Huntington workers were covered by a collective bargaining agreement, the contract contained no retraining agreement and no relocation clause.

These human and social problems of economic dislocations and plant closings are too big to be handled effectively by collective bargaining alone. Workers and local communities need legislation to assure that they will be protected from hasty, unilateral action by employers who are laying off major segments of their work forces or closing down plants. While it may seem feasible from an accountant's viewpoint to balance the books by laying off a few hundred workers, the loss for the nation as a whole may be considerable.

Giant absentee profit-maximizing corporations are taking over once locally owned businesses. Contrary to popular belief, evidence shows that companies will and actually do close profitable branch plants or previously acquired businesses.[9] This is done for a variety of reasons, many of which are related to the nature of centralized management and control. Control of operations from a distant home office actually creates the unprofitability of a plant and leads to an eventual shutdown.

There is nothing radical or unusual about legislation requiring reasonable notice and other worker and community protections. Legislation is already on the books in other countries where private business firms, including affiliates and subsidiaries of many American firms, find that they can live with laws that require such notice and other protections for workers and communities against the adverse effects of economic dislocations and shutdowns. Among such countries are Sweden, the United Kingdom, France, Greece, and the Netherlands.[10] We are not concerned with stopping capital mobility but rather with how to assure that the transfer of capital from one location to another will not result in riding roughshod over the needs of the people and communities involved.

The closing of a single plant can often wreck an entire community. Last

[9] Bluestone and Harrison, p. 199.

[10] AFL-CIO Resolution, 1979.

year an Ohio steelworker commented, "There may be plant closings in places. In Youngstown, we had a town closing."[11] He was referring to the action taken by the U. S. Steel Corporation when it shut down 16 mills nationwide in 1979, at a cost of 13,000 jobs.

Human Cost and Suffering

The tremendous human cost and suffering behind this statistic is appalling. The younger, more mobile workers must leave the community to seek work elsewhere, while the older and less educated workers remain behind on unemployment rolls and, eventually, on the welfare rolls.

One of the saddest aspects of a plant closing is the plight of the older workers who lose their jobs. Consider workers with little or no formal education who have put in 30 years in a plant. In that time, the workers have tried, in the best American tradition, to provide their families with the things they themselves may not have had—homes of their own and college educations for their children. Then, a plant closing threatens foreclosure on their homes and makes it impossible to keep up tuition payments. Failure to pay medical bills and meet other expenses creates undue stress on the family. This human tragedy is being repeated time and time again.

All states must have protective legislation that will stem the tide of runaway shops. Common in the corporate world these days is overmanagement of subsidiaries, milking them of their profits, subjecting them to impossible performance standards, and interfering with local decisions about which the parent organization is poorly informed. The parent company then quickly closes down operations when other, more profitable opportunities appear. I speak of the economic reform that will enable the plants of troubled industries to survive where they are.

Many examples come to mind. One could cite the human costs of Zenith's decision to move its television operations from Sioux City, Iowa, to Mexico and Taiwan. Multinationals have no loyalty to any one place, and there are no laws to protect workers from the foreign production of these American firms.

It would be possible to dwell on similar decisions of RCA and the effects it had in New Jersey when the company opened a $20 million plant in Memphis, Tennessee, in 1966. Less than five years later this ultramodern plant was scrapped, and RCA relocated its TV production in Taiwan.

I would like to speak of an example closer to home. In 1977, the General Instrument Company, which made transistors for RCA, closed its small facility in Beckley, West Virginia, giving the workers only a two-week notice of the decision. During its years of operation at Beckley, management had made the workers aware of the fact that, if they did organize and gain union representation, the plant would be closed. Following a strike that lasted for almost three months in 1976, the parties negotiated a collective bargaining agreement. Within less than 12 months, the plant was closed and relocated in Taiwan.

What about those 300 workers left unemployed in Beckley? They had no health benefits beyond workers' compensation until they were unionized and agreement was reached on a hospitalization plan, but the plan ceased 30 days after the shutdown. According to a former plant employee, many of the former workers have lung disease allegedly caused by their having to scrape mica without safety precautions being

[11] *U.S. News and World Report,* May 1980.

taken. Other former plant workers who were exposed to excessive noise now are suffering from deafness.

Who will employ these workers now? Who will provide the necessary medical care for those who were affected by the work environment? How can these people start over in some other region of the nation? How can any of them afford to start elsewhere in an economy of double-digit inflation, with cuts in pay no doubt, and then the loss of pension rights, group insurance, life insurance, longstanding vacation entitlements, and more? That is all gone.

They often face the choice, then, of moving or remaining in an area and suffering real loss from previous levels of economic attainment. People are reluctant to move; relocation represents an incredible challenge for many individuals. Studies show that many people not only are reluctant to go from the Frost Belt to the Sun Belt but that a move of even a few hundred miles can be shattering to many who had to leave familiar settings for a savage-appearing [sic] city. It is even costlier to people to be weekend husbands or wives, to be without the family, and to live in temporary housing in new surroundings.[12] Surely, then, we must be concerned with the choking off of employment opportunities to all citizens, young and old, in every region of our nation.

A now familiar story of Appalachian people who migrated north in search of work is vividly told in *Magazine of Appalachian Women*, published in Huntington, West Virginia.[13] During the search for employment, rural Appalachians struggled to survive in unfamiliar, frightening surroundings. Most of them failed to gain access to the urban opportunity structure and ended up as part of the poor and low-income population of the inner city. These newcomers to the city had to learn to deal with poor living conditions, slum landlords, overpriced and inferior food, "ripoff" furniture stores, cheap and second-hand clothing, and, always, people crowded together. This same or similar terror-filled experience has been described by many writers and, more recently, in the film, "Pride of Jesse Hallam," starring Johnny Cash, shown in March on CBS-TV.

The book *The Hidden Injuries of Class*[14] explains that America encourages us to hold ourselves responsible for what happens to us. "It isn't capitalism. It isn't federal favoritism to regions. It isn't corporate board decisions. It's probably some flaw in you and me that explains our plight. We picked the wrong plant to work in; we picked the wrong industry to identify with; we didn't get out in time; people told us ten years ago we should leave. The handwriting was on the wall."

When all that nonsense comes together, a laid-off worker can derive a profound sense of guilt from it—a notion that he or she has let the family down. This sense of guilt among those caught by plant closings is something with which both humanists and capitalists should concern themselves.

A feeling of loneliness, especially a sense of abandonment, often accompanies a plant shutdown. If there is guilt, if there is self-blame, then the sense of loneliness and abandonment may be very hard for the workers to handle. The connections between plant closings and heart disease and other ailments has been established by scientific data. Also found was an increase in drinking—hard drinking—and a tragic increase

[12] Arthur Shostak, "The Human Cost of Plant Closings," *AFL-CIO Federationist* (August 1980).

[13] *Magazine of Appalachian Women* (September/October 1977), p. 12.

[14] Jonathan Cobb and Richard Sennett, *The Hidden Injuries of Class.*

in self-destruction and inexplicable fatal accidents.[15]

The discipline necessary in employment gives many people the indispensable leverage they need to contain self-destructive habits and behavior. After a plant closes, however, they seem to find that the job loss severely weakens the control mechanisms they so desperately need. For these reasons, we see more and more men and women whose anxieties over losing their jobs may appear to be disproportionate; after all, it is "only a job." But these workers may believe that this loss could mean a return to former terrors that they have been self-regulating for years.

Conclusion

We must conclude that unemployment is a health crisis of tragic proportions. For people in this society, the loss of work represents not only financial insecurity, but also a bio-psychosocial assault. From Dr. Dumont's clinical expeperience we learn further that job loss is sensitively related to mental illness, sexual impotence, crime, alcoholism, and suicide and, if its influence is strong enough, to coronary artery disease, hypertension, peptic ulcers, and infectious disease. Dr. Dumont noted, too, that unemployment is a predictor of migration, divorce, and child abuse. Indeed, every indicator of human suffering appears to cluster among the unemployed.[16] Not only does Dr. Dumont agree, but he goes a step further to show that workers having the lowest levels of learning and skills development have the highest death rates when unemployed.[17]

A heightened political consciousness brought about by this kind of information will permit policymakers to reach a new level of understanding so that government can move to protect the well-being of all people, including workers. That understanding calls for a commitment to human welfare.

The legislation that I foresee as essential is in line with the national Williams-Riegle-Ford Plant Closing bills introduced in the U. S. Senate. If that legislation were enacted, this country would be able to cope with plant closings and their disastrous effects on workers, communities, and small businesses. National policy must require very early notification by any company planning to close a significant portion of a plant or to relocate it. The ideal legislation would give transfer rights to workers and would require severance pay for employees who could not transfer. In addition, the envisioned reform would require payment by a firm of a percentage of the resulting tax loss to affected communities. Means would be provided to investigate proposed closings and to offer financial and technical assistance aimed at keeping plants from closing down.

If there is any consciousness at all about the health consequences of unemployment, political decisionmakers will turn from their traditional role of nurturing vested interests and strive to protect and augment the well-being of all citizens. It is no longer sufficient for a government to be predicated on property rights to the neglect of human values.

As Frederick Douglass, black abolition leader, stated in 1857, "Those who profess to love freedom and yet deprecate agitation are men who want crops without plowing. This struggle may be a moral one, or it may be physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will." **[The End]**

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[15] Matthew P. Dumont, in *Psychiatric Opinion* (May/June 1977), pp. 9-44.

[16] *Ibid.*, p. 44.

[17] Brenner, cited at note 5, p. 27.

SESSION I

Developments in Public Sector Bargaining and Dispute Resolution

Alternative Impasse Procedures In the Public Sector*

By CLIFFORD B. DONN

University of Tennessee, Knoxville

TWENTY YEARS AGO, the range of dispute settlement procedures available to labor, management, and public policymakers for use in either the private or public sectors was extremely limited. Fundamentally, there were only three choices.

The first was to make no legislative provision for bargaining, except to ban strikes. This was the choice most commonly made with regard to the public sector.

Where bargaining was to be allowed, there were two further possibilities. The first was to allow strikes or other forms of economic pressure. This was and is the procedure of choice in the private sector. The second was compulsory arbitration, a procedure which was widely excoriated in this country and rarely used except in wartime.

However, the growth of public sector bargaining gave rise to pressures for more alternatives, and researchers and policymakers rushed to meet this need. The result is that, as we enter the 1980s, policymakers considering the adoption of dispute settlement procedures in the public sector are faced, if not with fifty-seven varieties, with a bewildering and growing set of alternatives.

It is the purpose of this paper to focus on some of the nonstrike procedures and to examine issues related to their relative effectiveness. The focus will be exclusively on terminal procedures, that is, the last procedure in what is universally a multistep process. This serves to understate the variety of choices available because the preceding steps can be combined in a variety of ways. For example, final-offer arbitration may or may not be preceded by factfinding. In addition, the rules governing particular procedures may vary. Parties

* Barry Hirsch, Tom Kochan, and Vince Crawford provided helpful comments.

in final-offer arbitration may or may not have to submit their offers at the commencement of the hearing, and the arbitrator may or may not have the authority to refer the dispute back to the parties for further negotiation. These issues will be given limited attention here, but no one should infer from this that they do not matter. On the contrary, they may be as important or even more important than the choice of terminal procedure.[1]

The principal theme of this paper can be stated succinctly. The design and implementation of strikeless impasse procedures in the public sector have suffered from a contradiction. The contradiction arises from the simultaneous existence of a desire to adopt procedures which encourage settlements, without binding third-party intervention, and a desire to avoid risk of a variety of types. The first desire has led to the adoption of procedures which contain substantial risks for the parties, while the second desire has led to the modification of those procedures (both in their design and in their use) so as to eliminate most of the risks. The result has been a set of highly complex hybrid procedures which seem to have little to recommend them.

Procedures in Use

It is appropriate to begin by summarizing the procedures which are in use in the public sector. This will be followed by a discussion of procedures which remain in the proposal stage.

A number of states still have no legislative framework for public sector bargaining, except for strike prohibitions in most cases. This has not prevented effective bargaining from developing in a few locations where the environment has been otherwise supportive (e.g., Ohio and Illinois), but it has largely precluded bargaining in more hostile environments (e.g., much of the South).[2]

In the recent past, open-ended procedures were popular. These may terminate in mediation or factfinding, but they share the characteristic that a public employer is ultimately allowed to impose whatever conditions it likes. This was the procedure used in New York State until the late 1970s, and it has recently been adopted for teachers in Tennessee.

Conventional compulsory arbitration has also found a home in a number of jurisdictions (e.g., Pennsylvania and New York). It comes in single-arbitrator and panel-with-partisan-arbitrators varieties. Generally, the statutes providing for such arbitration provide guidelines on the factors arbitrators should take into account (e.g., ability to pay, cost of living, and comparable workers' wages) in rendering awards. Thus arbitrators are not expected to engage in the pure split-the-difference behavior that an older generation of researchers feared.

Mediation-arbitration, or med-arb, was fashionable for a brief period in the early 1970s. It was hoped that, by acting as a mediator in earlier stages of negotiation, an arbitrator would have a better "feel" for any issues on which an award was later required. It was also hoped that this procedure would give mediators more clout.[3] Arbitration conducted by a

[1] Barry T. Hirsch and Clifford B. Donn, "Arbitration and the Incentive to Bargain: The Role of Expectations and Costs," unpublished paper, presents evidence that the financial costs imposed on parties for the use of a procedure may also be important.

[2] Thomas A. Kochan, *Collective Bargaining and Industrial Relations* (Homewood, Illinois: Richard D. Irwin, Inc., 1980), p. 452.

[3] Sam Kagel and John Kagel, "Using Two New Arbitration Techniques," *Monthly Labor Review*, Vol. 95, No. 11 (November 1972), pp. 11-13.

panel including partisan arbitrators often amounts in practice to med-arb.[4] The Wisconsin and Michigan systems contain elements of med-arb.

The last widely used procedure is final-offer arbitration, but this itself now comes in a multitude of varieties. It can operate with a single arbitrator or a panel. The final choice may be made on entire package offers (e.g., Wisconsin) or on each separate set of issues (e.g., Connecticut and Michigan). A factfinder's report may provide the arbitrator with an additional option (e.g., in Massachusetts, at least until this past November). Major procedural differences which have received only limited attention in the analytical literature include whether final offers are made at the beginning or at the end of the hearing and whether the arbitrator will attempt to mediate the dispute and, if so, what information he/she will give to the parties. These issues will be dealt with below.

Proposed Procedures

If some of the procedures in use seem rather unorthodox fellows, some of the ones which are not in use are even wilder and crazier guys. This author can take the credit or, more likely, the blame for some of the wildest and craziest.

The first is the statutory strike. In a statutory strike, the workers and employers each continue to produce while making a financial sacrifice designed to simulate strike costs. This procedure has never seemed very attractive to policymakers for a variety of reasons. It would probably make more sense in the private sector, and its original proponents conceived it in that context.[5]

Hoyt Wheeler has proposed "closed offer" in which concessions made by a party in prior bargaining need not affect its arbitration position and cannot be used to prejudice its case in arbitration. The idea is to remove strategic behavior aimed at the arbitrator from prior negotiations.[6] The difficulties that attend awardmaking in conventional arbitration procedures are untreated here and, indeed, may be worse because those parts of the negotiating history which shed most light on the true feelings of the parties are hidden from the arbitrator.

A set of proposals was made by this author with the intention of improving on final-offer arbitration. The idea was to retain the element of riskiness while reducing the all-or-nothing quality of awards that some analysts and arbitrators felt threatened the integrity of the awardmaking process.[7] Repeated-offer selection allows the arbitrator on rare occasions to reject both offers and to require two more. Modified final-offer arbitration allows the arbitrator on occasion to write his/her own award which can then be adopted with the mutual consent of the parties. Multiple-offer selection allows each party to make several final offers simultaneously. The "losing" party is then free to choose from among the "winning" party's offers.

Finally, this author and Barry Hirsch have recently proposed something called

[4] James L. Stern, et al., *Final-Offer Arbitration* (Lexington, Mass.: Lexington Books, 1975), pp. 180-182.

[5] Donald E. Cullen, *National Emergency Strikes* (Ithaca, New York: ILR Paperback No. 7, New York State School of Industrial and Labor Relations, 1968), pp. 102-103; Stephen H. Sosnick, "Non-Stoppage Strikes: A New Approach," *Industrial and Labor Relations Review*, Vol. 18, No. 1 (October 1964).

[6] Hoyt M. Wheeler, "Closed Offer: Alternative to Final Offer," *Industrial Relations*, Vol. 16, No. 3 (October 1977).

[7] Clifford B. Donn, "Games Final-Offer Arbitrators Might Play," *Industrial Relations*, Vol. 16, No. 3 (October 1977).

cost-formula arbitration. The notion behind cost-formula arbitration is to manipulate the financial costs of conventional arbitration in such a way as to encourage both concessions in prior bargaining and moderate positions in arbitration. This is accomplished by making the cost to the parties of using arbitration a function of the magnitude of the differences in their positions as presented to the arbitrator.[8]

Issues

There is neither space nor time to evaluate the alternative dispute settlement procedures presented here. Instead, a general framework for evaluation will be suggested and, based on that framework, some comments will be made about a number of the procedures.

It will be asserted here that there are three basic criteria for evaluating impasse procedures in the public sector.[9] This takes for granted the success of the procedures being evaluated in avoiding strikes.

The first is the incentive the procedure provides for voluntarily negotiating agreements. We must be careful to exclude negotiated agreements where the parties simply impose on themselves an outcome which an arbitrator was going to impose anyway.

The second criterion is the information that the parties are induced to provide to the third party (in those procedures involving a third party) and on which an award may be based. In general, this does not refer to the arguments or data produced in arbitration hearings. Rather, it refers to the incentives the procedure provides for the parties to moderate their demands because it is concessions by the parties that allow the arbitrator to make accurate estimates of the importance of various issues in dispute to the parties.

The third criterion is the kinds of outcomes, both negotiated and third-party-determined, which the procedure produces. This involves not only settlements that meet basic economic criteria and which do not involve waste (i.e., that leave no room for both parties to be made simultaneously better off), it also involves the way in which the procedure helps to shape the relationship of the parties.

Given these criteria and given the general acknowledgement that different localities will find that different procedures are best suited to their needs, there are still a number of procedures currently in use which appear to have few positive attributes to recommend them. Yet, for reasons which are difficult to understand, almost nowhere in the academic literature have the following criticisms been made.[10]

Open-ended procedures fail to provide adequate incentives to reach voluntary agreement. The only point in their favor is that they may be acceptable to legislatures that would otherwise confer no bargaining rights. Open-ended procedures have been most successful at fostering genuine bargaining where unions have been willing to ignore strike bans.

[8] Clifford B. Donn and Barry T. Hirsch, "Making Interest Arbitration Costly: A Policy Proposal," unpublished paper.

[9] Donn, cited at note 7, pp. 306-308, deals with these criteria in greater detail; it might be argued that there should be only one criterion—the quality of the outcomes which the procedure produces. However, in a world in which collective bargaining relationships are permanent and in which it is rarely possible to know if the parties would have negotiated that which a third party imposes on them, this single criterion oversimplifies the problems which face policymakers and parties.

[10] Vincent P. Crawford, "On Compulsory Arbitration Schemes," *Journal of Political Economy*, Vol. 87, No. 1 (February 1979), is an exception.

Med-arb would also seem to have little to recommend it. Certainly, there are advantages in having an arbitrator familiar with the real issues in a dispute. Rarely mentioned is the risk that the parties will treat the mediator as an arbitrator and clam up, thus providing the arbitrator with no additional information and sabotaging the mediation function in the process. There may be some third parties dealing with some bargaining relationships who can make med-arb work as intended, but the risks seem too great for the policy to be an attractive one.

Finally, final-offer arbitration by issue, or with the factfinder's report as an option, has nothing to recommend it. It is the creation of legislative bodies that want the advantages of final-offer arbitration but which do not understand the dynamic strategy that is designed to make final-offer arbitration effective.[11] Since these procedures will not duplicate the negotiating incentives of final-offer by package, policymakers would be wise to avoid the complex tactical game-playing which these procedures generate by simply opting for conventional arbitration.

If final-offer arbitration is going to work in the way originally proposed, it should be designed and executed in the following way:[12] there should be no factfinding step between mediation and arbitration.[13] The final choice should be made on a package basis, and the packages should be presented at the outset of the hearing, after which time they may not be altered. Finally, at no point should the arbitrator give the parties hints about the prospective award which will enable them to return to the bargaining table and reach an agreement.

This austere and uncompromising procedure is not being recommended here. It is merely asserted that this type of procedure is the one which will generate enough uncertainty to encourage voluntary settlements. It might also lead to the violation of "no-strike" provisions. Some, but not all, of this uncertainty could probably be retained by using repeated-offer selection or multiple-offer selection. None of it will be retained and considerable confusion may be introduced by allowing final offer by issue with the factfinder's report available as an option on each issue, e.g., the Iowa procedure.[14]

Conclusion

When this author, in a symposium on public sector bargaining, suggested several modifications of final-offer arbitration, doubt was cast on his sanity

[11] Donn, pp. 308-309, details this strategy.

[12] Carl Stevens, "Is Compulsory Arbitration Compatible with Bargaining?" *Industrial Relations,* Vol. 5, No. 2 (February 1966).

[13] In David B. Lipsky and Thomas A. Barocci, "Final-Offer Arbitration and Public Safety Employees: The Massachusetts Experience," *Proceedings of the 1977 Annual Meeting,* Industrial Relations Research Association (Madison, Wis.: IRRA, 1978), p. 72, the authors imply that factfinding removes most of the uncertainty from final-offer arbitration. Under these circumstances, many "negotiated" agreements are really being arbitrated by the factfinder. K. J. Corcoran and D. Kutell, "Binding Arbitration Laws for State and Municipal Workers," *Monthly Labor Review,* Vol. 101, No. 10 (October 1978), p. 36, note a recent tendency for statutes to deemphasize the role of factfinding.

[14] Daniel G. Gallagher and Richard Pegnetter, "Impasse Resolution Under the Iowa Multistep Procedure," *Industrial and Labor Relations Review,* Vol. 32, No. 3 (April 1979), detail the Iowa Statute. Lipsky and Barocci and A. V. Subbarao, "The Impact of Binding Interest Arbitration on Negotiation and Process Outcome," *Journal of Conflict Resolution,* Vol. 22, No. 1 (March 1978), contain evidence that these procedures do not promote negotiations as effectively as final offer by package.

by Peter Feuille.[15] Feuille was undoubtedly correct, but the people who designed the Iowa multistep procedure or the New Jersey procedure (final offer by package on economic issues and by issue on noneconomic issues) seem even crazier.

All this leads to the conclusion that at least half of our newly devised public sector impasse procedures, including some in fairly wide use, are the invention of an industrial relations deity with a perverse sense of humor. This author, however, having created four of the weirdest procedures, is not in a very good position to criticize. [The End]

Contrast Between Public and Private Sector Bargaining: Dispute Resolution Procedures

By JAMES W. EICKMAN

TVA Engineers Association, Inc.

"ALL THE LABOR PROBLEMS which arise in private industry are also found in the public service where they are greatly complicated by the fact that the employer is the state."[1] That statement was the introduction to my thesis written in 1957 on the development of unions in the Post Office Department of the United States.[2] It is no less true today and applies equally to bargaining in the public sector in general and to my specific discussion of bargaining at the Tennessee Valley Authority.

It should be noted here that TVA was created in 1933 as a government corporation and was given independence from the Civil Service Commission in matters of personnel policies. It is also exempt from the provisions of the National Labor Relations Act. This has created a unique status for TVA employees—something in the nature of a "no-man's land." In 1935, the TVA Board of Directors adopted the Employee Relationship Policy, which provided that employees had the right to organize and to choose their own representatives for the purpose of collective bargaining.[3]

It is not necessary in this context to go into the long and arduous process that followed, which eventually resulted in the framework in use today. It will be historically sufficient to point out that the "Panel" that eventually evolved brought into one bargaining unit an amalgamation of janitors, guards, clerks, chemists, and engineers/scientists and aides. Officially, it was the Salary Policy Employee Panel, of which the TVA Engineering Association, Inc. (TVAEA), is one unit of five separate unions. Three are affiliated with the AFL-CIO.

[15] Peter Feuille, "Symposium Introduction," Symposium: Public Sector Impasses, *Industrial Relations*, Vol. 16, No. 3 (October 1977).

[1] "The Commission of Inquiry" (Section by Sterling D. Spero), *Problems of the American Public Service* (New York: McGraw-Hill Book Company, Inc., 1935), p. 171.

[2] James W. Eickman, *The Development and Functions of Unions in the Post Office Department of the United States* (Seattle: University of Washington, 1957), p. 1.

[3] Louis J. Van Mol, "The TVA Experience," *Collective Bargaining in the Public Service: Theory and Practice* (Chicago: Public Personnel Association, 1967), p. 87.

Brookshire and Rogers have characterized the formation of the Panel as a "shotgun wedding." "TVA had used the incentive of a meaningful bargaining scope to pressure the employee organizations into a central structure. Only after every other alternative for meaningful collective bargaining was closed did the organizations reluctantly accept the structure. The precedential alliance of heterogeneous white-collar and professional organizations would be a loose and uncomfortable one for many years."[4]

Not only is this still true today, but a tremendous number of problems remain and continue to emerge with each bargaining session. A recent incident to highlight this will be focused upon later.

Dispute and Impasse Resolution

The method of impasse resolution currently in use in TVA is final-offer arbitration. Final-offer arbitration is known variously as "last and best offer," "either-or," and "one-or-the-other." By any name, it is a refinement of conventional interest arbitration and serves to limit the discretion exercised by the neutral arbitrator. The arbitrator cannot fashion a compromise but must choose one final offer or the other. Final-offer arbitration has been further refined and can be issue by issue or by total package.

However, because only the wage offer is subject to binding arbitration in negotiations, there is no "package"—only a final offer pertaining to salaries. On all other matters, the opinion of the arbitrator is *advisory only* and may be modified or rejected. There is, therefore, no binding recourse on issues other than monetary compensation. This has added significance when bargaining for professional employees, to whom professional issues and ethics may be as important as the wage issues.

According to proponents of the final-offer procedure, it "functions as a 'strikelike' mechanism by posing potentially severe costs of disagreement. . . ."[5] The incentive to bargain is certainly there, and it may strongly encourage the parties to reach their own agreements.

It has also been argued that the final-offer procedure is best suited for parties fairly sophisticated in the bargaining process. It does appear that, *properly utilized,* it is the best procedure available at this time for use in TVA bargaining.

I want to illustrate later some of the events in the 1980 bargaining session that I consider to be *improper* uses of the system. These are my own opinions and observations and do not necessarily reflect the opinions and general experiences of the TVAEA or the other Panel organizations.

Final Offer—The TVA Experience

Until 1972, negotiations impasses were resolved by unilateral management action. True collective bargaining did not exist over salaries or fringe and language proposals by the Panel organizations. "Not until the spring of 1972 was agreement reached on all the issues . . . . When impasses occurred over salary rates, either TVA or the Panel could, after mediation, submit the disputed [wage issues] to final arbitration"[6] with the arbitrator's decision final and binding. Fringe and language disputes could be taken to mediation

[4] Michael Brookshire and Michael Rogers, *Collective Bargaining in Public Employment* (Lexington, MA: Lexington Books, 1977), p. 80.

[5] Gary Long and Peter Feuille, "Final-Offer Arbitration: Sudden Death in Eugene," *Industrial and Labor Relations Review* (1974), p. 190.

[6] Michael Brookshire, *Collective Bargaining in the Tennessee Valley Authority: The Salary Policy Employee Experience* (Knoxville: University of Tennessee, 1975), p. 178.

and, if unresolved, to an arbitrator whose decision would be *advisory,* not *binding.*

The parties were successful in reaching agreement without resort to the new impasse procedures until 1977, when the Panel invoked mediation to resolve the dispute. In 1978, however, both mediation and arbitration occurred.TVA closed negotiations at 5.5 percent, but in a "surprise submission" its final offer in arbitration was 6.5 percent. Similarly, the Panel closed negotiations at 8.14 percent and went to arbitration with 7.66 percent. Arbitrator Eva Robbins gave the nod to TVA.

It is interesting, and I believe unusual, that contractual language allows the final offer submitted to the arbitrator to differ from the supposed "final offer" on the bargaining table. "In other words, one party might use the negotiations and mediation process simply to mislead the other party and to set the stage for a 'surprise submission' designed to win the arbitrator's approval. Thus, the negotiation process becomes a tactical game rather than an attempt to reach a compromise settlement in all issues."[7] Fortunately, the parties at TVA recognized that the final offer in negotiations must be identical to the parties' final offer in arbitration and by joint agreement effectuated that principle prior to the 1979 negotiations.

In 1979, the new impasse procedures were invoked again by the Panel and TVA went to arbitration at 6.56 percent with the Panel at 9.05 percent. Arbitrator Nat Cohen found for the Panel. Agreement on salaries at 8.22 percent was reached in 1980; however, TVA invoked the mediation procedure for its own management demands, which were resolved in mediation, but not without substantial cost to the bargaining relationship.

Contrasts

In the public sector bargaining under discussion here, there is no serious negotiation on fringes and language changes because no weapon or recourse exists to induce management to make concessions, regardless of the justification of the unions' position. Under threat of a strike, the private sector management must seriously consider proposals in those areas and, if justified, concede them as part of the negotiated package. If contractual abuses exist, they would be eliminated in private sector bargaining but will not even be discussed by TVA. This tends to make the negotiating process a farce.

In recent TVA/Panel negotiations, TVA has granted only housekeeping or clarification types of changes, and those only at the expense of a "trade-off" for one of management's own proposals. The Panel organizations, with the exception of the TVAEA, approach the bargaining process with little serious prior consideration to their proposals and meekly accept TVA's negative answers. This must be changed if negotiations are to become a viable, ongoing process to address inequities. Without final and binding arbitration as a terminal step, nothing will be accomplished in the negotiations arena except what TVA desires.

During the 1980 negotiations, the Panel, in a very grandiose gesture, withdrew all of its proposals for changes after agreement on salaries had been reached. Then, however, TVA inconceivably kept its proposals on the bargaining table and subsequently invoked the mediation step of the impasse procedures. At this writer's insistence, W. J. Usery, Jr., former Secretary of Labor and former Director of the Federal Mediation and Conciliation Service, was selected as mediator. He brought

[7] *Ibid.,* p. 273.

the parties together and showed them how negotiations are conducted in the private sector.

"Mr. Usery commented many times about the unusual nature of this mediation process in that it was invoked by Management in order to have their proposals resolved (normally labor's proposals for change trigger dispute resolution procedures).

"At the outset, both parties agreed to 'package bargaining,' which meant that any settlement would have to include all eight management issues or there would be no agreement. Mr. Usery first discussed the issues separately with each side, but before long he urged that a committee of seven from each side meet jointly to exchange information and viewpoints. When this occurred, the give-and-take process of collective bargaining began to work. Both sides freely exchanged arguments, developed solutions to problems, and recognized the other party's point of view, which is particularly relevant if the process is to be viable. One Management spokesman stated that this was the first time that true collective bargaining had ever occurred at TVA."[8]

To invoke mediation and conceivably arbitration if mediation failed, to pursue TVA management's demands when the Panel had withdrawn all of its proposals, was unique to say the least. It left the mediator nothing with which to effectuate a compromise. It left the Panel at a complete disadvantage. TVA should have backed off, asked for a joint committee to address its proposals, or held them for next year's negotiations.

An important lesson that TVA must learn from the above experience is one that private sector bargainers learned long ago. When one side has the other at a considerable disadvantage, it is wise not to take undue advantage of the situation, for another time the roles *may* be reversed. The ill will created by TVA's unprecedented course of action is hard to assess but will remain smoldering for years and could seriously damage the bargaining relationship.

Contrasts in Negotiations

To conclude the topic of contrasts between the public and private sector, I would like to describe how, in my observation, negotiations are conducted between TVA and the Panel. All meetings are held on TVA premises. The atmosphere is very formal, by comparison to my private sector experience. Long prepared written statements are read in front of a large negotiations committee and spectators. There may be as many as 75 to 100 people in the auditorium milling about. The tables are widely separated, leaving a wide gap between speakers, which does nothing to promote a psychological atmosphere of "getting together." The meetings or sessions are referred to as "rounds," which I found very significant, as if one were referring to a fight. Equal time is then spent on each party's proposals—something that would be totally unheard of in the private sector where unions have the right to strike. The readings are ritualistic with little relation to reality.

One of the worst features, previously permitted, that completely inhibited and frustrated the process of good faith collective bargaining was the use of tape recorders throughout the entire session. At my insistence this practice has been eliminated, but the use of pontifical statements laced with sarcasm has not.

By contrast, the private sector is very informal and is free to exchange information and positions and to estab-

[8] James W. Eickman, "Mediation Almost Gets It Done," *Volts and Jolts,* (Knoxville, TN), Vol. 28 (October 1980), p. 1.

lish real priorities without the necessity of "playing" to a large audience. The two small committees conduct the sessions privately. They have authority to negotiate across the table, to discuss the issues, and to determine what realistically can be conceded or gained.

As has been indicated throughout, the Panel remains very divided and noncohesive. Without prior confidential discussions, without apparent preparation, without prepared responses, it can only sit and wait for management to make a move.

Conclusion

It is absolutely necessary to remove the negotiations from the large room with an audience representing both management and union for a conciliatory atmosphere to develop and realistic bargaining to occur. Until this is done, each side persists in maintaining its position or making only minor concessions.

It appears that final-offer arbitration offers the best solution, given the constrictions of TVA/Panel bargaining. However, to make it really meaningful, and for true collective bargaining to occur, it must apply to all issues—including fringe and language issues. With this vital element missing, good faith bargaining becomes a mockery.

Neither side should exploit the other to realize a short-term gain since collective bargaining is most effective when based on a long-standing relationship of integrity.

Finally, public sector bargaining must make use of the lessons learned in the long history of private sector negotiations. To ignore these long-established guidelines is to refuse to face collective bargaining realistically, in any setting. **[The End]**

The Behavioral Interpretation of Bluffing: A Public Sector Case

By ROGER L. BOWLBY and WILLIAM R. SCHRIVER

Mr. Bowlby is with the University of Tennessee. Mr. Schriver is with TVA.

COLLECTIVE BARGAINING is most commonly conceived as an economic process, in which the participants weigh costs and benefits rationally and maximize some objective function.[1] In our earlier work we have examined the bargaining process in a broader context, in which the bargainers are influenced by the sociological structure of the organizations they represent. More particularly, we have explained bluffing in noneconomic as well as economic terms, argued from a theoretical standpoint that union negotiators are more prone to bluff than are their management counterparts, and presented some empirical evidence in support of this theory.[2]

The present paper is a case study of professional negotiations between the

[1] Classic examples from an extensive literature might include: J. R. Hicks, *The Theory of Wages* (London: 1935); J. T. Dunlop, *Wage Determination Under Trade Unions* (New York: MacMillan Co., 1944); and A. M. Cartter, *Theory of Wages and Employment* (Homewood, IL: Richard D. Irwin, 1959).

[2] R. L. Bowlby and W. R. Schriver, "Bluffing and the 'Split-the-Difference' Theory of Wage Bargaining," *Industrial and Labor Relations Review* (January 1978), pp. 161–171.

Knoxville Education Association (KEA) and the Knoxville Board of Education (Board) during 1979-80. Our interest in this case centers on the impact of a Tennessee "Sunshine Law" which may have constrained the bluffing process.

Our theory of bluffing is an extension of the work of Goffman and involves the concepts of the "front audience" and "back audience."[3] For the union negotiator, the front audience is the rank-and-file membership. Before this audience, the union official must espouse the union's ideological positions, exhibit steadfastness of purpose, and demand concessions with little regard for their economic feasibility or the chances of attaining them. The union negotiators' back audience is the management negotiating team. For this audience, the union bargainer must perform in a businesslike manner, relying heavily upon the presentation and analysis of economic data in a milieu of reciprocity. Because he is liable to sanction by either audience, the union bargainer must maintain the integrity of each role before the appropriate audience.

The audiences of the management negotiators are not so easily categorized. For a large publicly held corporation, the front audience may consist of stockholders so widely dispersed and so lacking in unity of interest that they scarcely exist as a tactical factor in bargaining. In a more closely controlled corporation or family enterprise, the front audience (owners) may be of practical importance. In the public sector, the front audience is composed of taxpayers. Again, they may have so little unity of interest that they have little short-run impact on bargaining. The front audience of taxpayers will be a more important pressure group at the local level, particularly when the collective bargain can be identified as a pocketbook issue or one generating intense emotions. The back audience for management negotiators is parallel to the audience for the union, i.e., the union team.

The mechanics of collective bargaining in the context of front and back audiences produces two kinds of bluffing, which can be described as follows. A bargainer (focal actor) confronted with intersender role conflict (different behavioral expectations) between front and back audiences will manage the situation by isolating the audiences. The focal actor will then exhibit different behavioral patterns to each audience.

Before the back audience, economic bluffing may take place. Such bluffing is rational and aimed at securing concessions. Before the front audience, bluffing need not be rational in economic terms but will be conditioned by the structure of the organization and the needs of the bargainer to maintain his position in the organization. This second kind of bluffing has received little systematic attention in the literature on bargaining and is often dismissed as a mere complication obscuring the nature of the true bargaining process.

The Knoxville Case

Our goal in this paper is to use this analytic framework to examine a real-world bargaining situation between KEA and the Board during 1979–80. This case study is particularly interesting because it involved first experience under a new state professional negotiations law and because of an existing "Sunshine Act"[4]

[3] Erving Goffman, *The Presentation of Self in Everyday Life* (New York: 1959); *Stigma: Notes on the Management of Spoiled Identity* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1963).

[4] Chapter 44, Tennessee Code Annotated, Sections 8-44-101 through 8-44-201.

that at least in principal barred the negotiators from isolating their front and back audiences.

Professional negotiations are often distinguished from conventional collective bargaining by the scope and structure of issues to be bargained. In professional negotiations the goals include abstractions and ideologies identified with the profession, such as practitioner-clientele relationships, internal control, and a shared code of ethics, in addition to the economic goals of higher wages and better working conditions which tend to dominate conventional bargaining. The need to separate the front and back audiences in professional negotiations is compelling, because the front audience may be extremely sensitive or averse to open compromise between economic and professional goals.

Our information concerning these 1979-80 negotiations came from newspaper accounts in the *Knoxville News-Sentinel* and the *Knoxville Journal*[5] and from interviews with the chief negotiator for the Board, two of the three chief negotiators for the KEA, and the FMCS mediator whose services were requested by the bargaining parties. We also examined the Tennessee Education Professional Negotiations Act[6] and the Sunshine Act.[7]

Negotiations between the KEA and the Board began on April 25, 1979, under the provisions of the Professional Negotiations Act. Prior to this date, KEA had won an election giving the Board a statutory duty to meet and confer with the KEA, and the Board and KEA had chosen negotiating teams in accordance with the Act. KEA's parent Tennessee Education Association (TEA) had prepared a "model contract" covering 36 points which served as the basis for KEA's original demands. Progress was slow on these items, but the full negotiations committee, consisting of about a dozen representatives of KEA and the Board, met regularly and discussed these points.

The meetings were held on the Board's premises. They were all attended by journalists from the two Knoxville newspapers, and at times by large numbers of rank-and-file teachers who supported the KEA bargaining stance, often with applause. The Board representatives used a tape recorder to maintain a record of all the sessions. Progress was made in resolving conflict on some issues, but many issues of substance remained unresolved, and any discussion of salaries was deferred awaiting agreement on nonwage items.

Not only did the parties disagree on substantive issues but on the bargaining agenda itself, for it was argued that some items had been dropped from consideration as a *quid pro quo* for agreement on other items. Changes in the personnel of the KEA bargaining team, more active participation by TEA in the bargaining, and the conclusion of an agreement in the Knox County System (united by geography and economics, but legally separate) seemed to move the parties even further away from agreement. After more than ten months of negotiations, the parties mutually recognized the existence of an impasse and sought mediation to resolve it, as spelled out in the Professional Negotiations Act. The first meeting of the negotiating teams and the mediator, well-covered by journalists and attended by the public, was held on March 19, 1980.

[5] We are indebted to our colleague, Clifford Donn, who maintained a file of newspaper clippings and kindly made them available to us.

[6] Educational Professional Negotiations Act, Chapter 55, Section 49-5501 through 49-5517, Tennessee Code Annotated.

[7] See note 4.

With the assistance of the mediator, the parties were able to reach agreement by August 2, 1980, without invocation of advisory arbitration, which would have been the next step provided by the Act in the event that the mediation process had failed. A great deal of this time was taken up in determining whether or not a group of demands were on the committee's agenda or had been dropped as a condition of agreement on other items. Resolution of nonwage substantive questions followed, and agreement on salary scales required very little time as soon as agreement had been reached on nonwage items. Ratification of the agreement by the KEA membership and the Board was completed by August 18, 1980, in time for the new school year, and the first round of negotiations under the Professional Negotiations Act was completed after a lapse of almost 16 months.

An Interpretation of the Negotiations

We are convinced that the Knoxville experience is consistent with the bluffing theory outlined earlier in this paper. The Sunshine Act, interpreted quite strictly in the early stages of negotiations, made it impossible for the parties to isolate their front and back audiences and to behave in an appropriate manner for each audience. With journalists, a tape recorder, and as many as 150 teachers present, the negotiators necessarily addressed their front audiences and not each other. The bargainers came to realize, as a result of this experience, that closed meetings insulated from the glare of publicity (in our terminology, the exclusion of the front audience) were a necessity for a conciliatory atmosphere and real compromise. The first of these "side-meetings" involved only two persons—the chief negotiators of each team. After the entrance of the federal mediator, they expanded to a triad.

In the latter stages of negotiations, the "side-meetings" became almost formalized and were conducted during adjournments of the open meetings of the full committee as the need arose. Journalists and members of the public were aware of these meetings but were excluded from them and did not challenge their propriety under the provisions of the Sunshine Act.[8] In our terminology, the negotiators ultimately realized the need to separate front and back audiences and effectuated the separation.

In our judgment, the side-meetings were a *sine qua non* of the eventual agreement. The Sunshine Act unifying front and back audiences deterred meaningful bargaining and drew out the negotiations interminably. In the final analysis, the Act was circumvented in order to effectuate the Professional Negotiations Act. It would not have been possible to carry out the letter and spirit of both laws simultaneously, and we regard the two laws as being in fundamental conflict in the sense that one promotes and the other inhibits collective bargaining.

Our interviews with the negotiators and analysis of proposals and counterproposals lead us to doubt that the Sunshine Act changed the outcome of bargaining in this case—its influence was to prolong negotiations, not to change the results. Of course this need not be generally true; the

[8] The Sunshine Act covers "labor negotiations between representatives of public employee unions or associations and representatives of a state or local government entity" (Chapter 25, Section 8-44-201). The negotiators take the position that "side-meetings" are not covered by this language. Whether this position can be sustained in court remains to be determined.

unification of front and back audiences might drastically alter bargaining outcomes in a different situation.

Our finding of a dysfunctional relationship between these two state laws should not be taken as an endorsement of other features of the Professional Negotiations Act, an indictment of the Sunshine Act, or the view that all would be well if the Negotiations Act were exempted from the Sunshine Act. We have not considered such important issues as the right of teachers to engage in free collective bargaining through representatives of their own choice or the right of the public to receive quality education unencumbered by labor disputes. **[The End]**

Productivity and Collective Bargaining in the Public Sector*

By MICHAEL L. BROOKSHIRE and MICHAEL D. ROGERS

Mr. Brookshire is with the University of Cincinnati. Mr. Rogers is with the Tennessee Valley Authority.

PRODUCTIVITY is defined as a ratio of some measure of output to some measure of input. The measures can be described in either physical units or in dollars. Output per labor hour is a typical productivity ratio which can be applied at the level of the firm (or government entity) or at the level of the overall economy. Such ratios are less frequently applied at organizational subunits within firms and public entities.

Productivity bargaining is a subset of the overall *quid pro quo* exchange in collective bargaining. It basically involves union-management negotiations over changes in work practices to increase productivity or to minimize inefficiencies, with a concomitant sharing of the benefits derived between management, employees, and the public. Benefits derived from productivity improvement plans or from agreements resulting in reduced costs or improved efficiency may be dollar savings to be shared according to some formula or negotiated package.

On the other hand, for financially troubled entities, the benefit of productivity improvement to management may be survival; the union and the work force may benefit through various means of cushioning the impact of layoffs and/or minimizing the number of individuals who must be laid off. Furthermore, where productivity bargaining is most effectively employed, it involves the creation and maintenance of an ongoing framework for generating productivity advances and sharing the benefits of these productivity gains.

It has been argued that the above definition of productivity bargaining, which originated in the private sector, may not be meaningful in government.[1] The primary reason is that,

* The opinions and conclusions expressed in this paper are those of the authors and are not intended to reflect official positions of TVA.

[1] Anthony F. Ingrassia, "Productivity: The Federal Labor Relations Program," *MBO and Productivity Bargaining in the Public Sector*, eds. Chester A. Newland et al. (Chicago: International Personnel Management Association, 1974), p. 34.

under most legal frameworks for public sector bargaining and under most public labor contracts, management has the unilateral right to implement changes in work practices, which management in the private sector must pursue through bargaining. It can also be argued that less flexibility exists in the public sector for sharing the rewards of productivity improvement. Yet, where unions exist in the public sector, it is doubtful that significant productivity improvements can be successfully implemented without the involvement and support of the union.

Additionally, even in nonunion settings, significant productivity gains are difficult to generate without the active participation of employees and without some sharing of rewards. More flexibility in the distribution of rewards may, in fact, be a necessity for future utilization of productivity improvement plans in public union-management settings.

Therefore, it seems that the private sector definition of productivity bargaining can be transplanted to government with the following caveats—that bargaining over productivity improvements may be less formal than in the private sector and that more legal and administrative limits may be placed on the design of reward schemes in government jurisdictions. The Tennessee Valley Authority (TVA) was the first public agency to engage in meaningful collective bargaining with unions of its employees, and the TVA experience is a useful case study of public sector attempts at productivity improvement and productivity "bargaining."

The TVA Experience

The Tennessee Valley Authority, an independent federal government agency, has engaged in collective bargaining with its white-collar, professional, and blue-collar employees for over 40 years. During this time, and particularly during the last decade, the parties have had considerable experience with joint efforts to enhance productivity. The agency now employs approximately 52,000 persons, who are engaged in the design, engineering, construction, operation, and maintenance of electric power generation facilities, as well as the conservation of natural resources, the development of fertilizers and other agricultural products, navigation, and flood-control activities.

TVA's structure of bargaining, although created in the 1930s and 1940s, was designed to maximize union leadership responsibilities and overall efficiency in the bargaining relationship. Five white-collar and professional organizations are combined into a council (the Salary Policy Employee Panel), which has negotiated a single, open-ended contract with TVA. Blue-collar employees, represented now by 15 building and construction trade unions, are also organized into a council (the Tennessee Valley Trades and Labor Council) which has negotiated two labor agreements, one covering construction workers and one covering operating and maintenance work; both agreements are open-ended.

The management structure is decentralized into six major offices. Most of these offices are represented on two management bargaining teams—one specializing in trades and labor employment and one in white-collar employment. Each team is chaired by the agency's director of labor relations, who up until 1979 was a functional part of the division of personnel. From the outset, TVA management saw a positive value in collective bargaining and, as early as 1934, voluntarily gave employees the right to organize and agreed to bargain in good faith. The official commitment to employee participation in management initially led

to a paternalistic management style. Management actually gave strength and purpose to its unions, especially to the weaker white-collar unions. The collective bargaining relationship evolved to the point where the scope of bargaining covered nearly every issue common to private sector bargaining, including pay and benefits.

Mechanism for Cooperation

As a complement to the bargaining relationship, the parties created a mechanism for cooperation. Limited to issues outside the adversarial bargaining relationship, cooperative committees (blue-collar), cooperative conferences (white-collar), and cooperative groups (both blue-and white-collar) were formed throughout the agency, beginning in 1940. Each such organization was comprised of rank-and-file union members, managers, and supervisors.

The purpose of the cooperative program was to promote teamwork and cooperation among employees and between employees and management. Specific objectives included: strengthening employee morale; improving communications between management and employees; conserving manpower, materials, and supplies; improving work quality; eliminating waste and inefficiency; safeguarding health and preventing accidents; and improving working conditions. Excluded from the scope of the cooperative programs were employee grievance handling and actions taken on items/issues subject to negotiations.

In separating the "cooperative" relationship from the "adversarial" relationship of collective bargaining, the parties sought to achieve a positive union-management program, where problems and issues could be satisfactorily resolved in one forum or the other. The success of the cooperative program, however, was always seen as being contingent upon the development and continuance of a healthy collective bargaining relationship where unions operated from a source of security and thus where its leaders could act in a responsible, statesmanlike manner.

The committees and conferences are each given overall direction by a group of top-level management and labor representatives, who are also principals in the bargaining relationship. Local joint conferences, committees, and groups operate in organizational units throughout the agency. Membership in the local cooperative programs usually consists of elected employees and management representatives appointed by the director of the unit, who also serves as the management cochairperson. Locals are the heart of cooperative programs. They conduct periodic meetings to identify and discuss problems and concerns within their unit and to take actions accordingly. Many issues pertain to employee morale, communication, decision-making, and improved work methods.

The committees are particularly active in an employee suggestion system which is oriented toward safety and health improvements and ways to improve work methods and operations. Millions of dollars have been saved over the years by the agency as a result of these suggestions. Monetary awards to employees or groups making such suggestions are not made. Moreover, both management and labor argue that, although the effectiveness of the cooperative program varies according to the particular TVA organizational unit, the overall benefits to the agency have been substantial—not only in actual dollar savings but also through improved employee morale, better communication, greater efficiency, and enhanced productivity.

The costs of the cooperative programs are almost exclusively in terms of employee and manager time.

It should also be noted that a recent evaluation of the cooperative conference program was made, given the premise by both management and labor that the program was itself worthwhile and should be continued. The evaluation concluded that the program could be made more effective by increasing visible top-management support; providing more active direction and involvement of top union-management program leadership in the affairs of locals; each local setting specific objectives, with annual reviews of accomplishments; and educating rank-and-file employees about the cooperative program, its purpose, and its activities.

Quality of Work Program

In addition to the cooperative union-management programs, one major TVA division initiated a "Quality of Work" experimental program in 1974.[2] The division (Transmission Planning and Engineering) was responsible for planning, designing, and engineering the agency's power lines and substations and included 400 engineering, clerical, administrative, and managerial employees. The quality of work program (QOWP) emanated from the division's cooperative conference program and was a special pilot project to deal with ways to improve the quality of work life, efficiency, and morale of employees. Its principal objectives, identifying and resolving problems which adversely affected the organization's ability to perform its mission, were to be accomplished by involving unit employees in nearly every facet of managerial decision-making.

Because of the nature of the work involved (professional services), productivity output was never really defined in precise, measurable terms, although this was a goal of the QOWP itself. Nevertheless, several major issues were identified as problem areas and addressed by the QOWP: division mission and objectives, management styles, organizational structure, career development, reward-recognition systems, and union-management relations. Subcommittees of employees and managers were established to investigate and study these and other areas and to make recommendations for changes to the division director for action. The QOWP Committee[3] itself had no direct authority to act, although the division was given authority to implement changes outside the labor contract.

The QOWP was officially terminated in December 1977. Although no final evaluation has been made, the parties involved believe it was an overall success.[4] Top-level division management believed that employee involvement in decisions improved overall morale and productivity of the division. Effectiveness varied by organizational unit within the division and was largely a function of the management style and genuine commitment of the particular unit supervisor. Some supervisors were thought to believe that employee input into certain decisions was inappropriate because such decisions were for management

[2] The Institute of Social Research, the University of Michigan, and Ted Mills, Director of the Natural Quality of Work Center, Inc., were involved in the initiation, direction, and implementation of the program.

[3] The QOWP had one committee made up of 13 members: four upper-level management representatives plus the division director; five elected employee representatives; two union representatives; and one black female representing minority interests and concerns.

[4] A formal evaluation is planned for publication during 1981.

to make. The QOWP did, however, achieve several specific results. It experimented with a merit pay system and concluded that it would not work; developed a four-day workweek for certain groups; identified and remedied certain duplications of work; established a new organizational unit within the division which realigned various work functions; consolidated work functions; and outlined an improved role and structure for the cooperative conference program.

The Changing Relationship

During the past decade, TVA's management style has become less paternalistic and more autocratic. The approach to collective bargaining is significantly more adversarial. The TVA Board and top-level line managers became convinced that too many of their flexibilities and prerogatives had been "bargained away" over the years. Employees also forced their union representatives to adopt a more adversarial approach in their belief that even "more" could be gained from management. In addition, some union rank-and-file employees pressed for a more effective voice in their unions and forced union leadership to become more aggressive with management. The shift in philosophy was made apparent by the separation of the labor relations staff's function from the Division of Personnel, which retained TVA-wide responsibility for only those aspects of labor relations focusing upon nonadversarial issues —administration of the cooperative programs and craft training programs. The Director of Labor Relations is now responsible for bargaining relationships with the Panel and Council and for assisting management in negotiating, administering, and interpreting the contracts. The Director's basic orientation is to do everything possible to improve managerial efficiency and to represent the agency's interests effectively in collective bargaining.

TVA management's first major advance in modifying the terms of its labor contracts to enhance productivity and improve efficiency came in 1974. The "mixed-crew" concept was introduced in trades and labor work involving maintenance activities. This concept was designed to improve productivity by allowing flexibility across craft jurisdictional boundaries. Maintenance work in power plants and chemical plants is now performed by making work assignments on the basis of the skills required for the work to be done. Employees of one particular craft are assigned work that is normally done by other crafts. Specifically, the contract between TVA and the Council now states that the parties recognize the necessity for eliminating restrictions and promoting efficiency and agree that no rules, customs, or practices shall be permitted that limit production or increase the time required to perform necessary work.

Although no data have been kept over the years of regarding the precise savings resulting from the use of mixed crews throughout TVA, management has seen substantial improvements in overall maintenance efficiency with fewer work hours required to achieve a given output. Little doubt exists that this productivity "gain" was part of an exchange for management concessions in negotiations.

Another example of cost savings negotiated through the bargaining process, outside of the cooperative program, is the reduction in overtime premiums from double time to time and one-half for the first two hours over eight hours in a day and for Saturday overtime. This provision applies to trades and labor employment.

Additional Changes

In the salary policy relationships, management has recently negotiated several changes which are seen to promote improved efficiency and enhanced productivity. These changes are: a probationary period for certain new employees; restrictions on transfers of employees to other jobs when they are needed in their current job; a factor point job evaluation system (developed and implemented jointly with the Panel); and restrictions on lateral transfers for employees in a job for less than 12 months.

Although no direct cash incentives for productivity improvements are given to individual TVA employees or to employee groups (except for nonrepresented employees who now have a merit pay system), the adoption and application by TVA and the Panel and Council of the "prevailing pay" criterion in determining wages, salaries, and benefits has resulted in relatively high compensation for TVA employees versus others in their labor market. Noncash benefits which have been implemented include tuition reimbursements, job security through seniority clauses for promotion and retention, in-house training and development programs, and a wide variety of fringe benefits to which TVA contributes funding. Nonfinancial policies have been negotiated, including job posting to encourage internal mobility, skills training, flexible work hours (flextime), physical exams, modification of work schedules to permit outside study, voluntary exchange of shifts, part-time employment, earned time off, liberal grievance machinery, and cooperative programs including quality of work experiments.

Most of these incentives are not directly linked to management actions or negotiated plans to increase productivity. The agency does, however, collect and maintain productivity input and output data for its major organizational components: Agricultural and Chemical Development (fertilizer research and production), Power (electric power produced), Engineering Design and Construction (theoretical generation capacity added), and Natural Resources (recreation, forest and wildlife management, and mapping). Many outputs of these organizations have been identified and isolated. Inputs have been calculated in terms of labor resources (employee-years and compensation) devoted to producing these outputs. These outputs include indirect labor resources used such as administrative, managerial, and other support services—personnel management, purchasing, medical, financial, legal, and property management, for example.

Although specific input and output data are calculated, most organizational subunits throughout the agency and the agency itself do not utilize the data in attempts to work with employees and employee groups in productivity improvement. Emphasis is currently placed on management-union-employee cooperation in identifying production problems, seeking joint solutions to these problems, and attempting to improve efficiency and effectiveness through the bargaining process. The cooperation process occurs usually at the division/plant/project level. At the agency level, management seeks to bargain improvements in productivity directly with the Panel and Council. Moreover, many of the contract provisions resulting in improved productivity have come from the use of joint union-management committees authorized by the parties on an ad hoc basis to address and make recommendations toward the resolution of "complex" bargaining issues.

Conclusion

Organizational structure (centralized versus decentralized) and size, type of

goods or service produced, history of labor-management relations, and management style are key factors in determining how best to involve employees and their unions in attempts to improve productivity. The paternalistic approach to union-management relations by TVA was accompanied by joint union-management cooperative programs in which employees were asked to participate voluntarily in making suggestions and in working with local management to maintain and improve productivity. Such participation by unions and rank-and-file members could be rationalized by the fact that management and the union would "take care of" employee interests through high pay, good benefits, security, and other favored employment conditions. As the collective bargaining relationship became more adversarial and management style more autocratic,[5] employees and their unions became less motivated toward cooperative attempts to improve relations and efficiency. More union and employee energy is devoted to maintaining gains won during the past through the only effective mechanism available—collective bargaining. Management is also focusing upon negotiated provisions and policies which increase productivity.

[The End]

[5] As an example of the emphasis on recent adversarial relations, the Trades and Labor Council has officially requested to drop the mixed-crew agreement and to discontinue its participation in the cooperative program. Also, over the past eight salary policy negotiations, five have been settled only through the use of impasse resolution machinery.

SESSION II

Current Challenges in Industrial Relations

Union Bargaining Power in the 1980s

By JOSEPH KRISLOV and J. LEW SILVER

University of Kentucky

WE BEGIN WITH OUR CONCLUSION—that the 1980s will not be a good decade for American trade unions, and union bargaining power will be diminished. We have reached this result by identifying and examining recent trends in the determinants of bargaining power. Our short presentation cannot, of course, be exhaustive. However, we believe that the factors discussed dominated bargaining in the 1970s and will continue to dominate in the 1980s. Therefore, the approach we take to forecasting union bargaining power in the present decade is to first discuss developments in the last decade. Throughout the discusion, we will rely heavily on recent results and views reported in the literature to support our claims. We have identified and will briefly discuss five factors which lead us to our conclusion.

Perhaps the most basic reason why the bargaining power of the labor movement will decline in the 1980s is the shift in the nation's ideological preferences. Eloquently testifying to the success of the conservative view was President Reagan's victory last November. That victory has already resulted in attacks on such cherished union-supported programs as the minimum wage, prevailing wage in public construction, and safety and health regulations at the workplace. In addition, with the election of a Republican-controlled Senate, support for pro-labor legislation will meet with opposition on Capitol Hill. While conservative legislators may not succeed in altering federal protection for organization, conservative appointees will be administering labor law, and unions may expect little help from them.

This change in the political environment will lead, in our view, to diminished union political power which, in turn, will reduce every union's bargaining position. Consider the Reagan proposals to alter

the nation's unemployment insurance program; if enacted, they will reduce significantly payments to laid-off workers.[1] Substantial numbers of unemployed workers without regular benefits will dampen the employed member's militancy and weaken a union's position during strikes. Consider also that prospects for comprehensive national health programs seem remote. The burden of mounting health costs in the decade will fall on existing company-union programs and constitute a first claim on any productivity gains. Although the precise extent to which the Reagan proposal will affect bargaining is unclear, it seems reasonable to believe that some of the proposals will pass and that they will weaken a union's effective bargaining power.

Union Growth

Membership in unions and employee associations continued to increase during the 1970s, adding roughly two million members between 1970 and 1978, according to BLS data. Relative to total employment, however, the percentage of workers belonging to unions and associations fell about three percent during the 1970-1978 period. Hardest hit by this relative decline in membership were unions in the manufacturing sector. Manufacturing employment, though fluctuating somewhat during the 1974-75 recession, averaged about 19.6 million persons during 1970-78. At the same time, unionization of manufacturing employees fell from 47.4 percent to 39.6 percent. In contrast with the pattern in manufacturing, both employment and unionization increased in the public sector. Employment increased about three million, with the percent of public employees unionized increasing from 32.5 percent in 1970 to 38.9 percent in 1978.

Two factors may be cited as having adverse effects on union growth over the past ten years, particularly in manufacturing. First, unionization rates have declined as manufacturing firms have shifted from unionized to nonunionized states. Recent trends show migration of industry toward Southern and Sun Belt states, states with historically low unionization rates. For example, total nonagricultural employment in the ten states (all but two in the Sun Belt) with the lowest proportion of union members increased an average of 37.4 percent between 1970 and 1978. By comparison, total nonagricultural employment in the ten states with the highest proportion of union members increased an average of 16.4 percent over the period.

Unionization in the South remains very difficult. It declined as a percent of the work force in the ten poorly organized states, from 13.4 percent in 1970 to 11.6 percent in 1978. Unionization rates in the most unionized states fell from 36.7 percent to 33 percent in the same period. Thus, unionization rates declined in the rapidly growing nonunionized areas by about 18 percent as compared with 10 percent in the highly unionized states. The assistant director of the UAW organizing department summed it up beautifully when he was asked to comment on the movement of auto parts manufacturers to the South. He said, "I would say they're moving faster than we can organize them."[2]

The steady growth in the number of women in the work force seems to be a second deterrent to unionization. For example, the BLS reported that there were approximately 5.3 million unionized women in 1978, up one million from 1970 and two million from 1960. Relatively speaking, women constituted about 24 percent of total union

[1] See the recent discussion on extended unemployment benefits in *The New York Times*, April 8, 1981. See also "83 Programs: A Profile," *The New York Times*, February 20, 1981.

[2] *The New York Times*, April 8, 1981.

membership in 1978, an increase of 2.5 percentage points from 1970. As Rees points out, however, a smaller proportion of female employees are union members as compared to males.[3] Because female employment (particularly in manufacturing) has risen considerably over the last few years and can be expected to continue increasing, we cannot expect union membership to grow at the same rate as total employment.

Union growth in the 1970 decade was concentrated in the public sector, offsetting some declines in manufacturing. It is not evident what unorganized sector (if any) will be a source of union penetration during the 1980s. Thus, it seems inevitable that, if unions continue to lose members in traditional unionized areas and fail to organize new areas, their bargaining power will erode.

Productivity and Inflation

One factor that could have the most adverse effect on union bargaining power in the 1980s is a continuation of recent declines in labor productivity. The BLS reports that, from 1970 through 1979, output per hour of all persons employed in manufacturing increased at an average rate of 2.4 percent. In both 1978 and 1979, labor productivity rose less than one percent and actually declined in 1980 (first three-quarters of the year).[4]

Bargaining and obtaining real wage gains in the face of declining productivity is most difficult. Sooner or later even the most tenacious and effecive union will learn that wisdom of John L. Lewis's remark that "bankrupt companies aren't good employers."

Inflation during the 1970s, as measured by the CPI for urban wage earners and clerical workers, averaged 7.2 percent annually. Since the end of the 1974-75 recession, the U. S. economy has experienced an average annual inflation rate of approximately 8.5 percent. More recently, the BLS reports that inflation during most of 1980 averaged an annual compound rate of 13 percent.[5]

It is obvious that union leaders face many difficulties in negotiating agreements which either maintain purchasing power or increase real wages. Hildebrand reports that, between 1966 and 1977, real hourly wages increased an average of only 1.2 percent annually in spite of catch-up adjustments, COLA provisions, and other negotiated increases in nominal wages and benefits.[6] More recent data show total effective adjustments in nominal wages since 1975 averaging 8.4 percent annually. But, comparison of these adjustments with the CPI shows below-average real wage gains between 1975 and 1978, with real losses occurring in 1979 and 1980.

The recent history of responses by labor to the problem of inflation is interesting. Although the data show little or no real gains to union wage earners through the last half of the 1970s, they do not imply that organized labor did not attempt to maintain purchasing power. On the contrary, as Mitchell points out, major union earnings increased about eight percent relative to all earnings in the private nonfarm sector during the decade.[7] In

[3] Albert Rees, "The Size of Union Membership in Manufacturing in the 1980s," *The Shrinking Perimeter*, eds. H. A. Juris and M. Roomkin (Lexington, MA: Lexington Books, 1980), pp. 43-53.

[4] *Monthly Labor Review*, various issues.

[5] *Ibid.*

[6] George H. Hildebrand, "The Prospects for Collective Bargaining in the Manufacturing Sector, 1978-1985," *The Shrinking Perimeter*, cited at note 3, pp. 87-114.

[7] Daniel J. B. Mitchell, "Collective Bargaining and Wage Determination in the 1970s," *Proceedings of the 33rd Annual Meeting*, Industrial Relations Research Association, 1980, pp. 135-142.

addition, since average escalator increases for production and nonsupervisory personnel averaged only 4.8 percent between 1975 and 1979, there was an apparent tendency for employers to accept relatively high catch-up wage settlements. This claim is supported by results presented by Saks, who found the difference between negotiated wage changes in contracts with COLA clauses and wage changes in contracts without COLA clauses to be relatively small during the latter part of the decade.[8]

Union bargaining during the remainder of the 1980s will continue to be focused on "catching up" with inflation. The memberships, harassed by inflation, will ask their unions to secure substantial wage increases. Employers, in an effort to keep down price increases, are expected to be adamant in rejecting increases. We foresee a diminishing ability of labor leaders to cope with inflation, particularly if labor productivity continues to be low.

International Trade Aspects

It is widely recognized that over the past three decades the world economy has experienced rapid industrialization, particularly in countries that could exploit an absolute advantage in the use of labor and other natural resources. The response of major industrial countries to the increasing economic prowess of developing industrial nations is not unexpected. Production is shifted to goods and services where comparative advantage is enjoyed. Taking the specific case of the U. S., production trends over the past 20 years or so have been toward technology-intensive products such as chemicals, machinery, and electronic devices. Citing Commerce Department statistics, Rees points out that, from 1956 to 1974, the dollar value of machinery and transportation equipment exported from the U. S. has increased fourfold. However, because the U. S. is not alone in moving toward its comparative advantage, Rees also noted that U. S. imports of these goods have increased by no less than a factor of six.[9]

An increasing degree of competition from foreign manufacturers leaves policymakers in an awkward position. On the one hand, there are numerous indications that the U. S. is continuing its commitment to free trade. In the Tokyo Round of the Multinational Trade Negotiations in 1979, for example, the U. S. agreed to reduce tariffs and other trade barriers by about 30 percent on average. More evidence lies in the current debate within the Reagan Administration concerning the placing of import limitations on Japanese automobiles. Supported by the recent decision of the International Trade Commission not to impose barriers on Japanese imports, free-traders in the Administration have been unsuccessfully resisting pressures from the automakers and the UAW to restrain trade artificially.

On the other hand, in the absence of barriers, employment in domestic industries facing stiff foreign competition can be expected to suffer. More specifically, in those industries where there are substantial differences between union and nonunion wages, we can expect unionized firms to bear the primary burden in the form of increased unemployment.

The country's commitment to free trade will place many individual unions in a difficult position. Employers will be forced to meet the competition and "tough bargaining" will be inevitable. Reagan's conservative Administration will probably not be very receptive to

[8] Daniel H. Saks, "Wage Determination During Periods of High Inflation," *Proceedings of the 33rd Annual Meeting,* Industrial Relations Research Association 1980, pp. 128-134.

[9] Rees, cited at note 3, p. 50.

any future "Chrysler-like" arrangements. Unions will find it very difficult to deal with firms on the verge of bankruptcy. If they make concessions, the "profitable" firms will ask for "equal treatment." If unions make no concessions to impoverished firms, then membership will decline.

Conclusion

Assuming that our analysis of the 1970s is accurate and that our forecast for the 1980s is reasonably accurate, we turn to the inevitable but difficult question: what will be the results of the diminished union bargaining power? We suggest that there will be four pronounced, observable patterns.

First, there will be a reduced propensity to strike. Unions will be reluctant to strike when employers have the bargaining advantage. Presumably, also, strike duration will decrease as unions find themselves unable to budge employers. Strike data for 1980 and 1981 are already indicating a diminution in the number and duration of strikes.

Second, we forecast only modest real income gains during the decade—certainly no more than two percent per year. The 1970 decade brought to an end (perhaps permanently) the pattern of significant rises in real income. If the same pattern prevails during the 1980s, it seems obvious that traditional American views of growth and optimism will have to be altered.

Third, we would expect very few new benefits during the next decade. Unions will have their hands full trying to preserve existing levels of benefits and influence. Support among members for new programs (prepaid legal insurance, for example) will be limited and, of course, employers will undoubtedly resist new demands even more strongly than previously.

Fourth, we can expect to see a proliferation of what has been termed "take-back bargaining." Unions will be asked to make concessions on wages and benefits. They will do so only with great reluctance, but inevitably some will have to forgo some advantages.

[The End]

Organizing in the Eighties: A Human Resources Perspective

By HOWARD M. LEFTWICH

University of Cincinnati

A CENTRAL THEME in the recent history of the American labor movement is that of decline. Because net membership gains have lagged behind the rate of growth of the work force, the percentage of the unionized work force has been shrinking steadily. Employment growth among unionized employers is not likely to alter this trend because it is in the lightly organized sectors of the work force that employment is increasing most rapidly. Thus, reversal of the trend toward decline will require the labor movement to increase the rate at which it organizes nonunion workers.

Success in organizing will be determined by a combination of, one, factors external to unions, such as the strategies of management and the contents of labor law, and, two, the quantity and quality of the labor movement's organizing efforts. With regard to the latter,

it is accepted that the effectiveness of an organization is determined in large measure by the ability of its administrators to mobilize and utilize human resources effectively, whether the organization is a business firm or a labor union. While the goals of the union are organizing and servicing members rather than profit, the union official no less than the business manager is faced with the task of optimally utilizing scarce resources to achieve the objectives of the organization.

The purpose of this paper is to examine in broad outline some issues relating to the human resources inputs necessary for effective organizing in the 1980s. In the first section, some elements of the external environment for organizing are examined in order to throw light on the task facing the labor movement. Human resources needs for organizing are discussed in the following section. In the next section, some issues related to the fulfillment of human resources requirements are examined briefly—issues regarding the recruitment, training, and structure of organizing staffs, allocation of union resources, and the structure of the labor movement.

We now turn to the external environment for organizing in the 1980s.

While a comprehensive examination of the organizing climate in the 1980s is beyond the scope of this paper, a brief reference to the setting within which organizing will take place is a necessary prelude to the discussion that follows. It is assumed that there will be no major changes in the socioeconomic, political, or legal contexts which will be favorable to organizing. Should this assumption prove to be inaccurate and changes in the environment occur which would create a significantly more favorable climate for organizing, the urgency of the human resources aspects discussed here might be reduced somewhat. But the general thrust of the discussion would not be altered.

Three Key Elements

Three key elements in shaping the organizing task, and hence in determining human resources requirements, will be the demographic, occupational, and geographic structure of the nonunion work force; the attitudes of unorganized workers toward unions; and the response of management to organizing efforts.

Stemming the trend toward decline will require progress in organizing the lightly unionized groups in the work force which have grown rapidly during recent decades. Demographically, the focal points for organizing will be women and younger workers. Occupationally, the major objective will be white-collar workers. Geographically, the Sun Belt will be an area of increasing organizational activity. Until recently, it was generally thought that not only were these groups lightly unionized, but they also had a lower *propensity* to organize than did more extensively unionized groups such as male, blue-collar workers in manufacturing plants outside the South. Thus, the secular changes in the work force composition not only reduced the percentage of the work force unionized but would make the future task of the organizer more difficult as well.

Kochan's analysis of data from the 1977 Quality of Employment Survey casts doubt on the conventional wisdom regarding propensities to organize.[1] His findings regarding the attitudes of American workers toward unions

[1] Thomas A. Kochan, "How American Workers View Unions," *Monthly Labor Review*, 102 (April 1979), pp. 23-31.

indicate that changes in the demographic characteristics and occupational and geographic structure of the work force may not create as many difficulties for organizing as has been commonly supposed, since "none of the growing segments of the labor force exhibits an inherently negative view of trade unions or the prospects of joining a union."[2]

But, most American workers will not unionize as a matter of course. Rather, they will support unionization only as a last resort, as a drastic, last-ditch effort to correct severe problems at the workplace when all else fails. "[V]ery few contemporary workers apparently support unionization solely out of some ideological commitment to the goals of the labor movement or out of a belief that unions are a positive social force in society. Instead, workers apparently turn to unions when they are frustrated and dissatisfied with their working conditions and economic status and when they perceive a lack of other alternatives for influencing employer behavior."[3]

Obstacles to Organizing

The increasingly aggressive, sophisticated, and successful union avoidance strategies of management will pose a significant obstacle to organizing. One type of strategy, the hard-line approach, may include such tactics as the intentional commission of illegal acts and stalling representation elections or collective bargaining through extended litigation to gain time to undermine the union. Efforts to curb these tactics by amending the National Labor Relations Act failed in 1978, and prospects for the passage of labor law reform in the foreseeable future are dim.

The other major union avoidance strategy, the "positive personnel policy," offers perhaps an even greater challenge to organizing. It is based on the previously mentioned tendency of American workers to unionize only as a last resort in dealing with serious problems. If management unilaterally provides attractive employment terms and acceptable working conditions and can offer employees effective, nonunion alternatives for influencing managerial behavior, there may be few incentives to unionize. Some employers use a mixed strategy containing elements of both the hard-line and positive personnel policy approaches.

Whatever the choice of strategies, management today can deploy an impressive array of expertise against the organizer. Hard-liners utilize attorneys who are specialists in finding and exploiting every advantage in the law. Experts in the various aspects of human resources management develop and administer sophisticated positive personnel policies. Behavioral scientists devise means for maintaining positive attitudes among employees. If the employer does not care to provide all the desired expertise "in house," it can be purchased from the many consulting firms which have emerged during recent years.

Thus, while there are some positive signs for union growth in the 1980s, there are also some major challenges to the organizing process. We turn now to the human resources which will be needed to meet these challenges.

Human Resources Requirements

That deploying *more* organizers would be helpful is an obvious conclusion which is significant mainly because

[2] *Ibid.*, p. 30.

[3] Thomas A. Kochan, *Collective Bargaining and Industrial Relations* (Homewood, Illinois: Richard C. Irwin, 1980), pp. 149-150.

of the issues of resource allocation to which it leads. These will be elaborated later. More significant at this point are the qualitative human resources implications of the context for organizing.

At the outset, it is recognized that not every campaign will require the same types and levels of skills; probably there always will be a few employers so inept at personnel management that their employees can be organized with the simplest of campaigns. What follows is an examination of the characteristics of organizing staffs which are necessary where the difficulties are greater.

There is a need to modify organizing staffs through time to conform to the shifts in major target groups. The objective is to maintain compatibility between organizers and the particular groups with which they work. There must be a sense of mutual identification and understanding between organizers and workers. Thus, organizing staffs must be compatible with the major target groups of the 1980s: women, white-collar workers, young workers, and workers in the South.

Knowledge of labor law has been important for organizing staffs at least since the passage of the Wagner Act. The necessary level of knowledge has increased through time as the law has become more complex and probably will continue to increase due to growing sophistication in the application of union-avoidance tactics.

To plan and conduct effective campaigns, a thorough knowledge of management and union tactics will be required. In this era of consultants it will be especially important to be aware of their tactics and of union tactics which have been successful in countering them. We may speculate that the effectiveness of consultants may be reduced as organizing staffs become more aware of their modes of operation and share their experience in developing tactics to counter them.

A high level of communication skills also will be required of organizing staffs. An organizing campaign may be likened to a selling campaign, with the union striving to communicate its message to potential "customers" with maximum cost effectiveness. This will require a high order of ability in planning communication mechanisms and in expressing the message to be communicated.

It is in developing the message to be communicated that perhaps the most fundamental challenge to the capabilities of organizing staffs will lie. Such simplistic themes as "good workers versus bad bosses" are likely to be ineffective where employers are pursuing positive personnel policies. Here, the challenge will be to build a convincing message around the general theme that the union "can do it better" in light of the circumstances of the particular workplace. This will be no easy task and is likely to require an understanding of employee motivation and behavior, that is, expertise in the behavioral sciences.

While many employers utilize the behavioral sciences in developing effective union-avoidance strategies, the labor movement has lagged in using them to develop counter strategies. The behavioral sciences per se are neutral in the struggle over unionization; they can be used for as well as against the organizer. That they so far have been left mainly to management has created a self-imposed disadvantage for the labor movement in its attempt to extend unionization.

After examining the organizing task ahead, Kochan concluded: "This suggests that the very tools of behavioral science, which have often been used

to reduce the incentive to unionize, must be harnessed by the labor movement if it expects to effectively compete with employers in large nonunion firms. Perhaps the willingness and the success of the labor movement in adopting these modern strategies will determine whether the erosion of the membership base [of unions] continues in future decades."[4] Thus, one of the most important human resources needs for effective organizing in the future is likely to be specialists in the behavioral sciences.

Administrative and Structural Issues

We now turn to several issues which are related to human resources programs. To meet the human resources requirements for effective organizing, the labor movement must address a number of issues with regard to the recruitment and training of organizing personnel, the structure of organizing staffs, the allocation of union resources, and the special problems of smaller international unions.

Unions long have been plagued by a small pool of able candidates for organizing staff appointments.[5] There are two aspects to this problem. First, despite some trend toward change, there remains a strong tendency for international unions to limit recruiting to their own members, particularly local union officials. While industry experience is a useful background for an organizer and the recruitment of nonmembers may generate adverse political reaction within the union, the growing need for a larger pool of candidates may force unions to examine more carefully prospects for recruiting outside the ranks of their members.

The second aspect is the unattractiveness of the organizer's job. Frequently it requires long periods away from home working long and irregular hours and offers no career path. While higher salaries would make the job more attractive, the supply elasticity of organizers over any relevant range of salaries may be low.

Another approach would be to develop career paths for organizers so that they would at least rotate regularly through a variety of other jobs rather than spend their entire careers at the arduous and demanding task of organizing. Bok and Dunlop have suggested some interesting possibilities.[6] Finally, organizers should be selected on the basis of criteria relevant to a job, and not the political criteria which at times have dominated the selection of union staff personnel.

In light of the breadth and depth of skills required for effective organizing, it is important that the labor movement review the training given to organizers. Such a review should cover the types of skills needed by organizers, levels of competence which organizers can be reasonably expected to attain, and the most cost-effective methods for achieving training objectives. Two types of program needs may be distinguished: initial training for new organizers and continuing training for those already in the field. In light of the capabilities needed for effective organizing, a good prima facie case can be made that allocating additional resources to the training of organizing staffs would constitute

[4] *Ibid.*

[5] The discussion of recruitment and training is based largely on the work of Bok and Dunlop. For elaboration, see Derek C. Bok and John T. Dunlop, *Labor and the American Community* (New York: Simon and Schuster, 1970), pp. 138-189 in the paperback edition.

[6] *Ibid.*, pp. 180-181.

a promising investment in human resources.

Increased skill requirements for effective organizing suggest a need for greater specialization and division of labor within organizing staffs. In the past, organizers were viewed as generalists who could mount campaigns largely on their own, with minimal assistance from staff specialists. But, where management is mounting a sophisticated union-avoidance campaign with the aid of professionals in labor law and the behavioral sciences, it may become necessary for the union to increase its skill inputs to a level beyond the reach of the generalist organizer. Here, it becomes necessary to subdivide the organizing function into its component tasks and allocate some of them to specialists who can perform them at a high level of competence.

What is suggested is development of an organizing *team* which would work as a unit in planning and conducting the campaign. To illustrate: the team for a particular campaign might consist of, say, several generalist organizers plus a behavioral scientist, a communications specialist, and a labor lawyer. The organizers would perform many of their customary tasks, such as off-premises solicitation, and one of them would serve as team coordinator. But, in determining the union's approach to the employees, the behavioral scientist would play an important role. Once the approach was determined, the communications specialist would plan communication channels and develop materials thorugh which the union's message would be effectively delivered to the employees. The lawyer would examine the legal implications of all aspects of the campaign.

What is proposed is not a single, rigidly defined team structure. Rather, the labor movement needs to explore and develop the concept of the organizing team. Utilizing the team approach is likely to make unions a better match for contemporary employers who utilize groups of specialists to mount effective union-avoidance campaigns.

Resource Constraints

In attempting to improve organizing staffs, the labor movement will face two types of resource constraints. First, there may be shortages of qualified personnel over any reasonable range of salaries. The difficulties of recruiting organizers already have been noted. There also may be shortages of the specialists who will be needed to increase organizing effectiveness. In attempting to employ professionals in the behavioral sciences, for example, unions will be competing with employers, universities, and other kinds of organizations.

Financial resources constitute a second type of constraint. Increases in funding for organizing, after adjustments for inflation, are likely to be modest at best. A number of unions are caught in the squeeze of inflation, coupled with declining revenues due to membership losses. Members still resist dues increases and give servicing priority over organizing in the allocation of available funds. While virtually all union officials publicly endorse more vigorous organizing, privately a few may still prefer not to expand their union's membership because an influx of new members might upset the internal political equilibrium. Although it could be argued that organizing funds should be considered as an investment with the potential for yielding a positive net return in dues, these negative factors make it unlikely that a much larger portion of the total resources available to unions will be alocated to organizing.

The key money issues center, then, around the optimal allocation of those funds which are available for organizing. How should any increases in funding be allocated (or existing funds reallocated)? For more organizers? For improving the capability of organizing staffs via improved training? Via enlarging the talent pool from which organizers are drawn? In what proportion and according to what criteria? If the conclusion of increased skill requirements is accurate, it would suggest the general hypothesis that upgrading the skills of organizing staffs should be assigned a higher priority than adding more organizers at the same level of ability. The result of throwing "more of the same" at management's increasingly effective union-avoidance strategies is likely to be the continued decline of the American labor movement.

The task of meeting the human resources requirements for effective organizing is complicated by the existence of a relatively large number of small international unions. Many of them are too small to be able to afford the necessary programs and personnel. Thus, the potential for greater organizing capability is one more incentive for union mergers. But, attaining more optimal size through mergers is a long-term process, and other means of overcoming the problems of small unions must be developed and utilized during the interim. For example, while smaller unions might find it economically unfeasible to add behavioral scientists to their staffs, it may prove feasible to hire specialists as consultants for particular companies. A demand for such services conceivably could spur the development of a new set of union-oriented consulting firms. Alternatively, these services might be provided by the AFL-CIO. The problem of providing adequate human resources in smaller unions deserves further attention.

Conclusion

An important determinant of the labor movement's success in organizing during the 1980s will be its ability to mobilize and deploy the necessary human resources. It will be necessary to broaden and deepen the knowledge and skills of organizing staffs. To accomplish this, unions must address some issues associated with the recruitment and training of organizers. Increased requirements for knowledge and skills also may require greater specialization and division of labor within organizing staffs. Just as the modern corporation is directed by a management team, the optimal personnel structure for planning and conducting effective organizing drives may be the organizing team. To meet human resources requirements for the 1980s, the labor movement will have to pay close attention to the criteria it uses in allocating its scarce resources. Solutions must be developed for the special human resources problems of smaller international unions.

There is a need for further research into the process of organizing nonunion workers. A search of the literature of industrial relations will turn up little published research on organizing. In light of the importance of the subject, this neglect is remarkable. Even a cursory examination of some of the problems and issues of organizing in the 1980s suggests a sizable research agenda. The following are examples of research topics which are suggested by the subject matter of this paper: (1) a statistical profile of union organizers; (2) what unions are doing to expand and upgrade the skills of their organizing staffs; (3) attitudes of leaders, organizers, and members toward increased utilization of specialists such

as behavioral scientists and strategies for dealing with opposition; (4) the process and criteria used by unions in allocating resources; and (5) the appropriate role of the AFL-CIO in the process of expanding and upgrading the skills of organizing staffs. Readers will be able to suggest additional topics.

The significance of the underlying issue, the growth or decline of the labor movement, offers a compelling argument for the allocation of more research effort to the organizing process. Academicians should find research in this area significant and challenging. To the leaders and staffs of America's unions, such research could be an invaluable guide to action.

But, if research findings are to be translated into more effective organizing, it will be necessary for the labor movement to possess a significant degree of flexibility. There must be receptiveness to new ideas, willingness to experiment and innovate, and awareness of the importance of effective administration and resource utilization to the attainment of union objectives. Any type of specialist who can help to make the organizing effort more effective must be welcomed. There must be a conscious effort to remove inhibitions in implementing the recommendations which are derived from research and analysis. In summary, institutional flexibility is a prerequisite for effective organizing in the 1980s and beyond; the consequences of institutional rigidity may be the continuing decline of the American labor movement. **[The End]**

Alcoholism, Drug Addiction, and Mental Illness: The Use of Rehabilitative Remedies in Arbitration

By MICHAEL MARMO

Xavier University

IN THE LAST FEW YEARS, the belief that individuals experiencing problems with alcohol, drugs, or mental illness can be successfully rehabilitated and reemerge as productive members of society has gained increased acceptance. During this period, a number of professional athletes, entertainers, and prominent political figures, including a former President's wife, were accorded almost hero's status by the media for publicly admitting their addiction to alcohol and/or drugs and entering rehabilitation programs. The question therefore arises: has this belief that individuals can rehabilitate themselves been accepted in the arbitration process?

This paper examines the use of rehabilitative remedies in published arbitration decisions involving the discipline of workers for problems caused by their mental illness or their unacceptable use of alcohol or drugs. Of the total of 233 cases analyzed, 103 involved employee use of alcohol, 88 were drug cases, and 42 dealt with mental illness. These cases represent all the decisions published in *Labor Arbitration Reports* from 1963 through the summer of 1980 in the areas of drugs, alcohol, and mental illness. In addition, in an attempt to augment

the relatively smaller number of mental illness cases, decisions published in *Labor Arbitration Awards* were included for the same time period, as were a handful of pre-1963 cases from both reporting services.

In only 46 percent of the cases analyzed did a contractual provision or company rule exist with regard to alcohol, drug, or mental illness problems. Of the three areas, a bare majority of the alcohol and drug cases contained contract language or company rules addressing these issues. However, none of the mental illness cases involved situations where the union and management had previously agreed on a formal way to deal with the problem.

In the majority of instances, then, employees are being disciplined for unacceptable behavior in these areas, even though no formal standards of what is acceptable have ever been established. Most frequently, the disciplinary action taken by management is based on its contractual right to discipline employees for "just cause." When contract language or company rules do deal with alcohol or drugs, it is almost exclusively in the context of specifying prohibited behavior and indicating disciplinary actions for violators. For example, a company rule might specify that possession of alcohol on company premises is grounds for immediate dismissal.

In only three percent of all the cases analyzed did a contract or company rule consider alcohol or drug abuse to be an illness and contemplate the possibility that the worker could be in need of rehabilitation. Of those few instances where rehabilitation is contractually indicated, several significant facts emerge.

First, in spite of the seemingly increased acceptance of rehabilitation by the broader society in recent years, no such trend has been reflected in collective bargaining contracts. Based on the cases studied, contracts negotiated in recent years are no more likely to contain provisions dealing with rehabilitation than were agreements negotiated 20 years ago.

The second significant trend to emerge is that, when the topic of rehabilitation is broached in a contract, it is always discussed in terms of an action to be taken in addition to any disciplinary measures that may be warranted and not as an alternative to discipline. The language establishing one such program, for example, states that participation in a rehabilitation effort carries with it "no special privileges or exemptions from normal counseling or disciplinary procedures . . . for employees who fail to meet work standards or violate Company Rules."[1]

Potential Rehabilitation Base

While the use of a rehabilitative remedy appears to be an appropriate consideration in many of the alcohol, drug, or mental illness cases studied, certainly not all these grievants require rehabilitation. Although it may be completely proper, for example, to discipline a heavy equipment operator who violates a company rule and has a single beer with his lunch, it would be ludicrous to think in terms of "rehabilitating" him for a first such offense.

Using criteria that are admittedly somewhat subjective, and not the same for all three categories of cases, a Potential Rehabilitation Base (PRB) has been constructed to identify those

[1] *Eastern Airlines, Inc., and Eastern Airlines Steward and Stewardesses Association, Local 553,* 74 LA 316.

cases involving grievants with problems severe enough to warrant possible rehabilitation. In the mental illness area, the only standard used to determine inclusion in the PRB is whether the worker's job performance was allegedly impaired. For the alcohol cases, inclusion in the PRB was based not only on alleged job impairment (being under the influence) but also on whether the grievant had an "admitted" problem with alcohol. Cases were also included in the PRB if a worker was being disciplined for repeated use of alcohol on the job, even if there was no allegation of any effect on his ability to perform his work. Drug cases were included in the PRB if they involved being under the influence on the job, repeated use of any type of drug on the job, use of a hard drug on or off the job, or sale of any type of drug, regardless of whether it occurred on or off the job.

Applying these standards, the three areas studied vary widely with regard to the proportion of the cases in each that are included in the PRB. All of the mental illness cases were included in the PRB, as were 83 percent of the alcohol cases, but only 40 percent of the drug cases were included.

Rehabilitation Already Attempted

The question frequently before arbitrators is not whether an attempt at rehabilitation should be initiated but rather the weight to attach to a rehabilitation program already under way or already completed. In many instances, the grievant enters such a program after being disciplined by management but prior to the arbitration hearing. There are striking differences, however, with regard to the prevalence of this practice in the three areas studied.

In 62 percent of the cases included in the mental illness PRB, the grievants entered rehabilitation programs prior to the time that the cases reached arbitration. In some instances the grievants voluntarily sought psychiatric help, and in others their families or the courts had them institutionalized for treatment. Similarly, in 25 percent of the alcohol PRB, the grievants entered a treatment program before the arbitration hearing. Of these cases, all involved admitted alcoholics, lending support to the contention that alcoholics typically do not accept treatment until they admit that they have a serious problem.

In direct contrast to the mental illness and alcohol cases, only nine percent of the drug PRB (three cases) involved grievants who entered a rehabilitation program prior to the hearing. That figure would decrease to six percent if not for the inclusion of one grievant who was ordered by the court to enter a program for first offenders.

Does Arbitrator Consider Rehabilitation?

In the area of mental illness, the possible imposition of a rehabilitative remedy was at least considered by arbitrators in virtually all cases. Excluding those instances where the arbitrator did not believe the grievant was mentally ill, the one case where the grievant died prior to the hearing, and instances where rehabilitation was either unnecessary or impossible, rehabilitation was considered in all but one of the cases. In a typical mental illness case, then, the arbitrator is not only dealing with the issue of whether the grievant's actions violated the contract but, assuming that they did, whether discipline or rehabilitation is appropriate.

In contrast to the mental illness cases, in the majority of the alcohol cases, the imposition of a rehabilita-

tive remedy is not even considered. Out of the total of 85 cases included in the alcohol PRB, 49 (58 percent) were considered solely on the basis of whether there was a contractual basis for imposing discipline, without even raising the issue of possible rehabilitation. Perhaps even more significant is the fact that in almost half (23) of those cases where rehabilitation was not considered, the grievant had a history of alcohol abuse that was discussed at the hearing.

In many of the cases where employees have a history of problems with alcohol, each incident is nevertheless considered as a separate transgression, and the question of whether the incidents are all manifestations of the grievant's possible underlying alcoholism is never raised. Since there is no consideration of the possibility that the grievant may be suffering from the "disease" of alcoholism, obviously it would be inappropriate to consider rehabilitation.

The approach taken by arbitrators in these cases is typically one of applying progressive discipline. As employees continue to misuse alcohol on the job, successively stronger and stronger disciplinary measures are meted out, culminating in discharge. Implicit in the use of progressive discipline in these cases is the belief that individuals have the ability to control their use of alcohol and that the imposition of stronger and stronger disciplinary measures serves a corrective function.

In the area of drug abuse, arbitrators rarely even consider the imposition of a rehabilitative remedy, raising this alternative in only four of the 35 cases (11 percent) included in the drug PRB. Instead, arbitrators tend to view drug cases in much the same manner in which they consider any other disciplinary case. They see certain drug-related offenses as being so serious as to warrant summary discharge but utilize the approach of progressive discipline for less serious violations.

Rehabilitation Considered and Rejected

The mere fact that the possibility of rehabilitation is raised at the arbitration hearing does not, of course, mean that the arbitrator is receptive to such an approach. The use of rehabilitation may very well have been suggested by the union and be considered completely inappropriate by the arbitrator. In fact, of those cases where rehabilitation is discussed at the arbitration hearing and at least considered as an option, it is rejected by the arbitrator in 29 percent of the mental illness cases, 47 percent of the alcohol cases, and 75 percent of the drug cases. Since rehabilitation was considered in only four drug cases, and no meaningful trends can be discerned from such a small group, the drug cases will not be discussed hereafter.

The major reason arbitrators refuse to order a rehabilitative remedy is their belief that such an award is beyond their power. In one case involving a mentally ill employee, the arbitrator refused to order a rehabilitative remedy because: "it is not for the Board to decide what the Company should do, as a matter of policy, in order to rehabilitate an employee. . . . A Board of Arbitration is not empowered to act as the conscience of either of the parties to the dispute."[2]

[2] *Package Machinery Co. and United Electrical Radio and Machine Workers of America, Local 220,* 10 LA 154.

A second reason arbitrators reject the use of rehabilitative remedies is their belief that such an approach had been tried on the grievant previously and failed. In an example from an alcohol case, the arbitrator reasoned, "The Grievant had been saved from discharge once previously . . . when the Company in an effort to assist him to rehabilitate himself reconsidered its discharge in order for him to enter a State Hospital for treatment of alcoholism."[3] When the grievant again manifested problems with alcohol, the arbitrator felt he had no choice but to sustain the dismissal.

A third reason for the refusal of some arbitrators to issue rehabilitative remedies is their unwillingness to "forgive" the incident that precipitated the disciplinary action. The use of rehabilitation requires the belief that individuals can be successfully cured *and* the belief that the incident that precipitated the disciplinary action should be forgiven because of the grievant's illness.

A case involving a worker who vandalized the home of his supervisor when he was drunk indicates the reasoning of an arbitrator who believes that rehabilitation is possible but that the incident of vandalism should not be forgiven. Believing that the grievant had been successfully rehabilitated, the arbitrator nevertheless upheld the discharge because he could not forgive the grievant's actions when drunk, indicating: "the grievant's reinstatement would be perceived by other supervisory employees as tolerating, if not condoning, the destruction of supervisors' personal property by employees, thus inhibiting supervisors in the performance of their duties."[4]

Rehabilitation Considered and Accepted

There is no question that the use of a rehabilitative remedy is not consistent with a "strict" interpretation of a collective bargaining contract. Arbitrators who believe in rehabilitation, however, maintain that, even though a contractual violation may have occurred, it should be excused or subject to less stringent disciplinary action because of the grievant's illness. A case involving a mentally ill worker who on a number of occasions had thrown fits of anger in which he threatened to kill fellow employees is an example of this approach.[5] During the incident that precipitated his discharge, the grievant threatened the life of his union committeeman, refused to leave the plant when requested, and eventually had to be arrested in order to be removed.

The arbitrator held that, while the grievant did commit acts for which "he logically could expect to be discharged," dismissal was nevertheless inappropriate because "we are dealing with an individual who is suffering from mental illness which prevents him from having a free choice in the matter."[6] Rehabilitation is thus viewed as a mechanism to keep a potentially dangerous employee off the job until he no longer constitutes a threat to his fellow workers.

Some arbitrators, although admittedly members of a rather small group, maintain that management has a continuing obligation to try to rehabilitate employees with alcohol or mental illness problems, regardless of how long this problem persists. This position is predicated on the belief that, because

[3] *Green River Steel Corp. and United Steelworkers of America, Local 4959,* 49 LA 117.

[4] *NCR, Appleton Papers Division, Locks Mill, and United Paperworkers International Union, Local 144,* 70 LA 756.

[5] *Johns Manville Perlite Corp. and International Assn. of Machinists and Aerospace Workers, Local Lodge 124,* 67 LA 1255.

[6] *Ibid.*

these problems are "illnesses," a person so afflicted is entitled to as much time as is necessary to recover. Despite the fact that a previous attempt at rehabilitating an alcoholic employee had failed, one arbitrator ordered another attempt because "It is not uncommon for an alcoholic to have periods of remission, a falling off the wagon, as it is referred to, before eventual rehabilitation."[7] Not only was a second attempt at rehabilitation made in this case, but the implication was certainly present that, if the problem recurred, management would be obligated to try still another attempt at rehabilitation.

A much more common view among arbitrators who believe in rehabilitation is that a grievant is entitled to *one* attempt at rehabilitation, and even then only if other extenuating circumstances exist. The most frequently cited mitigating factor that persuades arbitrators to permit grievants to attempt rehabilitation is their seniority. One arbitrator, in subscribing to this belief, stated, "The Employer owes an employee, especially an honorable and long-standing employee, the obligation of making at least one attempt to get him to rehabilitate himself."[8]

In a majority of the cases in which the arbitrators cite seniority as a factor entitling workers to a chance at rehabilitation, they also are impressed with the grievants' ability to perform their jobs when not incapacitated by "illness." Although arbitrators never cite an employee's favorable work record by itself as a justification for rehabilitation, there is no question that they feel a special obligation to try to rehabilitate long-term, competent employees.

Another factor cited by arbitrators in justifying their use of a rehabilitative approach is extremely nebulous; they simply have an intuitive feeling that the grievant is salvageable and entitled to another chance. In one such case, the arbitrator overturned the discharge of an alcoholic employee because he attached great weight to the grievant's testimony that: "I just can't see myself without a job. I've been doing it all my life. I'm a very responsible man."[9] From this assertion, the arbitrator "received a strong impression that the statement went beyond 'hangover' remorse and expressed the lifestyle of the man."[10]

A final, although not prevalent, arbitrator argument in favor of rehabilitating alcoholic and mentally ill employees is the belief that it is the socially responsible thing to do. This position views alcoholism and mental illness as serious social problems that should not be ignored or avoided by arbitrators' claims that their sole function is to enforce strictly the provisions of a collective bargaining contract. One leading arbitrator, for example, believes that the grievant should be extended one chance at rehabilitation because of the social benefits involved. "Some risks are certainly involved, but the gains from success are of such inestimable value to the person, his family, to the Company, and to society as a whole that they seem worth the effort."[11]

In a second, considerably more impassioned plea, the arbitrator wrote: "the grievant is obviously a man of limited education and wordly experience who has not been well-treated by life. . . . For him, the old saying that 'discharge is the capital punishment of

[7] *City of Buffalo, Real Estate Division, and Civil Service Employees Assn.*, 59 LA 334.

[8] *Armstrong Cork Co. and Rubber Workers, Local 22619*, 56 LA 527.

[9] *Thrifty Drug Stores and Warehouse, Processing, and Distribution Workers, Local 26, International Longshoremen's and Warehousemen's Union*, 56 LA 789.

[10] *Ibid.*

[11] *Texaco, Inc., and Oil, Chemical, and Atomic Workers Int'l Union, Local 1-128*, 42 LA 408.

industrial relations' is more than a cliché. If he loses this job it may be the last decent job he will ever have. We all share a moral obligation toward those less blessed than ourselves to make a maximum effort to help them enter and stay in the mainstream of American life."[12]

Conclusion

So far an attempt has been made to indicate how the possible use of rehabilitative remedies has been dealt with in arbitration cases over the past couple of decades. Since the main purpose of meetings such as this is to bring academics and practitioners together to discuss issues of common concern, I would like to conclude by raising a number of questions that will hopefully generate such discussion.

Should not the parties face the issue of possible rehabilitation and deal with it in their collective bargaining agreements? Clearly, based on the cases studied, if they are not willing to confront this issue, many arbitrators are.

Is the appropriate way to deal with employees who have problems with alcohol, drugs, or mental illness progressive discipline or rehabilitation? If these problems really are "illnesses", can we hold individuals responsible for their behavior as progressive disciplinary action does?

Do arbitrators have the power to order rehabilitation if it is not indicated in the contract? If rehabilitation is considered appropriate, to how many chances at rehabilitation is the worker entitled? If rehabilitation is considered appropriate, how long a period of time should the grievant be extended for it to be achieved? If rehabilitation is considered appropriate, who decides if and when it has been successfully achieved?

Should all three areas studied be dealt with in the same manner on the question of rehabalitative remedies? Are all workers entitled to a chance at rehabilitation, or just certain workers (long seniority, good work record, etc.)?

If the parties decide to deal with rehabilitation in the contract, should it be an alternative to discipline or in addition to discipline? To date, in all of the handful of cases where the contract does provide for rehabilitation, it is utilized in addition to, not as an alternative to, discipline. However, in all instances where arbitrators have rendered decisions without the contract directly specifying this option, it is based on the assumption that the precipitating incident should be forgiven and that rehabilitation should be attempted instead of discipline. **[The End]**

The Importance of Costing Labor Contracts

By GORDON S. SKINNER and E. EDWARD HERMAN

University of Cincinnati

ALTHOUGH COSTING is a necessary ingredient of bargaining, labor relations and collective bargaining literature have been relatively silent on this topic. Most texts in this field have ignored this subject matter, and this is the first time that we know of that the Industrial Relations Research Association has a paper devoted to this important area. However, a number of universities and some private firms

[12] *Charleston Naval Shipyard and Charleston Metal Trades Council*, 54 LA 145.

sponsor costing seminars. The Bureau of National Affairs provides some data on this topic; it also published Michael Granof's book on costing.[1] The Department of Labor and the FMCS also have some material on costing.[2] There are some scattered articles on the subject, but in general this very important field has been neglected in labor relations literature. There are a number of reasons for this neglect.[3]

First, the proprietors of some of the costing models are not willing to share their knowledge with the opposition or potential competitors. Some of these models have been developed at substantial costs over many years, and secrecy may be the only means of recovering these costs. In a bargaining context, it may be felt inappropriate to provide the other side with the tools for measuring the actual costs of proposals since such sharing of information contains the risks of reducing one's own tactical advantage. It should be pointed out that sometimes providing the opposition with the methods for measuring costs, and thus introducing honesty and actual information into the costing process, could be beneficial to both sides. In general, however, there is an atmosphere of secrecy surrounding costing models and procedures and, because of tactical considerations, a reluctance to communicate with outsiders and the opposition.

Second, responsibilities and jurisdictional boundaries for costing involve many specialties. Labor economists, accountants, MBAs, finance specialists, statisticians, industrial engineers, and labor relations and personnel experts are employed in the field of costing. Because of the diffused jurisdictional lines and professional affiliations, there are no clearly defined public forums for sharing valuable costing insights with one's professional colleagues. One future answer would be the establishment of a new association of contract costing professionals. Such a group could function as a clearing house for costing information; it could serve also as a catalyst for further research in this important field. An obvious obstacle to be overcome by such a group would be the reluctance of practitioners to share their knowledge, their secrets, and their experiences with their colleagues.

Negotiators and other labor relations practitioners, although interested in costing, may feel uncomfortable in the realm of modern costing models. Thus, they may be reluctant to write about this topic from their own perspective.

Finally, individuals involved directly in making cost estimates may prefer to remain anonymous and may be reluctant to draw the attention of their superiors or employers to their activities. This is understandable. Probably most costing experts would be reluctant to have the actual contract costs, at contract expiration dates, audited and compared against original

[1] Michael H. Granof, *How to Cost Your Labor Contract* (Washington: Bureau of National Affairs, 1973).

[2] "Elementary Steps in Costing a Contract." This material was prepared by Edward F. O'Brien, Regional Director, Region 4, and by the Division of Research, Planning, and Development, Office of Technical Services, Federal Mediation and Conciliation Service. Source: E. Edward Herman and Alfred Kuhn, *Collective Bargaining and Labor Relations* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1981), Appendix to Ch. 10, pp. 272-291. See also *The Use of Economic Data in Collective Bargaining*, U. S. Department of Labor, Labor-Management Services Administration, 1978, and *The Use of Economic Data in Collective Bargaining Workbook*, U. S. Department of Labor, Labor-Management Services Administration, 1979.

[3] This topic was covered by E. Edward Herman in "Costing of Labor Contracts," paper delivered at the 6th Annual Convention of the Eastern Economic Association, Montreal, May 1980, unpublished.

estimates. Such an audit could reveal major discrepancies between estimated costs and the actual costs. Estimates are based on a variety of assumptions that do not always survive the test of time or of new realities. However, the attitudes toward audits of cost estimates may be changing. Some employers believe that tracking labor costs to determine the variance between actual and estimated costs could be a valuable management tool.

It is apparent from the issues raised that it will not be easy to promote the development of costing literature. Practitioners have not been eager to share their costing methods, procedures, tactics, and secrets in a published format. It will be up to academicians to focus their attention on the theory and practice of costing and thus provide us with more published material on this relevant topic.

Contract costing is important not only for management but also for unions. Higher level of costing sophistication by unions can help them formulate better contract demands and can also assist them in refuting various cost assertions made by management. Costing can provide both sides with an improved comprehension of utilities that different sets of proposals contain. Better understanding of costing can facilitate the negotiation process and in some instances can avert potential strikes and produce settlements.

In this paper, we will show the significance of costing and review some important aspects of costing that seem to be ignored in the literature. Specifically, we will discuss the link between contract costs, contract terms, and employee behavior and explore the cost impact of the contract on employees outside the immediate bargaining units. We will stress the economic consequences of all contract terms and evaluate the conceptual distinctions between economic versus noneconomic or monetary versus nonmonetary issues. We will analyze problems of costing open-ended commitments, and we will also explore techniques for costing of contracts by application of present value techniques and by measuring the cost of the contract upon the unit cost of the product or products rather than on the worker.

Behavioral Modification

Any costing of bargaining demands requires that certain assumptions be made about the conditions under which such demands will be implemented. For example, what is the cost of a larger premium for service during a night shift? To cost out such a change properly requires one to show how many night-shift hours will be involved and the pay of those working that shift. The simplest assumption is to presume that the same patterns will prevail in the future as have in the past. But, such an assumption ignores the fact that the change in the shift premium may have been motivated by a desire to increase or decrease the willingness of workers to serve on such a shift. In some cases, such a change may motivate more senior (and perhaps higher paid) workers to serve on such a shift, increasing the cost of that work (although that increase may be more than offset by higher productivity because of the greater experience of the workers involved).

Other contract demands may involve similar behavior modifications. Increased pensions may make it more likely that older workers retire, larger overtime premiums may change the mix of workers willing to work overtime and the zest with which they do so, and a better health plan may affect the number of sick days taken by employees.

In formulating contract terms, the parties should consider the potential impact of all proposed contract changes on employee and management behavior. All new demands should raise the

question, "how may these changes alter behavior?" Projecting the past as a measure of the future may miss many cost implications resulting from behavioral modifications related to new contract terms.

Employers are usually well-aware of the fact that increases negotiated with a labor organization for a particular bargaining unit will have to be duplicated for nonunion employees and management personnel. Most costing models do not explicitly recognize this problem. Ignoring this spillover effect can be extremely costly to employers. Where management does calcuate the spillover effects (usually computing the same adjustments for employees outside the bargaining unit as one has for the union workers), the union will frequently refuse to consider such costs part of the contract costs. The union will not want to be "charged" with costs of increases to workers not covered by their contract. Or, if the union is willing to discuss the impact of the spillover effects at all, it may argue that the other workers do not need or do not deserve as large an increase as they seek and accuse the management of inflating costs in an attempt to reduce the settlement. If management seeks to bargain with spillover effect data, it must be able to support its figures.

Economic Consequences of All Contract Terms

Some authors distinguish between economic versus noneconomic issues or monetary versus nonmonetary issues. For purposes of contract costing, in fact for collective bargaining in general, one should think of all proposals as having economic consequences. Work assignment clauses can affect productivity and unit costs. Grievance procedures can disrupt production or result in monetary penalties (backpay, etc.) or result in the assignment of a less productive worker to some task. The real difference is not whether or not issues have monetary consequences, but how directly they can be expressed and how easily they can be measured.

Demands can usually be divided into two major categories, those that improve the economic conditions of employees and those that alter the decisionmaking relationship between labor and management. A change in the relationship may be difficult to translate into dollars. However, if we assume that most managerial decisions are governed by the profit motive, then we can conclude that the change in the relationship in favor of employees may lead to higher costs. The cost impact of such changes may be difficult to measure in the short term, but over time accounting procedures can be developed that would take into account the higher cost resulting from a change in the decisionmaking realtionship.

Open-Ended Commitments

Many bargaining demands may lead to open-ended commitments that are difficult to cost. Obviously, almost all contract commitments have variable elements. Even wages will vary from period to period, usually reflecting differences in rates of employment which, in turn, reflect differences in the company's business. But, such variations are usually closely, if not perfectly, related to levels of output, and the impact on product labor cost is small and predictable. This may not be true if the contract restricts the company's flexibility in adjusting to variations in employment, through guaranteed wages, severance pay, or restrictions on when or with what notice a worker can be discharged or laid off. In such cases, the company will want to predict as accurately as possible its likely business prospects and adjust its employment accordingly. Temporary increases in business can perhaps, under such circumstances, be more economically cov-

ered through overtime work or subcontracting work rather than through increases in the employer's labor force.

Many other issues have a variance that is not as directly under the control of the employer or as closely linked to its business fortunes. Clauses adjusting wages for changes in the consumer price index are good examples. While many employers seek to place a "cap" on such commitments, others are not able to negotiate such a limit. Where a cap is present, most employers use it as their estimate of the cost implications of that clause. Others may adjust that estimate downward if they feel strongly that prices will not rise as much as the cap provides.

Other contract provisions may also lead to open-ended commitments. Recent experience with health care has shown a steady rise in the cost of providing hospital and medical care for employees. While the employer may contract for such protection, the agencies involved will usually demand the right to adjust their rate periodically, generally with a period well short of the typical duration of a labor contract. Again, a careful estimate of future cost increases must be built into the cost of such contract provisions. Legally mandated costs may also vary during the terms of an agreement. Social Security contributions may be changed by statute, as may the contributions for unemployment insurance, workers compensation, and similar programs.

Cost/Product Rather than Cost/Worker

The literature[4] on costing of contracts traditionally lists the most common methods of calculating the cost of union demands as: (1) total annual cost; (2) annual cost per employee; (3) percentage changes in (1) or (2); and (4) total impact of contract demands upon the unit cost of the product or products. This latter value is the most important in determining the profitability of the company, and yet it is rarely discussed. True, unit cost is difficult to determine, since it involves assumptions about the impact of contract demands upon productivity of labor. But, this is the very thing that parties must do if they are to derive any accurate cost estimates.

Interestingly enough, studies of contract costing discuss elasticity of demand for the employer's product and the impact of that upon sales and employment. Such discussions usually (implicitly) have assumed that a ten-percent increase in wages (or other labor costs) will mean a ten-percent increase in unit labor costs and a resulting increase in product price. But, offsetting productivity implications may mean that unit labor costs have not risen or have not risen as much as wages.

To make such calculations will involve the expertise of production engineers, cost accountants, and research and product design personnel. It will also necessitate consideration of more long-run decisions as to possible changes in labor/capital ratios. An analysis of product cost implications can provide the kinds of data required for bargaining over productivity and over cost-saving contract changes that can offset economic concessions.

Time Dimensions of Contract Costing

One of the more recent topics of discussion in contract costing has been the use of present value calculations to measure more accurately those costs involving different timing as to when the changes are effective.[5] A simple illustration will show that what might

[4] Herman and Kuhn, cited at note 2, pp. 251-254.

[5] *Ibid.*, pp. 265-267; see also material by Ellenbogen Associates in Herman and Kuhn, pp. 259-265.

look like similar wage adjustments actually have different financial impacts.

In the table, we are assuming a payroll of $1,000,000 and a prospective two-year contract, with nominal wage increases of 20 percent distributed differently over the life of the contract. If an immediate 20-percent payroll increase is given and continues for the two years, the present value of the payroll cost increase is $366,666.67 at a discount rate of 20 percent and $373,913.04 at a discount rate of 15 percent.

However, if one gives an immediate increase of 10 percent and an additional 10 percent at the end of the first year of the contract, the present value of the payroll cost increase is $275,000 at a discount rate of 20 percent. On the other hand, if no increase is given at the beginning of the contract, and a 20-percent wage increase is given at the end of the first year of the contract, the present value of the payroll increase is only $166,666.67 at a discount rate of 20 percent.

As the table shows, for a given total nominal percentage increase, the more increases are delayed, the less the present value of the increase. In times of high interest rates, this kind of analysis and the conclusions drawn therefrom show larger benefits (lower costs) the longer the increases are deferred. The table also shows that the present value (cost) of the wage gains are *all* lower the higher the interest (discount) rate is.

One must be careful in using this concept. If one looks at the level of the payroll at the end of the two-year period, one can see that giving a 10-percent, rather than a 20-percent, increase each year, immediately results in a higher payroll base at the end of the period even though it has a lower present value. And, payroll level becomes the base of computing future cost increases. In fact, one will note that, the more frequently increases are given, the higher the ultimate payroll level because of the compounding effect of the successive percentage increases, even where the sum of the percentage changes is the same (20 percent in this case).

As a matter of fact, this phenomenon of present value may lead one to offer higher deferred benefits as a device to avoid a strike or to assist union leaders in selling a contract. For example, if management were willing to incur a present cost of $200,000, this could be accomplished (given an interest rate of 20 percent) by giving an immediate $200,000 increase (with nothing additional in the second year) or by giving a 24-percent raise at the end of the first year (with nothing immediately). The second example could be called a "24 percent" increase, but it has the same present value as an immediate increase of 20 percent. However, this generous 24-percent deferred increase will leave the company with a payroll base of $1,240,000 at the end of the contract, higher than it would have been with the immediate 20-percent raise.

Some authors have considered the cost of a settlement beyond the period of the contract under consideration.[6] Estimates of this type involving guesses over many years are not very reliable or useful.

Labor organizations frequently like high "front loading" of their agreements rather than evenly spread in-

[6] M. W. Reder, "The Theory of Union Wage Policy," *Review of Economics and Statistics* 34 (1952), p. 39; Allan M. Cartter, *Theory of Wages and Employment* (Homewood, IL: Richard D. Irwin, 1959), p. 119; M. H. Granof and Rafael Lazimi, "Determining Optimum Patterns of Negotiated Wage Increases," paper delivered at the 6th Annual Convention of the Eastern Economic Association, Montreal, May 1980, unpublished.

TABLE

Assumptions: A $1,000,000 payroll and negations for a new two-year contract that will include wage increases that will total 20 percent over the term of the new contract

Option	Present Value at beginning of contract		Level of Payroll at end of new contract	Cost of Payroll (not discounted)		
	At 15% discount rate	At 20% discount rate		1st Year	2nd Year	Total
I. 10% increase now and 10% at end of 1st year	$282,608.70	$275,000.00	$1,210,000*	$1,100,000	$1,210,000	$2,310,000
II. 20% at start of contract, none later	373,913.04	366,666.67	1,200,000	1,200,000	1,200,000	2,400,000
III. 5% increase now and 15% at end of 1st year	230,434.78	222,916.67	1,207,500	1,050,000	1,207,500	2,257,500
IV. nothing now and 20% at end of 1st year	173,913.04	166,666.67	1,200,000	1,000,000	1,200,000	2,200,000

* This value is obtained as follows: An immediate raise at beginning of contract raises payroll to $1,100,000 (10 percent over base amount). An additional raise of 10 percent at the end of the 1st year costs $110,000 (10 percent of payroll of $1,100,000) plus the existing payroll for a total of $1,210,000.

creases or even deferred increases, as it helps sell contracts and may also permit a "catchup" to offset deficiencies in past contracts or to match increases of unions in other industries. This increases the present value of any nominal wage increase.

Conclusion

Explicitly or implicitly, all parties must do more research on the cost of contract demands. It may be done simply by using gross figures, or it may involve elaborate computer models. In any case, there are assumptions that have to be audited about how contract changes may affect costs in future years. What the parties need to do is to compare what actually happens with what they thought would happen while bargaining was under way. By comparing predictions, assumptions, and estimates with actual results, they can improve their future costing methodology as well as test the validity of their assumptions about the behavioral impacts of contract changes. This research must be more than a simple comparison of yearly profits or pay rates. If one has assumed that more senior workers will choose the night shift, have they done so? If not, why not? This is the type of specific research that will lead to improved methods of determining costs and better contract costing results.

Some degree of common sense is necessary in deciding how to cost labor demands. Many implications of contract demands involve unknowns or variables beyond the control of the parties. It is important to determine what is likely to happen with as much precision as possible, but one must realize that many of the calculations will involve value judgments and estimates that may produce erroneous results. In fact, it may be more costly to determine the value of some variables than the information is worth or to get 95-percent perfection rather than 90 percent. So, it is important to remember that assumptions are being made and to note what they are.

The results should be monitored to see what the actual costs were and how and why they differed from the estimates made at the time of bargaining. Were they due to faulty assumptions, incorrect data, or errors in calculations? After the variations are identified, the process should be reviewed to see how it could be improved. The importance of proper costing and the possible dire consequences of incorrect costing make the effort worthwhile on a continuing basis.

[The End]

A Discussion

By JOSEPH L. CRAYCRAFT

University of Cincinnati

THE PAPERS of Krislov/Silver and Leftwich represent different but related views of organizing in the 1980s. Krislov and Silver present a view of the organizing environment, while the Leftwich paper suggests strategies for organizing in that environment.

Neither paper presents nor refers to a systematic theory of union membership, although there are some notions about the factors influencing union membership implicit in each. Those

implicit notions seem quite different. One apparent difference is the interpretation of demographic changes on union membership. Krislov and Silver follow the logic that employment in the 1980s will be increasing among groups with low propensities to unionize —females, service workers, southerners, and westerners. As employment shifts from high propensity groups to low propensity groups, union membership will decrease.

Leftwich follows the view of Thomas Kochan that the attitudes toward unions among the above groups do not differ significantly from the attitudes of unionized workers. It is the jobs that are unionized, not the workers. Being more open to the possibilities of rising propensities to organize among the groups with expanding employment opportunities in the 1980s, Leftwich goes on to develop strategies to bring those possibilities to reality. They require change in union attitudes which may exceed their ability to adapt.

The tasks to which these papers address themselves would have been somewhat easier if there existed greater agreement about the interactions among union membership and factors in the economic environment. In some instances, membership in unions has been increased when the union had the ability to deliver tangible gains in wages and working conditions. This seems to be the model underlying the Krislov/Silver paper. On the other hand, union membership has expanded in response to frustration and fear. The factors cited in the Krislov/Silver paper may challenge unions sufficiently to shock them into more effective strategies and tactics for dealing with the organizing environment of the 1980s.

Each paper is based upon a forecast of that environment. The only thing we can be sure about forecasts is that they will be wrong. If this meeting had been held on May 1, 1971, it is unlikely that a paper like Krislov and Silver's would have analyzed the factors that had such influence on union membership in the 1970s. It is unlikely, similarly, that the factors which will have the greatest effects on union membership in the 1980s have been mentioned in their current paper. Their paper does identify important factors as they appear now. The purpose of these papers is not to predict the future but to provide for changing that future and coping with it as it unfolds.

Inflation as a Factor

The remainder of my remarks are directed to the section in the Krislov-Silver paper related to inflation as a factor influencing organizing efforts. The inclusion of this section in the paper emphasizes the importance of expectations with respect to inflation in many of the decisions we make.

Given the importance of these expectations, the overdependence on the Consumer Price Index is unfortunate. There is entirely too much reliance upon and acceptance of the CPI as a measure of changes in consumer prices, inflation, and the cost of living. The limitations and weaknesses of the CPI are well-known and documented. There are other measures available, although they, too, have their weaknesses.

Changes in consumer prices are measured by the Implicit Consumer Expenditure Deflator (ICED) using both current and fixed weights. As a Laspeyres-type index, the CPI overstates price increases during periods when relative prices are changing rapidly. The CPI, of course, is not a measure of inflation as it does not include expenditures by business and government. The Implicit GNP Deflator includes such expenditures. Personal income and social security taxes, as well as third-party expenditures, are

not included in the CPI. It fails, therefore, to measure changes in the cost of living. The Urban Family Budgets might be considered a better measure of that concept.

Not only are expectations based upon the CPI as reported in the media, but the Department of Labor has an unfortunate tendency to deflate all of its data with the CPI rather than any other available measure. Up until 1977, there probably was little difference among the measures. Since 1977, the differences have become appreciable.

In 1979-1980, the CPI overstates price changes by 3.5 to five percentage points relative to the other indexes. In this paper, for example, the conclusion is that real wage gains in 1979 and 1980 were negative when increased money wages were deflated by the CPI. If the money wages were deflated by ICED or the Implicit GNP Deflator, it is unlikely that they would be negative. The use of more and varied indexes would permit the parties of the bargaining process to have more accurate measures of price changes or inflation. Expectations of the parties might become more consistent and realistic.

Other Observations

Only two brief observations will be made concerning the Marmo paper. Given the topic, it might be useful to gather information directly from arbitrators concerning their attitudes with respect to rehabilitation in the types of cases cited. A question remains also whether the situation of rehabilitation in contracts and in arbitration may not mirror the attitudes of society as a whole. The concept of alcoholism, mental illness, and drug abuse being "illnesses" subject to treatment and rehabilitation may not be widely accepted.

Rather than comment specifically on the Skinner/Herman paper, I will exercise the discussant's usual prerogative of giving an alternative paper off-the-cuff. The Skinner/Herman paper represents the cutting edge of a new, important area for practitioners and researchers. What are the research implications of the Skinner and Herman paper and the relation of those implications to the emerging research agenda for industrial relations?

Thomas A. Kochan has presented a summary of such a research agenda.[1] Clearly, research on costing would fall neatly into the agenda relative to the determination of wages and economic benefits.[2] There are at least four specific areas of research implied by the Skinner/Herman paper.

One, research is needed on baseline information about costing procedures. It is apparent from the Skinner and Herman paper that costing is an integral part of the negotiation process. There is little, if any, information on the costing process. Who does the costing: outside consultants, the industrial relations department, or the finance department? Does it make a difference in the final offer? Who controls that final offer? What techniques and methods are used in the costing process? The increasing importance of costing in the negotiation process has obvious implications for industrial relations specialists. Unless they develop some expertise in this area, they will be excluded.

The Conference Board's survey of labor relations may be a useful model for this baseline.[3] The present survey

[1] Thomas A. Kochan et al., *Labor Management Relations Research Priorities for the 1980's: Final Report to the Secretary of Labor* (Washington: U. S. Department of Labor, January 1980).

[2] *Ibid.*, pp. 27-30.

[3] Audrey Freedman, *Managing Labor Relations* (New York: The Conference Board, 1979).

has limited information on this area. Even these limited data have significant survey bias. The Department of Labor surveys might be a source of some information if confidentiality issues could be resolved.

Two, assumptions are critical in the costing estimates.[4] As Skinner and Herman point out, there have been few attempts to compare the projected costs of contracts with the actual costs. Part of this evaluation process should include a comparison of the assumptions underlying the costing projections and the actual environmental and operational variables. Skinner and Herman indicate some of the difficulties in conducting such research, however vital it may be.

Three, there is a vast realm of research possible relative to the impact of the environment on the outcomes of the bargaining process. Some work has been done with respect to the general level of economic activity. Little has been done, however, on the influence of industrial organization variables such as structure, concentration, elasticity of demand, propensities to collude, etc., on bargaining outcome. The expansion of macro/micro industrial organization and micro/macro models to include baragining processes has hardly begun and holds great promise. We might even get so bold as to attempt to develop models to predict variance rather than predicting means.

And, four, upon the discovery of every need, there is a tendency to advocate meeting that need regardless of cost. Every decision requires information. Costing of labor contracts is part of that information process. Information is costly. Part of needed research in this area, consequently, is the benefits and *costs* of costing. Are the outcomes different when costing is done in a systematic manner? What are the costs of costing? Is costing, in the sense of systematic models and analysis, a cost-effective approach to bargaining? **[The End]**

[4] See Victor J. Sheifer, "The Use of Assumptions in Costing Labor Agreements," paper presented at the Eastern Economic Association Convention, Montreal, May 1980.

SESSION III

Twenty Years of Manpower Training And Economic Development: The National and Regional Experience

Twenty Years of Employment and Training Programs: Whatever Happened To the Consensus?

By GARTH L. MANGUM

University of Utah

THE FIRST DECADE of employment and training programs, 1961-1971, was characterized by consensus. The authorizing committees in the Senate and the House were united and each act and amendment was a bipartisan product. Every final vote was overwhelmingly positive, and important amendments to the Manpower Development and Training Act (MDTA) and the Economic Opportunity Act (EOA) went through on the consent calendar.

That consensus began to fray toward the end of that first decade in the arguments over what became the Comprehensive Employment and Training Act. The issues were Republican opposition to the concept of public service employment and Democratic concern with some of the more extreme forms of decentralization and decategorization proposed. Still, CETA, its subsequent amendments, and its 1978 reauthorization passed handsomely and arguments did not congeal along party lines. Appropriations rose rapidly. There were no clearly evident signs that the country was preparing for a wholesale rejection of social welfare programs that would leave employment and training programs without vocal congressional defenders.

Political pundits may argue for a long time about whether the 1980 election marked a sharp political shift to the right. Epitaphs

are not yet required for employment and training programs. But, that the consensus that once enveloped them has dissipated there can be no doubt. Many political and economic forces were involved, but the friends and supporters of what were once called manpower programs probably deserve as much blame as the enemies. The opponents should not be denied credit for what they consider successes but, in the interests of longer term policies, it is more useful to identify the mistakes of supporters.

Seven errors in political judgment will be suggested, leading to an agenda for a new consensus.

We Spent Too Much

It has always been an accepted rule of thumb in the employment and training business that there were about ten times as many people eligible for service as there were resources appropriated to provide the services. There was never too much money from the standpoint of meeting need, but there was often too much too soon for too brief duration to allow for careful administration, and, clearly, there was more being spent than the taxpaying public was willing to continue to support.

For perspective, it is well to recall that employment and training programs began with $13 million under the Area Redevelopment Act in 1961 and peaked at a level nearly one thousand times that amount before the second decade had passed (Table). War was declared on poverty with the presidential stipulation that it not cost more than one billion dollars the first year. That ceiling was only reached at the end of the Johnson Administration. With productivity rising at about three percent per year and real economic growth at over four percent, it was an almost burdenless battle. Until Vietnam, it was conventional wisdom that "fiscal drag" could be overcome only by some combination of tax reduction and expenditure increase each year. The taxpayers could be rewarded and the poor supported simultaneously.

Expenditures began to accelerate with the Emergency Employment Act in 1971 and were sealed in place by the addition of Title VI to CETA in 1975. That provided the legislative base for the Carter economic stimulus package in 1977 to which the Youth Employment Demonstration Projects Act (YEDPA) was added the same year. The proposed Reagan cuts would bring employment and training appropriations back approximately to where they were in current dollars at the end of the Ford Administration, though that does not account for the ravages of inflation since.

One can only guess whether a slower and steadier rise would have been more acceptable politically. It is only clear that taxpayers were not willing to sustain employment and training programs at the Carter level. With slower growth in both productivity and the economy, the burdens on the taxpaying public had become real ones.

We Went Too Far

The rising expenditures on employment and training programs were accompanied by increases in all social welfare programs and in economic and business regulations as well. In putting together the total package, the Congresses of the 1970s persisted beyond compelling signals that a backlash was building. The rise in total income transfers from $22 billion in 1960, $46 billion in 1968, $159 billion in 1976, and $245 billion included rapid growth in Supplementary Security Income, Welfare Title XX, and Food Stamps, far beyond what had been originally contemplated in each case. AFDC expenditures had stabil-

TABLE

Appropriations and Expenditures, Department of Labor: Manpower Development and Training Act, Economic Opportunity Act, Emergency Employment Act, Comprehensive Employment and Training Act, Social Security Act (Work Incentive Program), and Older Americans Act, Fiscal Years 1963-1980 (amounts in millions of dollars)

Fiscal Year	Total Appropriations	Expenditures						
		Total	MDTA	EOA	EEA	CETA	SSA/WIN	OAA
Total, all years	65,123.2	60,028.1	4,446.8	4,756.3	2,239.6	44,617.7	3,252.7	715.0
1963	69.9	51.8	51.8	—	—	—	—	—
1964	130.0	110.0	110.0	—	—	—	—	—
1965	529.4	280.3	229.6	50.7	—	—	—	—
1966	977.4	520.7	275.5	245.2	—	—	—	—
1967	1,057.1	542.0	274.8	267.2	—	—	—	—
1968	1,154.2	796.1	356.9	439.2	—	—	—	—
1969	1,432.8	911.2	377.4	501.2	—	—	32.6	—
1970	1,579.5	1,185.9	408.4	690.9	—	—	86.6	—
1971	1,727.2	1,534.1	651.4	753.7	—	—	129.0	—
1972	2,941.3	2,441.5	894.1	809.4	567.0	—	171.0	—
1973	3,091.6	2,775.0	816.9	662.8	1,014.2	—	281.1	—
1974	2,616.0	2,734.9	—	336.0	605.0	1,454.0	339.9	—
1975	3,964.8	3,490.2	—	—	53.4	3,123.0	313.8	8.6
1976	6,227.7	5,342.3	—	—	—	5,035.0	307.3	46.5
1976 TQ	677.6	1,634.3	—	—	—	1,537.0	86.5	10.8
1977	8,572.8	6,063.6	—	—	—	5,631.0	360.5	72.1
1978	8,701.6	10,031.4	—	—	—	9,533.0	364.1	134.3
1979	10,908.1	10,035.8	—	—	—	9,443.0	385.0	207.8
1980 (est.)	8,764.2	9,491.9	—	—	—	8,861.7[a]	395.3	234.9

[a] Includes $0.1 million of EEA funds.

SOURCE: U. S. Department of Labor, Employment and Training Administration, Office of Administration and Management.

ized by the mid-1970s, but indexing had OASHDI benefits rising more rapidly than the wages which supported them. Budget deficits persisted in prosperity as well as recession.

The dollar burden was accompanied by an unpopular regulatory one. The equal employment opportunity effort had no teeth until 1972, and Mr. Bakke and Mr. Weber gave the signal that the approach was more popular in the courts than among the voters. The OSHA shift to focus on carcinogens and other large scale threats to health never overcame the bad initial impressions made by the earlier "handrail and toilet seat" regulations.

This is not to challenge the validity of either the expenditures or the regulations but only to record the ignoring of political signals.

We Kept Bad Company And Changed Philosophy

Not only were employment and training programs attached in the public mind to a portfolio of income maintenance programs and environmental and labor market regulations, but they probably became entangled in even more unpopular social issues. The supporters of employment and training programs and of full employment advocacy were often visualized as at least fellow travelers of advocates of busing, pro-choice abortions, women's liberation, gay rights, and gun control. To that extent, a political price was paid for association.

The MDTA consensus was made possible by its compatability with conservative as well as liberal rhetoric. "Investment in human capital" and "rehabilitation, not relief" were equally as descriptive as "abolishing poverty" and "meeting unmet needs." It was initially assumed that the fault was in the employability of the poor and unemployed and that training and education could change them to become acceptable to the broader society. That was a less threatening assumption than the later one that it was the institutions of society which must change. Even the "government as employer of last resort" concept assumed that every other remedy designed to bring the poor into the mainstream labor markets would have been exhausted first. Public service employment made government the first resort.

What had been personal responsibility was now shifting to social responsibility. It was some of those early architects of the New Frontier and Great Society who later classified themselves as neo-conservatives who first decided about 1969 that employment and training programs had not worked and should be replaced by direct redistribution of income. Out of this grew the demands for welfare reform which was also inextricably involved in the emerging philosophy of entitlements. On this point, OMB Director David Stockman is absolutely right. No group has rights which it cannot enforce. A society can be compassionate and share with the weak. But it does not have to.

We Misconstrued Problems

Too often, employment and training programs were given tasks they could not do, or the proposed solutions were inconsistent with the actual problems. If an employment or training program is assigned to remedy problems of personal disorganization such as drug abuse, alcoholism, or criminal activity, it cannot be held to a high success rate. The Social Security system originated to support the nuclear family when the extended family disappeared. Nearly 15 years of WIN should be enough to prove the fallacy of a labor market cure to the breakup of the nuclear family.

The youth programs came on the scene in 1977 when the ratio of youth to adult unemployment had fallen from 1969's five to one to a three to one ratio. The "baby boom" was about to be replaced by the "birth dearth." There were still youth employment problems aplenty and always will be, but those of the 1980s will be very different from those of the 1960s. Yet the 1977 rhetoric was more reflective of the earlier period than the future.

That example reflects two basic problems which have beset employment and training programs from their beginnings. One, there is a failure to recognize an inherent demographic and socioeconomic cycle of 15–20 years' duration. Changing basic forces create new problems and outmode old solutions, bringing new policies only when crises are reached without the underlying causes ever receiving explicit political recognition. Two, labor markets work, even if we do not like the results; effective solutions must be consistent with labor market realities. That is not an argument against intervention, but only against uninformed interventions.

We Did Not Do Well What We Did

Friends of employment and training programs must confess to a failure of public management. In defense, it may be said that the job was an extraordinarily difficult one. MDTA operated on a well-worn track from the federal agencies to the state employment service and vocational education systems out of which many of the federal staff had come. CETA's decentralization and decategorization were unprecedented and unfamiliar. Federal bureaucracies were overseeing a system with which they had no experience. They were supposed to provide technical assistance to prime-sponsor staff when the latter were far more experienced than they. Congress aggravated the situation by hedging the decentralization with patently unenforceable rules and by maximizing uncertainty in the funding process.

There has never been sufficient recognition of the time necessary for institution building. The combination of the Carter economic stimulus package and YEDPA within one year was beyond any possible absorptive capacity. Pushing public service employment from 300,000 to 750,000 slots in nine months was a public administration miracle, but it could not be accomplished without inefficiency and even scandal. Those who expect detailed regulation to provide accountability are only kidding themselves.

But, when all appropriate allowances are made for the environment, charges of federal administrative incompetence cannot be successfuly denied for the 1977–1980 period.

We Did Not Prove Our Strong Case

One of the lessons of 1961–1965 was that an evaluation system is a necessary defense for any program which would serve a minority and not overly popular clientele. By 1968, such a system was in place and paying dividends. At the change of administrations, the word spread that the manpower and antipoverty programs had not worked. But, that negative reading was gradually refuted by reasonably good quantitative data. In general, benefits had exceeded costs and a clientele starting low in the ranks of poverty had risen to its upper levels. It had not, by and large, escaped poverty but had attained a more comfortable level within it.

One looking for published quantitative evidence of worth today is pushed back to that MDTA/EOA data. CETA lacked the uniformity to allow a simple one-year followup of a random national sample of participants of a homogeneous program. Prime spon-

sors had no strong motivation for evaluation to defend the funds that came to them by formula. A new continuous longitudinal manpower survey was undertaken through the Social Security wage reporting system, but the time lags were long. Data on 1976 enrollees were just beginning to emerge from the system several months after the budget cutting of the Reagan Administration was already under way.

The results are a replay of the earlier experience. Even unpopular programs have favorable benefit-cost ratios. However, that fact is no guarantee of popularity. The costs are to the taxpayers and the benefits to the participants. But, at least evidence of accomplishment might have given budget cutters pause.

Where Do We Go from Here?

While the friends of employment and training programs would not have chosen the current situation, they might as well make the best of it. It is an appropriate time for reexamination—a time to jettison what has not worked and to establish priorities among that which has, a time to be alert to changing reality and to respond pragmatically to political signals, and to redesign policies and build workable coalitions around them.

The declining birthrates of the 1960s dictate sharp labor market changes for the 1980s and 1990s. Employment and training programs of the last 20 years have been plagued by an unwanted surplus of inexperienced youth. In the years ahead, youth should be a scarce and valued resource. Where the need to spread scarce resources over a gigantic eligible population required lean programs for maximum enrollments, it may be possible to mount richer programs for fewer people. The rhetoric of human capital investment may again apply. Wage structures which have widened the gap between youth and adults should begin to close. Employers who have shifted in the direction of labor intensive methods should begin to opt for the capital intensive with a consequent rise in investment and real wages.

Rising international competition is the other dramatic labor market reality. It should be obvious by now that we do not want to stifle illegal immigration, or we would have done so by the simple expedient of making it illegal for employer as well as immigrant. We might as well get on with a policy to regularize the flow.

Basic industries will continue to decline under the impact of international competition. Plant closings and displacement of the employed will supplant access for the disadvantaged as the issue of the 1980s. Rather than being a side issue to industrial relations, employment and training programs should come into the mainstream. Planning to handle a plant closing should be much easier to focus upon than planning for the absorption of the disadvantaged. Those who maintain allegiances to past priorities will have to be alert to see that they are met within the newer goals.

Those remarks suggest the view that employment and training programs will continue. CETA may in fact be a four-letter word, as the *Readers Digest* suggested within the past few years. However, the word is much more likely to be expunged than the program. Some form of federal-state-local partnership will undoubtedly continue, but with the focus on the newer challenges. A best guess would be the equivalent of the present CETA Title II-B at a 1976 funding level with its own equivalent of a COLA for the future. If that prophecy is to be fulfilled, four commitments will be required.

One, a commitment to sound management will be required. Block grants, if

they come about, will create their own problems. Congress will not for long appropriate money without assurance of accountability. Yet, it should be clear by now that detailed regulations of the 1978 variety are unenforceable. The goal must be federal guidance without dictation which will require transfer to the federal level of experienced prime-sponsor staff.

Two, a commitment to experiment and demonstration will be required. There is enough experience now with large-scale labor market experiments that no national program need be undertaken without first clarifying the issues through research and proving the process in pilot demonstration.

Three, a commitment to evaluation will be needed. Though the results are a few months late, what is saved of employment and training programs will owe much of its life to the controlled evaluations of the Continuous Longitudinal Manpower Survey and the youth knowledge development effort.

Four, a commitment to political pragmatism also will be required. To lament the axwielders of the current Administration will serve no purpose but self-pity. The Administration is doing the unprecedented—exactly what it told the voters it was going to do. Lamentation is better directed to failure to heed the political signals or to advertise a more salable product.

Using this hiatus as the occasion for building a stronger employment and training program will require the building of a stronger supporting coalition. After 20 years at the periphery, economic and demographic forces are in motion which can bring employment and training programs into the mainstream. The emphasis will be on increasing productivity and adapting to international, technological, and geographic change. The heart of the labor market, not just its periphery, must be involved including mainstream institutions of employers, labor and employee organizations, and intermediaries. The civil rights movement and the community-based organizations must not be left out. But, the test of 20 years' experience should be what we have learned about bringing the disadvantaged into the mainstream during a period of vast industrial change.

[The End]

The Impact and Implications of Changing Federal Manpower Policy on the Administration And Implementation of Social Manpower Programs

By JAMES MORLOCK

Chessie System

IT IS IRONIC that the first retraining program in the United States funded under the Area Redevelopment Administration was started here in Huntington, West Virginia, in the fall of 1961. This program marked the beginning of a new manpower policy in America aimed at helping in the nation's economic recovery. After almost 20 years of program evolution and economic ebb and flow, we are witness-

ing the demise of that manpower policy —in order to help the nation's economic recovery!

In spite of 20 years of progressive manpower policy, the needs of the chronically unemployed still exceed our capacity to deliver. This condition has been the basis of the indictment of past policy. Yet, imminent budget cuts coupled with potentially delayed or diminished tax cuts will further exacerbate unemployment, at least in the short run. Moreover, for the unemployed, no matter if and how much the economy improves, the tide of economic recovery will not likely reach this group.

Granted, government spending and taxes must be curbed in order to encourage more saving, investment, and job growth. However, from the viewpoint of the chronically unemployed these new jobs will be the wrong kind, in the wrong place, at the wrong time.

Government spending is not being reduced—merely redistributed geographically and industrially. Increased military spending as well as decontrol of energy prices and exploration will favor the job market and tax base of an already booming Sun Belt. In addition, projects such as oil shale development and construction of the MX missile project will create tremendous demand for skilled labor in the Western States. Do the urban poor have either the potential skills or the geographic mobility to top this job market?

This is not to say that *skilled* workers will not leave the cities for these *opportunities*. They are! All of the 25 fastest growing areas listed by the Census Bureau were in the South and West. And, all but two of 32 *metropolitan* areas that *lost population* over the decade were located in the Northeast or North Central regions. These shifts represent a serious loss to cities' resources and tax base.

In addition to being the wrong kind and in the wrong place, the jobs will be at the wrong time. The response of the economy will not be *adequate* or *prompt enough* to cushion the shock that urban communities and the poor will feel as domestic budget cuts resound through the economy. Regardless of the ultimate success of the recovery program, unemployment will *stubbornly persist* at high levels for certain groups and areas, particularly in the Northeast.

These regional inequities will exacerbate unemployment. It is the major cities of the Northeast and Midwest that face the most immediate and severe problems from the reductions in CETA and other federal funds. Yet, the strained tax bases of these areas have the least capacity to make up these losses.

In comparison, Houston, for example, has no local income tax and its property taxes are among the lowest in the United States. Texas also has no corporate or personal income tax.

The problem of inequity can be found close to home, too. Rich suburban counties in the North under the funding formulas are given more funds than they can effectively use. For example, Baltimore County is having difficulty recruiting enough eligible youth to fill its summer job programs. At the same time, Baltimore City's summer program was reduced by 6000 jobs.

New funding approaches to redistributing the federal pie need to be adopted which target scarce resources to chronic unemployment in areas where the private sector is unable to provide sufficient jobs.

Although there is, as yet, no specifically defined federal manpower policy, it is certain that what will emerge will place the private sector in a central role. However, I do not believe that it is the intent to set up the business

community for failure. But, that is what will happen if the safety net for the unemployed is removed before a better trapeze is built. Business will be vulnerable to severe criticism if it, alone, is expected to shoulder the plight of the chronically unemployed and fails to live up to that expectation.

What is needed are new, effective private/public partnerships that bring differing perspectives of reality into one common focus. Easing some CETA regulations can make these partnerships easier to form.

Private Sector

One important example is the need to permit paid work experience in the private sector as is being done in Baltimore under a DOL demonstration project. For example, an effective strategy has been to allow unemployed to "audition" at no risk to the employer. One program which provides this opportunity is the private sector Youth Incentive Program. Its effectiveness has been demonstrated. This experimental private sector effort is the most significant but least recognized private sector employment innovation undertaken in the United States. YIP permits youth to work for private-for-profit employers, an activity prohibited in all other CETA activities.

Private sector firms account for almost four-fifths of nonfarm employment. It is clear that private enterprise is the major source of trained manpower in the U. S. labor market. And, it stands to be the greatest beneficiary of pending tax reductions. Yet private sector employers represent a vast underutilized and frequently untapped training capacity for our nation's youth.

The training expertise of the private sector, particularly among small business, and the energy of our nation's youth represent two assets that are both mutually dependent and beneficial.

The findings of David Birch, a researcher at MIT, shed light on the job generation process in the private sector economy and its role in manpower development. The results are striking. *Small firms* (those with 20 or fewer employees) generated 66 percent of all new jobs generated in the U. S. *Small independent firms* generated 52 percent of the total. *Middle-sized and large firms*, on balance, provided relatively few new jobs. There was considerable regional variation in this pattern. Small business generated all net new jobs in the *Northeast*, an average percentage in the Midwest, and around 54 and 60 percent in the South and West, respectively.

Birch defined some clear patterns from his research. "The job generating firm tends to be small. It tends to be dynamic—the kind of firm that banks feel very uncomfortable about. It tends to be young. In short, the firms that can and do generate the most jobs are the ones that are the most difficult to reach through conventional policy initiatives."

There may well be a very positive symbiotic relationship between the needs of youth and the needs of free enterprise in this country. The incubator theory of economic development may have even broader significance as a manpower development concept.

Findings about the results of the Youth Incentive Program have been supportive of the roles of the private sector and small business in particular. The youth were somewhat more likely to believe that their assignments were of value to them at private sites. There was also a fairly consistent tendency for private sector worksites to be rated somewhat above public and nonprofit organizations in worksite quality. Supervision was also more prevalent in the private sector.

YIP Lessons

Two trends have been observed in YIP. Increasing numbers of job slots

with private employers have been developed. Over the same period, the proportion of private to total sites has increased.

In Baltimore, one of the major YIP sites, some other lessons have been learned. (1) Private worksites offer more numerous and diverse opportunities for youth. (2) Supervision is more intense and direct. (3) The employer making the decision to become a worksite [sic] is often the same person involved with supervisory responsibility. (4) Youths often have a sense of belonging and identify their self-interests with the profit motive and self-interest of the employer. (5) Youths see a more immediate payoff or return for their efforts. (6) Many employers supplement the earnings of youths by giving them extra hours of work, and (7) a large number of employers have already permanently hired participants. (8) Employers are more likely to get involved if they do not initially incur the risks of UI, workmen's compensation, etc. (9) Employers view the program as a way to employ and train people they would not ordinarily hire for jobs that would not routinely be performed. (10) Employers have expanded their operations in ways they would not have considered in the absence of the program. (11) Normally conservative employers see YIP as a viable alternative to welfare, crime, and public jobs particularly during a recession. (12) The lack of red tape and contractual relations appeals to small business and makes it possible for businesses to participate who ordinarily would never participate in traditional OJT approaches. (13) Unions do not object, since the jobs are part-time, short-term, and often with small businesses which are not likely to be unionized. Unions see the problem of unemployed youth as outweighing narrow self-interest. (14) The year-round nature of the program encourages businesses to see that an investment of their time now can pay off later if they hire the youths permanently.

As an employer put it: "These kids are finally in the right place at the right time. They are learning how to deal with themselves, with others, and with the community. This is the best thing that could have happened for the youth in Baltimore." Unfortunately, the program expires August 30, 1981.

Another private sector program is on the chopping block. The Targeted Jobs Tax Credit has itself become a target of the Administration which has called it a failure and is urging Congress to let it die, arguing that the economic program will boost jobs sufficiently. However, there are alternatives to scrapping the TJTC program to make it more streamlined such as simplifying eligibility and eliminating retroactive payments for persons the employer would have hired anyhow.

In place of these and other programs is the proposed enterprise zone concept dubbed the "Engine for Jobs" for the poor. But it has not left the station yet. If and when it is enacted, it will designate only 25 zones a year for the first three years. And, the success of these experiments is not guaranteed. The enterprise zones concept is an important innovation that should be tried, but it should not be billed as a panacea to end urban blight and unemployment.

Finally, one of the sleepers of manpower policy is already found in the Internal Revenue Code. Section 170 enables corporations to deduct up to five percent of their taxable income for contributions. Business now donates only about one percent of what the tax law allows. Only 25 percent of the country's 2.1 million companies make any cash contributions at all, and only six percent give more than $500 a year.

It might be more effective for private firms to decide on their own what social programs should be funded, as Xerox has done in Baltimore and nine other cities the last two summers by funding community jobs. As a Xerox corporate official said, "with decreased federal funding of youth employment programs, we believe it is critical for the private sector to take an increasing role in assisting cities by funding jobs for unemployed youth."

Conclusion

What must be done is to shape a new manpower policy that recognizes that there is not a single problem, there is not a single cause, and there is not a single solution. Given scarce resources, a balanced strategy must be employed that recognizes and builds on the strengths of past programs, improves on their weaknesses, and allows for new program innovations. There is not time to wait for untested theories to supplant ideologically unpopular but workable alternatives.

James Rouse, a private sector leader who understands cities very well (having built the new town of Columbia and rebuilt a number of urban areas) was blunt in congressional testimony last month. Unless something is done, he said, "This summer we will see cities in despair or cities in turmoil."

[The End]

The Impact of Federal Manpower Policy and Programs on the Employent and Earnings Experiences of Special Problem Groups of the Unemployed: A Critical Historical Overview

By WIL J. SMITH and FREDERICK A. ZELLER

West Virginia University

DURING THE DECADE of the 1960s the federal government launched an effort to reduce poverty and unemployment in the United States. Some of the more important components of that effort sought to improve the employability and productivity of those beset by unemployment through various kinds of training programs. Underlying the strategy of these training programs was the belief that aggregate economic demand could be kept high enough to permit the wage and employment mobility necessary to significantly reduce the poverty of the hard-core unemployed (e.g., the AFDC and AFDC-U welfare recipients, ex-offenders, ex-drug addicts, and problem youth). In such an environment, the training effects would be adequate to initiate and maintain the necessary momentum for this to be accomplished.

At the public's level of comprehension the strategy had appeal: increased employment of the hard-core unemployed and the reduction of poverty would produce greater national economic productivity followed simultaneously or shortly thereafter by the reduction of "wasteful" public welfare expenditures and other transfer payments. "Tax eaters" would become taxpayers; "workfare" instead of welfare would become the central theme of government public assistance programs.

That such an attitude could have existed is not difficult to understand. During the fifties and sixties, employment problems were explained by economists in terms which suggested such a strategy, although there was a division among them on the point of emphasis. One prominent group of economists felt that the nation's unemployment problems were caused by inadequate aggregate demand. If the rate of economic activity could be sufficiently accelerated, the members of this group maintained, the nation's unemployment problems (and the poverty which accompanies it) would tend to disappear without massive government intervention (in the form of an extensive training effort).

Another prominent group of economists largely dismissed this explanation, stressing changes in the structure of the economy (changes in the structure of occupations and in job requirements) and the structure of the labor force versus relatively immobile workers as the true sources of the nation's unemployment problem. Central to the solution proposed by these "structuralist" economists was a variety of occupational training programs and relocation assistance programs to reduce the immobilities of the hard-core unemployed.

On one crucially important matter they were in agreement—employment problems were reducible in the short run by appropriately designed and implemented manpower programs, and the success of such programs would be followed by substantial reductions in unemployment and poverty without any losers. To this should be added another point of agreement—the reduction of unemployment and poverty and the resulting diminution of welfare expenditures and other transfer payments would add to the nation's total social welfare to the extent that the savings realized through having formerly nonproductive members of society become productive members were larger than the costs of realizing that achievement.

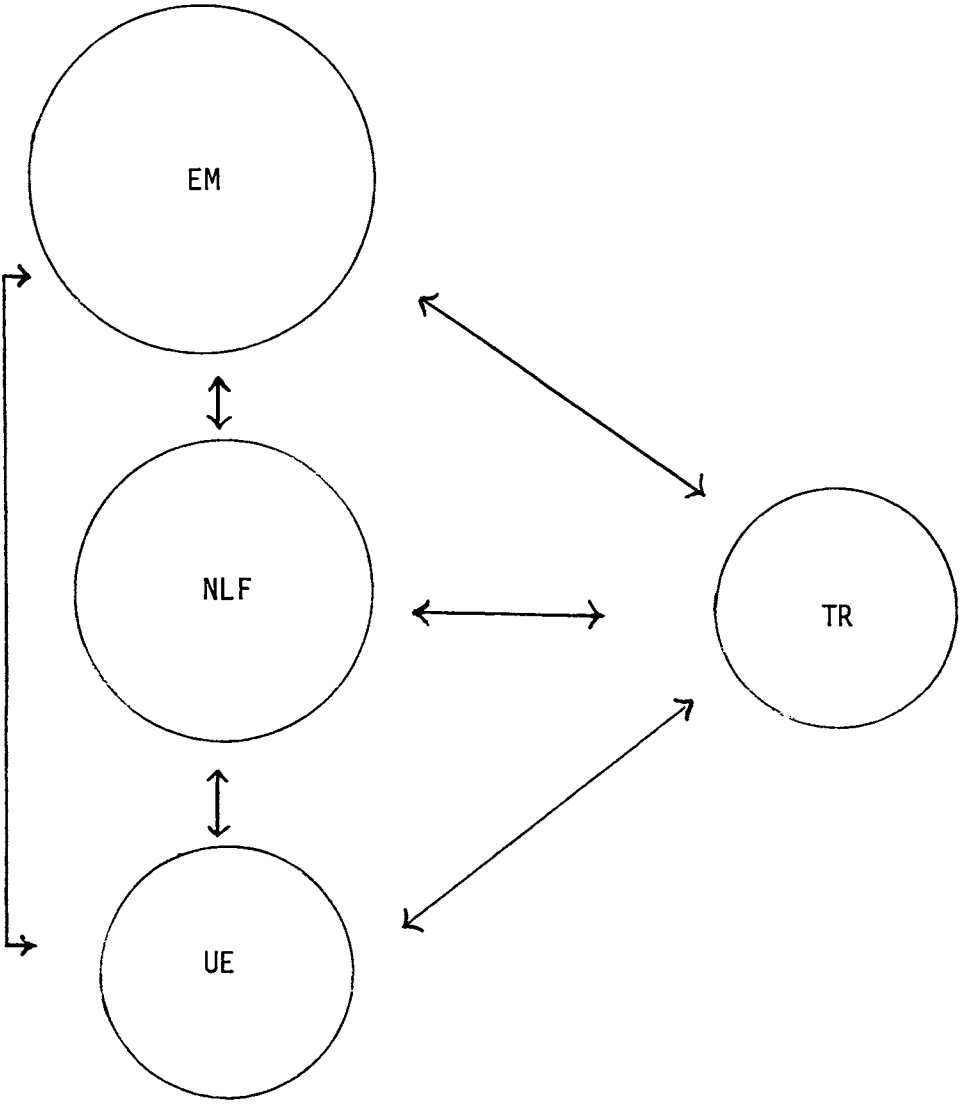
A New Approach to Understanding The Problem

A simple four-"sector" labor market flow model of the United States economy might be helpful in understanding what was hoped for from the operation of the nation's manpower training problems. The four "sectors" are shown in the diagram on the next page.

Prior to 1960, the economic policies of the United States were primarily concerned with methods to move labor force participants from the unemployed (UE) sector to the employed (EM) sector of the economy. Only since the late sixties have we seen in this country the development of a training (TR) sector of the economy, which is in many ways quite similar to, yet in other ways quite different from, the other sectors of the economy. While many people in the TR sector were formerly in the UE or the not-in-the-labor-force (NLF) sector, many of them remain in the TR sector or return to it if they are unable to obtain jobs after terminating their training programs. In addition, many others leave training and return to the welfare rolls (NLF sector) or are unsuccessful in their search for jobs and thus fall into the unemployed sector once again.

The types of training programs developed to prepare the unemployed for job entry have varied widely according to the needs of the trainees and the availability of employment opportunities. As the training centers have recruited increasingly greater numbers of the multiproblem, hard-core unemployed trainees (by necessity and by legislative mandate), the need to develop creative and multidimensional training approaches has become evident. These approaches have often appeared

LABOR SECTORS OF THE ECONOMY



complex and even confusing to outsiders. Among the programs, of course, has been a variety of on-the-job training (OJT), OJT-institutional, and multifaceted training programs, such as occupational sampling in industry (OSI) and the more recent Supported Work Program. Of course, the emphasis on recruitment of the very hard-core, multiproblem person has necessitated that manpower training staffs be broadened to include several specialists not present among program staffs during the early years of manpower training. The so-called supportive staff specialists are seen as essential to preparing the hard-core trainees for jobs.

Since providing trainees with supportive services requires a substantial proportion of the budgets of training centers, these services are often considered among the important trainee benefits when evaluating possible benefits, and costs, of these programs. But the only direct (and, perhaps, lasting) benefits are the jobs and incomes the trainees are able to obtain after receiving training. Such supportive services, regardless of how essential to the success of the training program, should be considered as "potential" benefits and as real benefits only if they result (later, perhaps months later) in jobs for the trainees.

What is the record of the nation's manpower training programs in improving the employment and earnings experiences of the nation's hard-core unemployed? Let us look at the record. We will limit our remarks to five programs: two recent (and on-going) programs involving retraining and job placement in private and public employment and three earlier programs involving retraining (two programs) and relocation (one program). The programs to be discussed are: National MDRC (Supported Work) Program; West Virginia MDRC (Supported Work) Program; West Virginia Rural Manpower Education and Training Project; Operation Manpower Project; and West Virginia Labor Mobility Demonstration Project.

National (MDRC) Supported Work Program

The Supported Work Program[1] is a national demonstration program that "was designed to test whether and to what extent twelve to eighteen months of employment in a supportive, but performance-oriented, environment would equip some of America's hardest-to-employ people to get out and hold normal, unsubsidized jobs."[2] The four hard-core unemployed (or disadvantaged) groups which are the focus of this program are: ex-offenders, ex-drug addicts, women who have been long-term recipients of welfare benefits, and young school dropouts, many of whom have had a "brush" with the law.

Without going into a detailed discussion of this extensive and comprehensive work demonstration project (which involved 6,616 hard-core unemployed, eligible applicants at 15 sites throughout the nation during the five years of the demonstration), what has been the impact of the Supported Work Program on the four target groups involved in the program? The most recent findings of the national evaluation of this large and innovative demonstration project indicate quite clearly the difficulty of improving the employment and earnings capabilities of the hardest to employ among the nation's disadvantaged. The impact of the Supported Work Program on each of the target groups (as ascertained by a comprehensive evaluation of the program

[1] This section of the report is based largely on the *Summary and Findings of the National Supported Work Demonstration*, the Board of Directors, Manpower Demonstration Research Corporation, Ballinger Publishing Company, Cambridge, Massachusetts, 1980.

[2] *Ibid.*, p. 9.

conducted under the supervision of the MDRC) is presented below.

Among the four target groups, the Supported Work Program was most effective in improving the employment and earnings experiences of the AFDC target group. Findings from the evaluation indicate that participation of the AFDC target group led to an increase in the rate of employment, number of hours worked, and earnings, both while the participants were in the program and after they left it. Available evidence indicates that the program had an impact not only on the employment rate but also on the quality of employment. Analysis of the data for this group indicates that, from month 16 on, the wage rates of the AFDC experimentals who worked ranged from 12 to 38 cents an hour more than those of controls. In addition, the results of the benefit-cost analysis show that the impacts for the AFDC target group are large enough so that, overall, the benefits exceeded the costs.

The Supported Work Program had a positive effect on the employment experiences of the ex-addict target group but failed to have an impact on the members' drug use. Employment increased not only during the time participants were in the program but during the months after leaving the program. The criminal activities of this group decreased substantially as a result of the participants' participation in the program. The benefit-cost analysis of this group indicates that the postprogram employment effects combined with the social value of the reduction in crime substantially exceed the cost of the program for the ex-addict target group.

Available evidence indicates that the Supported Work Program had little effect on the employment and earnings experiences of the youth target group and no measurable impact on drug use. Too, there is some evidence that the youths stayed in the Supported Work Program longer than they could be expected to stay in a nonprogram (regular) job. Briefly, there is little solid evidence to show that the Supported Work Program had any lasting effect on the employment and earnings experiences of this target group.

The results of the analyses of the data relating to the ex-offender target group showed that the Supported Work Program was ineffective in improving the long-term employment and earnings experiences of this group of participants. Further, it would appear that the Supported Work Program was not effective in reducing the welfare dependency, drug use, or criminal activities of ex-offenders over the longer term.

In summary, it would appear that the national Supported Work Program was moderately effective in improving the employment and earnings experiences of two target groups and ineffective in improving the employment and earnings experiences of the remaining two target groups.

West Virginia MDRC (Supported Work) Program

The Supported Work demonstration in West Virginia (conducted by the Human Resources Development Foundation, Inc., from its headquarters in Morgantown, West Virginia) was the only rural site of the national demonstration.[3] Although the rural nature of the north-northcentral West Virginia counties included in the demonstration made it difficult to test fully the basic components of the Supported Work Program, in general the findings of the West Virginia Supported Work Program evaluation approximated those of the national evaluation.

[3] Nuran Kolan, Research Department, AFL-CIO Appalachian Council, *The West Virginia Supported Work Program: A Case Study*, October 1979.

In West Virginia, as in the other sites, the AFDC target group fared better in terms of employment and earnings in both the short and the long run. On the average, AFDC women remained in the program longer, required more help in finding postprogram employment, and stayed on their first jobs much longer than either the ex-offender or youth target groups. On the other hand, ex-offenders left the program earlier than did members of the AFDC target group, were more independent in seeking and finding postprogram jobs, received higher wages, and more frequently changed jobs. The West Virginia Supported Work Program was least successful in improving the employment and earnings experiences of the youth target group. Members of this group were often unreliable, had poor attendance records, and had little success in finding postprogram employment.

Although one should not overlook the many longer term, indirect benefits of the Supported Work Program, it is important to consider its success in securing jobs for enrollees. Data presented in the table indicate that, since the implementation of the program in West Virginia (1975), 1,149 people have enrolled in the program. As of March 31, 1981, 350 of that number (approximately 30 percent) had been terminated to jobs (Table).

West Virginia Rural Manpower Education and Training Project

The Rural Manpower Education and Training Project (RMP)[4] was specifically designed to reach the hard-core, multiproblem unemployed who lived in the more rural backwater areas—individuals whose educational attainment was generally low, occupational or work skills were either lacking or undeveloped, and experiences in the labor force had been both limited and discouraging. In addition to the personal characteristics of the target population, the project was designed to consider structural characteristics, geographic isolation, lack of transportation to population centers, and the chronic surplus of unskilled low-wage workers characteristic of rural northern West Virginia at the time the project was in operation. Essentially, the RMP was an innovative, multifaceted training program which sought (through the use of an array of supportive services) to improve the employment and earnings experiences of a group of 29 hard-core, unemployed people who had been bypassed by the other, more conventional, manpower programs.

How effective was the Rural Manpower Project in improving the employment and earnings experiences of the 29 hard-core unemployed persons who participated in the project? The comprehensive evaluation conducted by the Office of Research and Development at West Virginia University concluded that the characteristics of the rural unemployed focused on by the project (that is, their marginal attachment to the labor force, the complex array of problems of a personal, nonwork nature dominating the actions of each individual) were such that improvements in their labor market status were highly improbable without almost prohibitively costly public investment in their skills and more basic physical and mental development.

Analysis of project data indicated that the population represented by the trainees would have been imper-

[4] Wil J. Smith, Anne Leyden, and Robert W. Miller, *Manpower Development and Job Training of the Hard-to-Employ in a Rural Appalachian Area: A Study of the Rural Manpower Education and Training Delivery Systems Model,* Office of Research and Development, West Virginia University, Morgantown, 1976.

TABLE

WEST VIRGINIA SUPPORTED WORK PROGRAM
MONTHLY CREW REPORT

Includes all activities through 03/31/81

GROUP*	TOTAL STARTED	TOTAL REENROLLED	TOTAL TERMINATED TO JOB	TOTAL TERMINATED TO FURTHER TRAINING	TOTAL TERMINATED NO JOB	CURRENT TOTAL	CURRENT NUMBER ACTIVE	CURRENT NUMBER INACTIVE
AFDC Mothers	317	8	76	13	122	114	108	6
Ex-offenders	432	24	164	16	223	53	45	8
Youth	400	15	110	17	207	81	64	17
Totals	1,149	47	350	46	552	248	217	31

* The West Virginia site did not include an ex-addict target group.

Source: Human Resources Development Foundation, Inc.

vious to the effects of a program which focused only on fostering occupational skill adjustment. If the goal was improvement of the employment and earnings potentials of the least likely employables in areas least likely to offer them employment opportunities, the RMP established the inescapably high economic costs associated with such efforts. In addition, it was found that the staff of this project was not psychologically, philosophically, and methodologically equipped to deal with the trainees enrolled in the project's training programs.

Operation Manpower Project

During the period September 1971 to November 1972, the Office of Research and Development at West Virginia University conducted a comprehensive, multifaceted evaluation of the Operation Manpower Project,[5] a regional manpower training and job development program administered by the AFL-CIO Appalachian Council. Our study of a sample of 1,200 trainees (700 of whom were personally interviewed), indicated that Operation Manpower had been somewhat more successful than the manpower training programs in the nation as a whole in reaching and enrolling low-wage workers. Also, it appeared that the inclusion of up-grade training, OJT, and coupled OJT-institutional types of training in the overall training effort had enhanced the ability of Operation Manpower to provide training services to characteristically different groups of workers in the Appalachian Region.

In an attempt to determine the impact of the project on the employment and earnings experiences of one of those "characteristically different" groups of workers, data obtained from welfare recipient members of the original sample were further analyzed. The findings of the statistical treatment of the data obtained from 50 sample members who were public welfare recipients were: (1) Operation Manpower was not markedly successful in improving the earnings and employment experiences of the welfare group relative to the nonwelfare group —average wages were lower and average unemployment higher for members of the welfare group both before and after training; and (2) welfare recipients possess certain disadvantages that are not easily eliminated by training program activities. Further, these advantages appear to be independent of race and sex characteristics.

In short, the data obtained from the public welfare recipients participating in the Operation Manpower Project lend support to the opinion that welfare recipients constitute a special category within the ranks of the hard-core disadvantaged, a special category distinguished not by a lack of motivation but rather by its lack of job skills required to obtain and hold entry level jobs.

West Virginia Mobility Demonstration Project

During the period 1966 to 1969, West Virginia participated in a national labor mobility demonstration project[6] designed to move large numbers of unemployed persons from the state's southern counties to jobs in the nation's urban centers. Among the relocatees from West Virginia were several hundred welfare recipients.

[5] Robert W. Miller, Wil J. Smith, and Frederick A. Zeller, *Manpower Development and Job Training in Appalachian States*, Office of Research and Development, West Virginia University, Morgantown, November 1972.

[6] Wil J. Smith, unpublished study of the employment and earnings experiences of public welfare recipients relocated by the West Virginia Labor Mobility Demonstration Project, 1971.

How effective was the relocation strategy in improving the employment and earnings experiences of the hard-core unemployed, notably public welfare recipients who participated in this program?

A study of a sample of approximately 250 welfare recipients and a comparable sample of nonwelfare recipients indicated that only 24 percent of the original welfare group relocated, compared to 36 percent of the nonwelfare group. Of those who did relocate, 64 percent of the welfare relocations were deemed "successful," compared to 82.4 percent of the nonwelfare relocations.

With regard to the employment and earnings experiences of these groups, unemployment was found to be higher and wage rates lower before and after relocation for the welfare group than for the nonwelfare group. In addition, personal income was significantly lower for the welfare group after relocation.

Evaluation

In one sense the goal of manpower training is quite simple: *jobs*. One can find jobs for the hard-core unemployed (or for all jobseekers, for that matter) in two places, broadly speaking: in private industry or in public (government) employment. The recent concern with the special problems of the hard-core unemployed has coincided with the greater reliance on public employment as a source of jobs.

The federal manpower training programs have experienced mixed success in moving people from the UE sector to the EM sector (see diagram), particularly on a permanent basis and at an income level that is decent and offers advancement opportunities. The success of manpower training programs (TR sector) is even more mixed when one looks at the employment and earnings experiences of the special-problem groups of the unemployed (notably AFDC, AFDC-U recipients, ex-offenders, ex-drug addicts, and problem youth), the groups with which this paper is principally concerned.

That the strategy adopted (a combination of structural and aggregate demand strategies) has not produced a great deal of lasting value, especially among the hard-core unemployed, is now obvious. The reasons why it has not done so are still being debated. Adamant to the end, those who saw the problem originally in terms of inadequate aggregate demand attribute the failure of these programs to have solved our unemployment problems to the lack of sufficient economic growth during the past two decades. Equally adamant, the structuralists maintain that structuralist policies have not been pursued with enough vigor and insight (i.e., the government has failed to make a full commitment to the effort). Of even greater interest, however, is the fact that both groups of economists have been, and apparently still are, guided by an extremely simple conception of the causes and the solutions of the problems of unemployment and poverty.

To illustrate: the inadequate aggregate demand approach assumes that all, or almost all, workers can (i.e., have the skills, desire, and ability) and will respond to employment opportunities wherever and however they appear. Is this nation's conventional education and training system so perfect even for the present technological system (let alone the form it may take at any one time) that almost all people seeking employment are qualified for employment in that system? As for the assumption of the structuralists concerning the causes of the nation's unemployment problems, can one rationally expect relatively short periods of training and small reloca-

tion allowances to overcome the work skill and education deficiencies which are known to exist within the nation's population, particularly among the hard-core, multiproblem unemployed?

It is clear that the manpower strategy of the 1960s and 1970s did not succeed, at least not as well as was expected. It also is clear that much of that strategy was consistent with the prevailing economic advice of that time. This suggests that, for the purpose of dealing with certain kinds of aberrations in the performance of our economic system, prevailing economic doctrine may not be helpful.

Manpower Training-Employment Policies in the Future

Where do we stand currently as far as a national manpower and employment policy is concerned? The picture is not an entirely clear one. However, it is difficult to be optimistic, particularly since we are encountering tremendous obstacles in our attempts to reach full employment. The official unemployment rate is about 7.5 percent as this paper is written. This figure is, of course, misleading since it does not include large numbers of people who have dropped out of the labor force from the discouragement of the job hunt and others who are unemployed. The outlook becomes even less bright when one considers the urgent need to reconcile our manpower-employment policies with ecological (and energy conservation) considerations necessary for our very survival.

It would appear that our attitudes toward and our basic philosophy about the world of work and the meaning of work in our life will have to undergo dramatic change. Given rapid technological change and an apparent precarious ecological balance, a nation which historically has been largely dependent on accelerated economic expansion (and programs to create infinite demands and insatiable appetites for goods and services) to resolve its most significant manpower-employment problems might well wish to reconsider the future of such approaches. There is now reason to believe that an economic system which stresses infinite consumer demands and insatiability of consumer appetities and ignores the earth's finite resources (particularly its nonrenewable fossil fuels) might well be assuring its own collapse, if not the extinction of the earth's people.

The experience of the sixties and seventies has made it quite clear that any manpower-employment policy which wishes to be successful in the long run must consider fully the public welfare, population, and environmental-ecological crises. A permanent, responsible, and equitable solution to our manpower-employment problems is possible only if each of these crises is fully understood and permitted to determine the nature and scope of our national manpower-employment policy.

Unfortunately, however, even a manpower-employment policy which seeks to reconcile the seemingly often contradictory solutions called for by the above-mentioned crises may not be enough to reduce significantly our current unemployment rate of 7.5 percent and assure full employment for any extended time period. Indeed, it is not inconceivable that within the next decade or two the unemployment rate might exceed 10 percent and perhaps approach 20 percent. A shorter work week (perhaps less than 30 hours per week), early retirement (perhaps at less than 50 years of age), limitations on the number of workers per household, further delay of entrance into the labor force, further expansion of the government-service industries, extension of government subsidies,

and supplementary payments to certain segments of the labor force, particularly part-time workers, might well be important future manpower-employment policy considerations.

Conclusion

In a society where change has been accelerated and often legislated, adaptation to change is essential for full (or even partial) participation in society. Since some adaptability skills now must be acquired through purchase, in the future society should offer those services free or provide the means for everyone to obtain the funds to purchase the goods and services that will enable them to become adaptable, active participants in a changing society.

It has been said that, the more things change, the more they remain the same. When one considers the relative power and position of the poor over time, this would appear to be particularly true, for the largesse of government continues to be disbursed not on the basis of *collective need* but on the basis of the *power* of special interest groups—large corporations and wealthy landowners. The true measure of good government is its policies for the least powerful among its people—the level of its *caring index*, so to speak. Given our present policies, it would appear that the powerful are getting richer and the powerless are getting poorer. If policy is a measure of caring, then as a nation we have found it difficult to care very long or very much for the poor, particularly the hard-core unemployed, in this country.

In the short run, the people of this country have decided to attempt to resolve the gravest problems of this society within the limitations and context of the present institutional arrangements. Several billion dollars are being expended annually to improve the educational institution without substantially changing its format. Additional billions are being spent each year in other ways, such as program implementation of our manpower and employment policies and health and welfare programs, without really trying to change their traditions and their basic designs.

The growing internal strife (including the increasing problems of crime) and the decay of our cities and countrysides are depressing and urgent reminders of the terrible price we are paying for our failure to recognize the need for massive, creative programs to prepare man for constructive life on earth. The preservation of man on earth may soon require that our system of values be transformed to reflect man as paramount and not his inventions: his machines and institutions. **[The End]**

Appalachian Development After Sixteen Years

By RALPH WIDNER

Academy for Contemporary Problems

AFTER SIXTEEN YEARS of a uniquely preferential federal-state experiment in regional development, the Reagan Administration has recommended that the Appalachian Regional Commission and most of its programs be terminated. The Administration claims to have found little evidence that the program has significantly affected improvement in the region's economic fortunes. Yet, within Con-

gress, the program has enjoyed a reputation for having been modestly successful and for having been a worthy experiment in creative federalism.

Where is the truth? After 16 years and several billion dollars in special federal expenditures, what do we have to show for the effort?

Unlike other federal legislation in the mid-1960s, the Appalachian Regional Development Act of 1965 was more the result of state initiative than of federal. Creation of a special regional development program in the coal fields and southern mountains of Appalachia was advocated by a group of seven governors from the region. In 1963, President Kennedy established a President's Appalachian Regional Commission (PARC), an interagency study group, to work along with the Council of Appalachian Governors in devising the legislation. After one unsuccessful effort in 1964, the 1965 legislation was the result.

In the late 1950s, Appalachia had become the largest, most densely populated lagging region in the United States. This was due in part to declines and displacements in coal mining resulting from mechanization and shifts to other fuels for energy and in part because some of the region's economy had barely developed beyond the extractive stage.

Between 1950 and 1960, 641,000 extractive industry jobs were lost from the Appalachian economy. Manufacturing, construction, and service employment increased by 567,000—not enough to offset the loss. As a result, there was a net loss of 1.5 percent in total Appalachian employment during the ten years between 1950 and 1960. A net of 1.26 million persons left Appalachia in search of jobs elsewhere.

The program had several unique features. First, from the outset it was an experiment in federalism in that it offered the opportunity to link federal, state, and local interests in a common planning system. The Regional Commission consists of a federal cochairman, appointed by the President with the advice and consent of the Senate, and the governor of each of the 13 participating states.

While a large share of initial federal authorizations and appropriations was earmarked for construction of a 2700-mile Development Highway System, a second distinguishing feature of the Appalachian program has been the comparative flexibility granted to it by Congress to carry out programs in housing, education, health, child development, and resource development and conservation as well as community improvement projects. While emphasis was placed on the construction of facilities, the percentage devoted to services has steadily increased over the 16 years since enactment.

The objectives of the Act went beyond economic development. In fact, the Commission originally set itself two goals: (1) *social:* to provide the people of Appalachia with the health, education, and skills they need to compete for opportunity wherever they choose to live; and (2) *economic:* to develop the underdeveloped human and physical resources of the region so that Appalachia can attain a self-sustaining economy capable of supporting its people with rising incomes, increasing employment opportunities and standards of living reasonably equivalent to those of the rest of the nation.

Appalachian Development Highways

Appalachia is curiously unique when compared to other lagging regions in the U. S. and elsewhere. Most poor regions, such as southern Italy, northeastern Brazil, northern New England, or Canada's Maritime Provinces, are peripheral to the economic heartland

of their country. But Appalachia lies between the Atlantic Megalopolis, the Midwestern Manufacturing Belt, and the burgeoning Southern Piedmont. This was enough to persuade Congress that a network of highways tying the most remote sections of Appalachia to the thriving regions on either side was a prerequisite to regional development.

In conjunction with the interstate highways, the Appalachian Development Highways were to serve as a framework on which investments in industrial development, housing, education, and health facilities were to be located. While there is evidence that these new highways have altered locational advantages and thereby the employment mix in some areas of the region, the record is far from impressive. Despite the original objectives, the Development Highways have not been used as the framework for physical investment to nearly the degree originally contemplated.

From its inception, the program was criticized for concentrating on highway construction and public works; for not attempting to address the problems of hard-core unemployed and disadvantaged first; and for not attempting to bring about fundamental change in some of the region's political and social institutions. Despite these criticisms, the program has consistently commanded strong political support at all levels and has also demonstrated considerable flexibility in moving beyond its heavy public works orientation into increased attention to education, health, child development, and housing issues. This is all the more interesting in light of the fact that the public works committees in Congress may have presided over some of the more innovative experiments in health, education, and child development planning in the country.

Employment and Training

For example, while the Commission lacked direct authority to link employment and training programs with its economic and community development projects, it early seized an opportunity to reshape vocational and technical education in the region and relate it more directly to labor market demand. Newman has described the impact of a report prepared in 1968 on the condition of vocational education in the region.

"Using its power over funds appropriated for construction, the Commission exercised effective influence over curriculum content and forced a broadening of perspective beyond the local labor market. Implied was tacit acknowledgment that out-migration might be in the interest of the region's younger citizens. In this almost unheralded way the Commission responded to two of the perplexing issues it faces. Though it was given no direct authority to influence educational quality, it made its priorities felt in at least one area and it took a position on the potentially explosive issue of out-migration."[1]

A network of excellent vocational and technical training institutions has been created in many of the Southern Appalachian states as a result of the program. The Commission has also presided over some of the most innovative early childhood development and rural health planning and programs in the country. More modest innovations have also been accomplished through regional education cooperatives in rural areas.

Despite these initiatives, however, the criticism is well-taken that there is

[1] Monroe Newman, *The Political Economy of Appalachia: A Case Study in Regional Integration* (Lexington, Massachusetts: Lexington Books, 1972).

little evidence of a genuine regional strategy that has emerged from the Appalachian experience. After the first burst of enthusiasm for regional cooperation among the states, a regional approach to Appalachia's problems melted away into a state-by-state approach that eventually led the program to look more and more like a traditional federal grant-in-aid program with an idiosyncratic twist: states could trade their federal allocations back and forth and there could be some debate and interchange among states that might not otherwise have taken place. And, the Commission lacked sufficient influence within the federal establishment to significantly alter the character of federal investments in the region.

Improvements

Following the aftershock of losses in mining during the 1950s, however, living conditions in southern Appalachia have substantially improved. The Appalachian Regional Commission has found it possible to report the following.

The region has gained over 1,500,000 new jobs and brought its unemployment rate close to the national unemployment rate, down dramatically from about twice the national unemployment rate. The long-term migration from the southern and central parts of the region has been reversed. Per capita income is improving faster in Appalachia than in the U.S. as a whole. The number of Appalachians living below the national poverty level has declined faster than the national average. Housing in the region is improving, but 18 percent of Appalachian housing still lacks modern plumbing or is overcrowded. Transportation has improved with construction of the Appalachian Development Highway System and the Interstate Highway System, although deficiencies on primary and secondary highways still exist. The number of high school graduates rose from 33 percent of Appalachians in 1960 to about 60 percent in 1976, but the average level of education attained falls one year short of the national average.[2]

The Future of Appalachia and the Development Program

The Appalachian Regional Development Program was originally intended to be temporary. After about 10 years, it was expected that the program would end having stimulated the states to pick up the initiative and cooperate in carrying regional development forward. It should come as no surprise, therefore, that some call for it finally to end, particularly in view of the lassitude some states have to the program.

Yet, ironically, if the nation seriously commits itself to accelerated use of coal to reduce dependence on foreign energy imports, there will be a need for a mechanism like the Commission to deal with the special problems this will create in Appalachia. The Office of Technology Assessment has noted the difficulty of measuring the implications of increased coal output in the Appalachians. The social costs of coal production—its adverse effects on highways, community facilities, health care, and education—are difficult to quantify. The impact of coal mine openings can spread far beyond nearby communities because of the long commutation a significant number of Appalachian miners are willing to make and the relatively dense and scattered pattern of development in the region. Increased coal production

[2] Jerome P. Pickard, "Counting Noses in Region and Nation: A Projection," *Appalachian Magazine* (April 1980).

in Wise County, Virginia, for example, has led to increased housing development in adjoining Scott and Lee Counties where there is far less coal production but where buildable sites for housing are more readily available.[3]

Central Appalachian roads are doubly burdened by commutation and coal-haul trucks; their condition is a matter of serious concern to commuting miners and local and state officials alike. Water and sewer and solid waste services in central Appalachia are unable to service the dispersed pattern of residential development. The inadequacy of housing, roads, services, and recreation is a source of frustration for new Appalachian miners. The support systems in the central coal fields cannot meet the demand which coal resurgence would bring.[4]

In 1977, for example, the financial condition of the UMW Pension Fund made it necessary for the UMW to stop financing health care for miners and their families on a retainer basis. Compensation of local clinics formerly supported and assistance from the Fund was shifted to a fee-for-service basis, and, according to an Appalachian Regional Commission Report, health care in the Appalachian coal fields was threatened with dissolution because of a lack of adequate financing. Emergency federal grants and loans helped alleviate some of the clinics' financing problems temporarily but were only a stop-gap measure at best. In 1978, when the new union contract changed the UMW all-expense-paid health care plan to a coinsurance, or deductible, plan, there was wide press coverage of miner dissatisfaction and reports of physician refusal to honor health cards.

A survey of central Appalachia showed that clinics suffered a net physician loss of 15 percent in fiscal 1977. Hospitals had a 12-percent decline. Forty-three percent of the physicians who left moved out of the Appalachian region entirely. Many of these moves appear to have been prompted by the lack of future guaranteed income for the physicians, a large percentage of whom were foreign trained. The Appalachian Regional Commission found in a selective survey that eight clinics reported a net loss of physicians, three reported a net gain, and nine remained stable. In all, 18 physicians were lost and five gained.

On the other hand, a survey of 32 hospitals in the central coal field region revealed that, while the number of hospitals gaining physicians over the year nearly equalled the number losing them, most that have lost are in the major coal-producing counties of Kentucky. In consequence, the availability of physicians and other health professionals in the central Appalachian coal fields has declined in the last several years, a symptom of possible over-all crisis in the health system of these regions. The crisis arises out of the high level of medical indigency in central Appalachia and the earlier role of the United Mine Workers Health and Welfare Pension Fund in underwriting medical services for the indigent.

Coal and the Future in Central Appalachia

If some of the projected demands for coal materialize, mining employment in Appalachia could increase by 94,000 to 186,000 over the next two decades and population could increase from

[3] Academy for Contemporary Problems, *Living Conditions in the U. S. Coalfields: Three Decades of Change* (July 1979).

[4] *Ibid.*

470,000 to 933,000. Except for southwestern Pennsylvania, most of this increase is likely to occur in the central Appalachian coal fields of southern West Virginia, eastern Kentucky, southwestern Virginia, and eastern Tennessee.

While some economic diversification has occurred in central Appalachia, including some new manufacturing employment, employment growth of these proportions in mining will underlie much of the economic improvement that can be expected in the area over the next two decades. The living conditions of miners will be directly affected by the past history of the area. Central Appalachia's housing problems begin with the fact that so much of its housing is substandard—33 percent of the existing housing stock. This has severely restricted the housing supply for existing residents, let alone new miners and their families. The housing supply in central Appalachia is slow to expand and improve for several reasons.

First, building sites are hard to obtain. In some parts of central Appalachia, over 80 percent of the land is held by private corporations reluctant to release surface rights for housing. Steep slopes and a paucity of level land further constrain the land supply for homesites.

Second, the home building industry in central Appalachia is very small. The scattered nature of homesites, the costs of materials, a shortage of skilled construction workers, and difficulities in obtaining construction loans have all discouraged the development of an indigenous home-building industry. This scarcity itself has driven up the cost of home construction and modernization in the region.

Third, home financing is difficult to obtain and expensive. Mortgage terms may require a 25- to 40-percent down payment with a 10- to 12-year payment period at a high rate of interest. Few savings and loans exist and banks are reluctant to make mortgage loans.

The result is a proliferation of mobile homes. Over 70 percent of the occupancy permits in Wise County, Virginia, were for mobile homes between 1975 and 1977. The number of mobile homes in Pike County, Kentucky, has increased by almost seven times during the same period. Sixty percent of the new housing in West Virginia between 1970 and 1975 was provided by mobile homes. Frequently, they are placed on scattered sites wherever the purchaser can buy or lease.

Unlike the case in the West, most new Appalachian coal-mining jobs appear to be filled by young miners who grew up in Appalachia, though it appears that an appreciable number may have left the region for a time in search of work until a job back home opened up. While they can adapt more readily to conditions with which they grew up, coal miners and their families in central Appalachia, when working steadily, are among the best-off [sic] residents in terms of income.

Though per capita income has improved more rapidly than elsewhere in Appalachia since 1970, it is still only 77 percent of the national per capita income. A fourth of the families in central Appalachia live below the poverty level, a substantial improvement over 1950, but still two and one-half times the share in the rest of the U. S. and twice that of all of the coal fields.

Education

At the time of the 1970 Census, over 70 percent of the coal work force had completed only 8.1 years of education. By 1975, three-fourths of new coal workers had completed at least high school and 13.1 percent of all new miners and construction workers surveyed by the United Mine Workers of America had at least some college. Much of this work force has also had tech-

TABLE I

EDUCATIONAL BACKGROUND OF COAL MINE LABOR FORCE
(Percent Distribution)

Less than High School	52.6%
Some High School	18.0
Finished High School	23.6
College	5.9
TOTAL	100.0%
AVERAGE YEARS	8.1

Source: 1970 Census.

TABLE II

EDUCATIONAL BACKGROUND OF NEW MINERS BY WORKPLACE
(Percentage Distribution, 1975)

Education	Underground	Strip Mining	Construction	TOTAL
0–8	11.5%	14.9%	17.6%	13.1%
9–11	13.2	14.4	18.2	14.2
High School	41.5	43.3	29.7	40.2
Tech Without Mining	13.1	10.2	11.5	12.2
Some College	12.4	12.1	17.6	13.1
2 Year Degree	2.0	1.9	.7	1.8
4 Year Degree	2.8	.9	3.4	2.5
TOTAL	100.0% (643)	100.0% (215)	100.0% (148)	100.0% (1006)

Source: UMWA Survey of New Miners.

nical training after high school. For the families of this new coal work force, education for themselves and for their children has become an important priority.

There has been a steady improvement over the last three decades in the educational attainment of the population in the nation's coal fields, but, in the western coal fields, residents almost match the national figure in school years completed.

During the decade there has been considerable progress. In 1970, seven percent of the three- and four-year-old children in Appalachia were enrolled in school, compared with 13 percent throughout the country. This was probably due to the lack of kindergarten facilities in some parts of Appalachia. However, since then a number of Appalachian states have begun requiring kindergarten and by 1978 all but one of the Appalachian states had directed that kindergarten space be made available to any child whose family requested it. School enrollments in Appalachia have actually climbed above those for the nation as a whole for kindergarten through the third grade. This probably reflects the fact that central Appalachia has fewer private and parochial schools than the rest of the country or the rest of the Appalachian region.

Conclusion

Clearly, despite some impressive improvement in many parts of Appalachia since 1965, some of it perhaps traceable to interventions such as the regional development program, many problems still remain, particularly in the central area of the region. A national interest in seeing these problems resolved continues because of the critical importance Appalachia may play in the next two decades as we make the transition to new energy technologies. An instrument such as the Commission is very much needed to focus the attention of all levels of government on these issues in the region that may block effective utilization of Appalachian coal. The tragedy is that the Appalachian states have helped weaken the case for such mechanisms for intergovernmental cooperation by not utilizing to full advantage the regional commission that was placed at their disposal. **[The End]**

SESSION IV

Industrial Relations in the South

Private Sector Industrial Relations in the South

By TREVOR BAIN and ALLAN D. SPRITZER*

University of Alabama

INDUSTRIAL RELATIONS in the Southern region of the United States is experiencing new breakthroughs and the reshaping of old patterns. This statement applies equally to both the private and the public sectors. Industrial relations researchers and practitioners are once again drawing their attention to the South to reexamine these breakthroughs.

Southern unionism is on the rise. This is true despite a labor relations setting in many Southern states that may still be characterized as generally antiunion and even though the region lags behind other areas of the country in terms of prounion public and community policies, representation election victories, union membership, and penetration ratios.

The purpose of this paper is to examine recent trends and developments in private sector labor relations in the South. The paper will highlight some of the traditional and changing relationships between southern and nonsouthern characteristics of unionization and collective bargaining. It will show that the private sector South is beginning to fulfill its potential as a fertile area for the expansion of unionism and collective bargaining. These conclusions will be supported by a review of earlier research on the subject, data on membership trends and election results, and, finally, an examination of some recent union organizing campaigns and legal battles.

For the purposes of our analysis, the South is defined to include the following 13 states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. All but two of these states, Kentucky and Oklahoma, are characterized by the existence of "right-to-work" (RTW) laws. These laws are authorized by Section 14(b) of the Taft-Hartley Act of 1947 and were enacted by the legislatures of the individual states. They prohibit union-management negotiated agreements which require covered employees to join a union as a condition of retaining employment.

*We are indebted to Tom Richardson, Stuart Lawrence, and Robert Norton for their research assistance.

RTW laws are found in 20 states,[1] including the 11 located in the South. A considerable body of literature has been developed in an attempt to show the relationship between these laws and various measures of unionization. The results are inconclusive. Myers argued in 1959 that the direct effects of RTW laws on union membership are not large and that the issue is a symbolic one.[2] Kuhn later concluded, however, that the practical effects of a loss of union security on union membership is considerable.[3]

More recently, there has been a series of articles attempting to isolate the effects of RTW laws on unionization. These effects can be divided into two areas of investigation. In the first are issues concerning the effects of RTW laws on collective bargaining coverage, that is, the number and nature of the workers covered by collective bargaining agreements and the characteristics of the firms with contracts. In the second area are issues concerning the effects of RTW laws on union membership. It is particularly necessary to make this distinction when studying the South since there are presumably some workers covered by collective bargaining contracts who do not join their representative unions. One difficulty in focusing upon RTW laws is that their effects are probably highly correlated with a number of regional factors in the South, and it is difficult to argue a priori whether the laws are a cause of differentials in unionization or the result of these differences.

The results of the recent empirical studies of the effect of RTW laws among states are in disagreement. Moore and Newman[4] and Warren and Strauss[5] conclude that RTW legislation diminishes unionization levels. Moore and Newman's work goes on to estimate the positive effect on union membership as a percentage of the nonagricultural work force if RTW laws could be removed. Lumsden and Peterson, on the other hand, demonstrate that RTW laws have at most a small and not statisically significant effect on levels of unionization.[6] Finally, a 1980 empirical study by Hirsch of unionization across 95 Standard Metropolitan Statistical Areas (SMSAs) concludes that RTW laws have at most a small and not statistically significant effect on levels of unionization.[7]

Union Membership in the South

There are two general conclusions from the data on union membership in the South compared to the rest of the U. S. First, a cross-sectional look at private sector membership figures supports the historical conclusion that the Southern states continue to lag be-

[1] These states are Alabama, Arizona, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

[2] Frederick Myers, *Right-to-Work in Practice* (New York: Fund for the Republic, Inc., 1959).

[3] James Kuhn, "Right-to-Work Laws: Symbols or Substance?", *Industrial and Labor Relations Review*, Vol. 14 (July 1961), pp. 587-594.

[4] William J. Moore and Robert T. Newman, "On the Prospects for American Trade Union Growth: A Cross-Section Analysis," *Review of Economics and Statistics*, Vol. 57 (November 1975), pp. 435-445.

[5] Ronald S. Warren, Jr., and Robert P. Strauss, "A Mixed Logit Model of the Relationship Between Unionization and Right-to-Work Legislation," *Journal of Political Economy*, Vol. 87 (June 1979), pp. 648-655.

[6] Keith Lumsden and Craig Peterson, "The Effect of Right-to-Work Laws on Unionization in the United States," *Journal of Political Economy*, Vol. 83 (December 1975), pp. 1237-1248.

[7] Barry T. Hirsch, "The Determinants of Unionization: An Analysis of Interarea Differences," *Industrial and Labor Relations Review*, Vol. 33 (January 1980), pp. 147-161.

hind the rest of the nation in the number of union members and the percentage of nonagricultural employees who are unionized. Second, a closer look at recent longitudinal patterns of membership growth reveals that the Southern states, despite their RTW laws, comprise a major center of growth in union membership.

The Bureau of Labor Statistics collects union membership data and publishes it biannually in its *Directory of National Unions and Employee Associations*. The most recent data available are for 1978. Table 1 presents the 1978 union membership figures for the 13 Southern states. Membership in employee associations is excluded from the table since these organizations generally represent public sector rather than private sector workers.

The distribution of union membership that is presented in Table 1 illustrates the degree to which the Southern states

TABLE 1

UNION MEMBERSHIP[a] AND UNION PENETRATION IN THE SOUTHERN STATES, 1978

State	Number of Union Members (000's)	Union Membership as Percent of Nonagricultural Employment	
		Percent	Rank
Alabama[b]	257	19.2%	25
Arkansas[b]	109	15.0	33
Florida[b]	367	11.7	46
Georgia[b]	271	13.6	38
Kentucky	274	22.4	21
Louisiana[b]	227	16.0	30
Mississippi[b]	103	12.7	44
North Carolina[b]	147	6.5	50
Oklahoma	138	13.4	39
South Carolina[b]	76	6.7	49
Tennessee[b]	303	17.7	28
Texas[b]	575	11.0	47
Virginia[b]	258	12.7	43
Total, South	3,105	13.7%[c]	38[c]
Total, Non-South	17,354	25.4%[c]	20[c]
Total, U.S.	20,459	23.6%	25
South as percent of total U.S.	15.2%	58.0%	—

Source: U. S. Bureau of Labor Statistics, *Directory of National Unions and Employee Associations, 1979*, Table 18.

[a] Includes national unions, local unions directly affiliated with the AFL-CIO, and members of single firm and local unaffiliated unions. Excludes employee associations which generally cover employees in the public sector.

[b] Denotes state with a right-to-work law.

[c] Estimate.

represent a low degree of unionization and collective bargaining. Some of the highlights of the 1978 data are: (1) About 15 percent of the private sector union members are found in the Southern states. (2) Approximately 23.6 percent of the nonagricultural work force in the United States belongs to unions, but in no Southern state is this average degree of unionization reached. (3) Both four out of the five least organized states and six of the eight least organized states are located in the South.

A look at union membership trends during the period from 1974 to 1978, however, presents a more positive picture for unions within the South from both an absolute and relative standpoint. Table 2 shows changes in union membership for each of the Southern states and for the South as a whole compared to the rest of the nation for the years 1974, 1976, and 1978.

The data show that between 1974 and 1976 union membership in the "non-South" declined by 703,000, or four percent, as compared with a slight increase of 11,000, or .4 percent, for the South. Both sectors grew in union membership during the 1976-1978 period, and for the four-year period 1974-1978 the South experienced a 4.9 percent increase of 146,000 union members while a 253,000 decline took place in the rest of the nation.

The three Southern states with the greatest increases in union membership, in both absolute and relative terms, were Alabama, Louisiana, and Mississippi—all located in the "Deep South." The only Southern state to experience a decline in union membership was South Carolina.

NLRB Representation Elections

The results of representation elections conducted by the National Labor Relations Board are another traditional measure of the success of unions in their efforts to organize employees for collective bargaining purposes. NLRB election data for 1977, 1978, and 1979 fiscal years were consolidated in Table 3 to show the results of union organizing activity in each of the 13 Southern states and for the South as a whole, compared to the rest of the nation.

The data show that unions find it more difficult to win elections in the South, but the magnitude of the southern victories is considerably greater than those in the North, in terms of the numbers of employees who are eligible for union membership in newly recognized bargaining units. It can be inferred from the table that in the South unions are victorious in achieving representation in 43.0 percent of all elections. This rate is slightly below the national union success rate of 45.7 percent and the 46.3 percent measure for nonsouthern elections.

The data make it clear, however, that unions are organizing larger units in the South than in the rest of the nation. About 26 percent of all employees who are newly covered by collective bargaining are in the Southern states (even though less than 18 percent of the elections were held there). Even more noteworthy is the fact that the number of newly eligible employees in the South averages about 82.3 per unit as compared with 46.0 in the rest of the nation and 52.0 per newly elected unit for the country as a whole. Thus, the average size of new bargaining units in the South is about 58 percent greater than for the total United States.

Only in Virginia and Alabama do unions in the South win more than half of their representation elections, and only in those two states plus Texas do southern unions win more elections than the national average of 45.7 percent. The states with the lowest union victory rate are North Carolina and Oklahoma, the latter being one of the two Southern states without RTW laws. It is also noteworthy that, in each of

TABLE 2

CHANGES IN UNION MEMBERSHIP[a] IN SOUTHERN AND NON-SOUTHERN STATES, 1974, 1976, AND 1978

(In Thousands)

State	Union Membership			Changes in Membership					
				1974-1976		1976-1978		1974-1978	
	1974	1976	1978	Number	Percent	Number	Percent	Number	Percent
Alabama[b]	223	229	257	6	2.7%	28	12.2%	34	15.2%
Arkansas[b]	108	102	109	— 6	—5.6	7	6.7	1	0.9
Florida[b]	354	365	367	11	3.1	2	0.5	13	3.7
Georgia[b]	264	261	271	— 3	—1.1	10	3.8	7	2.6
Kentucky	269	275	274	6	2.2	— 1	—0.4	5	1.8
Louisiana[b]	194	213	227	19	9.8	14	6.6	33	17.0
Mississippi[b]	84	87	103	3	3.6	16	18.4	19	22.6
North Carolina[b]	140	141	147	1	0.7	6	4.2	7	5.0
Oklahoma	132	126	138	— 6	—4.5	12	9.5	6	4.5
South Carolina[b]	82	68	76	—14	—17.1	8	11.8	— 6	—7.3
Tennessee[b]	295	288	303	— 7	—2.4	15	5.2	8	2.7
Texas[b]	567	563	575	— 4	—0.7	12	2.1	8	1.4
Virginia[b]	247	252	258	5	2.0	6	2.4	11	4.4
Total, South	2,959	2,970	3,105	11	0.4%	135	4.5%	146	4.9%
Total, Non-South	17,607	16,904	17,354	—703	—4.0%	450	2.7%	—253	—1.4%
Total, U.S.	20,566	19,874	20,459	—692	—3.4%	585	2.9%	—107	—0.5%

Source: U. S. Bureau of Labor Statistics, *Directory of National Unions and Employee Associations*, 1975, 1977, and 1979, Table 18.

[a] Includes national unions, local unions directly affiliated with the AFL-CIO, and members in single-firm and local unaffiliated unions. Excludes employee associations, which are generally found in public employment.

[b] Denotes state with a right-to-work law.

TABLE 3

NLRB REPRESENTATION ELECTION RESULTS FOR SOUTHERN AND NON-SOUTHERN STATES, 1977, 1978, AND 1979 COMBINED

State	Total Representation Elections[a]	Percent of Elections Won by Unions	Newly Covered Employees	Newly Covered Employees Per Unit
Alabama[b]	352	50.3%	17,064	96.4
Arkansas[b]	193	42.5	4,870	59.4
Florida[b]	480	40.0	9,385	48.9
Georgia[b]	481	40.1	11,133	57.7
Kentucky	375	41.3	9,923	64.0
Louisiana[b]	260	42.7	7,141	64.3
Mississippi[b]	180	45.0	6,739	83.2
North Carolina[b]	305	33.8	9,604	93.2
Oklahoma	256	36.3	6,439	69.2
South Carolina[b]	123	40.6	6,360	127.2
Tennessee[b]	501	43.9	17,373	79.2
Texas[b]	755	46.4	23,355	66.7
Virginia[b]	281	52.0	31,305	214.4
Total, South	4,542	43.0%	160,691	82.3
Total, Non-South	21,225	46.3%	452,281	46.0
Total, U.S.	25,767	45.7%	612,972	52.0
South as percent of total U. S.	17.6%	94.1%	26.2%	158.3%

Source: National Labor Relations Board, *Annual Report* 1977, 1978, 1979, Table 15A.

[a] Includes certification and decertification elections.

[b] Denotes state with right-to-work law.

the Southern states, the average number of eligible employees in newly elected units is greater than the non-South average of 46 workers per unit. The average unit size of 82.3 in the South is more than three-fourths greater than in the non-South. Thus, when unions win elections in the South, they tend to win in larger units than the rest of the country.

An interesting study of regional differences in NLRB representation election results has been made by Sandver, who performed regression analyses on data gathered from NLRB monthly election reports for the years 1973-1978.[8] He concludes that most (over 75 percent) of the differential in the percentage of prounion votes between the South and non-South can be explained by factors associated with the election itself rather than quantitative characteristics such as media hostility and community resistance to unions. Sandver's analysis stresses the importance of unit size and type of election

[8] Marcus Hart Sandver, "Regional Differentials in Outcomes in NLRB Certification Elections," Working Paper Series No. 80-11, Ohio State University, College of Administrative Science, February 1980, 15 pp.

as a determinant of a union victory or loss. More specifically, he suggests that, the larger the bargaining unit, the more likely it is that the union will win the election and that unions are more likely to win consent elections than elections ordered by the NLRB.

These results are not surprising inasmuch as unions can be expected to fight harder to win representation in larger units, where greater memberships are to be gained by election victories than in smaller units. Moreover, where employers consent to an election it is more likely that they will be less aggressive in their opposition to the union.[9]

Employer Neutrality and J. P. Stevens

Numerous efforts have been made to explain regional differences in unionization. Frequently, such explanations focus upon such determinants as labor force composition, industrial composition, and employee or employer or community attitudes, as well as public policies.

Recent upsurges in union activity in the Southern states suggest that the demographic, industrial, attitudinal, legal, and other institutional settings for union growth may be shifting, along with a shifting of industry location and union organizing targets. The statistical evidence presented in the preceding sections confirms that, while private sector union membership and collective bargaining in the South still lag behind other regions of the nation, the trend appears to be in the direction of substantial growth, punctuated by periodic setbacks for the unions. These setbacks may be inspired by the fears of workers or by the tactics of management. This section discusses some of the more significant recent developments.

The recent growth in southern unionism can be attributed in part to the movement South of large-scale manufacturing enterprises from other regions of the nation. A foremost example of this trend is the General Motors Corporation which for several years has been shifting portions of its parts manufacturing and automobile assembly operations to southern locations. The United Auto Workers, concerned that the purpose of GM's "Southern Strategy" was to avoid unionism and collective bargaining, pressed in 1976 for a neutrality pledge under which the company agreed to assume a neutral position on the question of employee representation at its new locations in the South. The initial result was a string of union victories at seven GM assembly plants, including those at Shreveport and Monroe, Louisiana; Albany, Georgia; Fredericksburg, Virginia; and Tuscaloosa, Alabama.

Representation was somewhat more difficult for the UAW to achieve at General Motors' Oklahoma City, Oklahoma, plant in 1979 when union organizers charged that GM managers were violating the company's neutrality pledge by distributing antiunion materials. The dispute was resolved and the union won an election victory in July 1979 by a vote of 1,479 to 658.[10]

The Auto Workers Union, more recently, met a significant defeat in its efforts to organize a General Motors plant located in Decatur, Alabama. On January 27, 1981, the Decatur employees voted against representation for the third time in seven months. The earlier elections had been set aside when it was found that the company

[9] Sandver's NLRB election data for 1973-1978 showed that unit size in the South was almost twice as large as in the non-South (96 to 51) and that the percentage of consent elections was almost three times greater in the non-South (12.5 percent) than in the South (4.3 percent). *Ibid.*, p. 12.

[10] "GM, UAW Talks Are Held Up by Dispute on Union Organizing Effort in the South," *Wall Street Journal*, July 17, 1979.

had breached its neutrality promise by campaigning against the union.[11] It should be noted, however, that the Decatur, Alabama, community is widely known within the state and elsewhere for its antiunion posture.

In March 1981, the UAW's General Motors Bargaining Council resolved that GM must implement the neutrality commitment "in its deeds as well as its words."[12]

The Auto Workers Union has attempted to obtain and enforce neutrality pledges from other southern employers in the industry. The results of these efforts have also been less than completely successful. A permanent arbitrator under a collective agreement between the UAW and the Dana Corporation has recently held that a subsidiary company, Wix Corporation located in Gastonia, North Carolina, had "totally ignored" the contractual agreement to remain neutral. He ordered the company to pay the union $10,000 and to take several other remedial actions.[13] When the Wix Corporation failed to abide by the arbitrator's award, the union indicated that it would seek its enforcement through a federal court, if necessary.[14]

In contrast to the presumed neutrality of certain automobile industry employers to union efforts to organize their southern facilities, employers in other industries, such as textiles, have been more hostile toward unionization. The case of J. P. Stevens and Company is a classic example of widespread efforts calculated to avoid unions and collective bargaining at all costs.

Most of the North Carolina-based textile company's 81 plants, employing 45,000 workers, are located in the South. The Amalgamated Clothing and Textile Workers Union has been attempting to organize Stevens's employees since 1963. The union has succeeded in winning bargaining rights at only four facilities, the first in 1973 at the Roanoke Rapids, Virginia, facilities, and only with the aid of NLRB and court action.[15] An initial collective bargaining contract covering 3,500 Stevens employees at plants in North Carolina, South Carolina, and Alabama was reluctantly signed in October 1980 only after the union combined its legal victories and a nationwide boycott of Stevens products with a "corporate campaign" which placed direct and indirect pressures upon Stevens corporate directors and financial institutions doing business with the antiunion company.[16]

It is too soon to tell whether the union's victory against J. P. Stevens will signify a major breakthrough in the organization of the company, the industry, or the region. While the J. P. Stevens model of blatant lawlessness is not one that has been very widely adopted in the South, it is apparent that the antiunion posture of this employer has served as a model for others.

Conclusion

This paper has attempted to survey recent trends and developments in private sector industrial relations in the South. The evidence is clear that southern unions and southern collective bargaining are beginning to prosper

[11] Bureau of National Affairs, *Daily Labor Report*, No. 21, January 29, 1981, p. A-1.

[12] Bureau of National Affairs, *Daily Labor Report*, No. 53, March 19, 1981, p. A-8.

[13] Bureau of National Affairs, *Daily Labor Report*, No. 41, March 3, 1981, p. A-5.

[14] Bureau of National Affairs, *Daily Labor Report*, No. 61, March 31, 1981, p. A-5.

[15] By October 1980, the company had been cited by the NLRB 24 times for labor law violations. The Board was upheld by the courts in 23 cases. Bureau of National Affairs, *Daily Labor Report*, No. 204, October 20, 1980, p. AA-2.

[16] "How the Textile Union Finally Wins Contracts at J. P. Stevens Plants," *Wall Street Journal*, October 20, 1980, p. 1.

relative to their counterparts in other regions of the country. A decline in northern manufacturing industry, movement of employers to the Sun Belt, and a shift in the population to the Southern region should enhance the potential for greater prosperity for unions and collective bargaining in the South.

Attitudinal shifts as well as industry shifts are needed, however, before collective bargaining can take more of a stronghold in the South. Indeed, there is evidence to show that employer and community opposition to unionization when combined with modern methods and techniques of personnel management may be effective in forestalling collective bargaining in the Sun Belt. Membership declines in other geographical centers, however, should motivate union organizers to attempt to continue their improved record in the South.

[The End]

Public Sector Bargaining in Six Southeastern States: Recent Experience

By JAMES F. CRAWFORD*

Georgia State University

ALTHOUGH STATE and local public sector bargaining has expanded rapidly during the past decade, growth has been quite uneven among the regions and states. Most of the literature on state and local bargaining, understandably, is directed at the experiences in states with bargaining statutes, where most of the bargaining takes place. Relatively little attention has been given to states not having public sector laws.[1] This latter condition characterizes most of the Southeast, a region where union membership and extent of bargaining in the public sector trail the other sections of the United States.

Just a decade ago, public sector bargaining in the region seemed to be gathering momentum. In 1968 and 1969, a series of public sector labor/management disputes erupted in large- and medium-sized cities throughout the Southeast. Some of them were explosive and bitter, such as the widely publicized strikes of the Memphis sanitation workers in 1968 and the Charleston, South Carolina, hospital workers in 1969. Workers achieved recognition in Pascagoula, Mississippi; Memphis, Miami Beach, and Little Rock; Madison County, Tennessee; Charleston, South Carolina; and Charlotte, North Carolina. A number of other disputes failed.[2] Many observers expected these successes to be followed by further expansion in public sector bargaining in the region.

In this paper, significant recent developments in collective bargaining by state and local public employees in the Southeast are examined; highlights of the 1970s are reviewed; the current

* I would like to acknowledge the valuable research assistance of Lloyd Queen in gathering material for this paper.

[1] Richard F. Dole, Jr., "State and Local Public Employee Collective Bargaining in the Absence of Explicit Legislative Authorization," *Collective Bargaining in Government*, ed. J. Joseph Loewenberg (Englewood Cliffs, N. J.: Prentice-Hall, 1972).

[2] John R. Stepp, "The Determinants of Southern Public Employee Recognition," *Public Personnel Management* (January/February 1974), p. 59.

status is outlined; and future prospects are considered. The six states, Tennessee, Florida, Alabama, Georgia, North Carolina, and South Carolina, hereinafter referred to as "the Southeast," will receive primary attention. The first three sections are supported by a modest data infrastructure;[3] much of the concluding section is cast in terms of the author's perceptions, based on conversations with those who participate in and observe the southeastern public sector bargaining panorama.[4]

Public Policy Framework

Only two Southeastern states have statewide facilitating public sector legislation today. Florida's comprehensive law was passed in 1974,[5] and Tennessee's statute, whose coverage is limited to schoolteachers, was enacted in 1978.[6] Alabama and Georgia are, roughly speaking, "meet-and-confer" states. The Carolinas prohibit bargaining. In fact, most existing collective bargaining legislation in the region is restrictive in nature. All six states have right-to-work laws and all specifically prohibit strikes by public employees.

There are several examples of limited facilitating legislation aimed at specific categories of employees such as the statutes applying to firefighters in Georgia[7] and Alabama[8] and city employees in Memphis. The right to join a union, which was formerly prohibited in several states (Alabama, Georgia, North Carolina, and Tennessee), now appears protected following several court decisions holding that public employees enjoy the right of freedom of association under the first amendment to the U. S. Constitution.[9]

In Alabama, a 1964 decision of the state supreme court held that public employers cannot bargain with unions without express constitutional or statutory authority to do so.[10] State law permits firefighters to "present proposals" but specifies that cities may not be "forced into negotiations" nor make binding contracts. Firefighters' proposals "may be considered in good faith and parties may enter into a written, non-binding memorandum."[11] Alabama teachers may engage in "consultation" regarding rules and regulations about the conduct and management of the schools.[12]

Georgia's only public sector bargaining statute, passed in 1971, covers firefighters in municipalities of 20,000 or more people, provided that a city's governing authority passes an ordinance bringing the city under coverage. The act grants exclusive recognition and bargaining rights, prohibits strikes, provides for advisory arbitration of

[3] A note on data sources: A primary data source for this paper is the 1975-1979 State and Local Government Special Studies of the U. S. Department of Commerce, Bureau of the Census, *Labor-Management Relations in State and Local Governments* (hereinafter referred to as "Census 79").

[4] A valuable source was an earlier study of the same six states by Michael Jay Jedel and William T. Rutherford, "Public Labor Relations in the Southeast: Reviews, Synthesis, and Prognosis," LABOR LAW JOURNAL, Vol. 25, No. 8 (August 1974), pp. 483-501.

[5] Public Employees Relations Act, Florida Statutes, Section 44.

[6] Educational Professional Negotiations Act, Tennessee Code Annotated, Section 49-5501-5516.

[7] Georgia Code Annotated, Title 89, Section 89-1301 (1962).

[8] Alabama Code, Title 27, Section 450 (1967).

[9] *Adkins v. City of Charlotte*, 296 F. Supp. 1068, 1072 (W.D. N.C. 1979).

[10] *International Union of Operating Engineers Local 321 v. Water Works Board of the City of Birmingham, Alabama*, 276 Ala. 462, 163 S. 2d 619 (Alabama Supreme Court 1964).

[11] *Nichols v. Bolding*, 277 S. 2d 868 (Alabama Supreme Court), 1 PBC ¶ 10,118.

[12] Alabama School Code, Title 52, Section 23, 166 & 653 (1973).

bargaining impasses, and limits the term of agreements to one year. However, a decade later, no cities in the state have passed enabling legislation.[13]

In North Carolina, a 1959 statute prohibits public sector collective bargaining.[14] It holds all public sector contracts to be illegal and void and against public policy.

In 1969, the South Carolina legislature passed a resolution adopting as public policy opposition to public sector collective bargaining.[15] And, state law forbids public employers to bargain with unions.[16] As an alternative, the legislature has made available to state, county, and local employees detailed grievance procedures.[17]

In Tennessee, the Education Professional Negotiations Act took effect on March 1, 1978.[18] The language of the statute was drafted by the Tennessee Education Association and signed into law by Governor Ray Blanton at the TEA annual convention. The statute bans strikes; provides for representation elections to be conducted by joint employer-union committees; limits negotiations to "insiders"; gives governing authorities "the final say on agreements"; and calls for bargaining impasses to be settled by mediation and factfinding arbitration. No administrative agency was provided for—a notable omission. In subsequent clarifying opinions, the Attorney General interpreted the law as requiring open negotiations.

In 1978, Memphis adopted an ordinance covering all city workers,[19] despite the fact that there exists no state law mandating (or legalizing) public employee agreements other than the state law pertaining to teachers. The ordinance provides for final-offer arbitration by package for the resolution of negotiation impasses. The three members of the impasse panel must be selected from the membership of the city council, one each chosen by the union and management, and a neutral chosen by these two.

Florida's Policy

In Florida, a 1969 interpretation of the 1968 revised state constitution led to a court order requiring the state to permit the full scope of collective bargaining by public employees, including binding contracts.[20] The key clause, which appears in Article I, Section 6, states: "The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged."

Following this decision, the courts exerted persistent pressure on the Florida legislature[21] which finally led to the passage, in 1974, of the first comprehensive public sector statute in the Southeast. The law, as subsequently amended, gave all public employees in the state the right to negotiate wages, hours, and conditions of employment,

[13] Dorothy Cowser Yancy, "Public Sector Bargaining in the South: A Case Study of Atlanta and Memphis," *Proceedings* of the 32nd Annual Meeting, IRRA, December 1979, Atlanta.

[14] North Carolina General Statutes 95-98 (1959).

[15] H. 1636, 1969 S. C. Sen. Jour. 826 (April 8, 1969) and 1969 S. C. House Jour. 942 (April 30, 1969).

[16] (1964-67) Op. S. C. Att'y Gen. 88 (No. 1834, 1965).

[17] O. A. G. 9/27/78 (summary of several statutes providing for grievance procedures).

[18] Cited at note 6.

[19] Memphis City Council Ordinance No. 2850.

[20] William F. McHugh, "The Florida Experience in Public Employee Collective Bargaining—1974-1978: Bellwether for the South," *Florida State University Law Review* 6 (Spring 1978), pp. 265-69.

[21] *Dade County Classroom Teachers Association, Inc. v. Ryan*, 225 S. 2d 903 (Fla. 1969).

excluding pensions.[22] Amendments taking effect in 1977 established a full-time, three-member Public Employee Relations Commission plus a chairman to replace the original five-member agency. The Florida statute provides stiff sanctions against strikes and extends both the state's right-to-work law and "sunshine" laws to public sector labor relations.

Elaborate impasse procedures outlined in the law include mediation, advisory arbitration under the special masters' proceedings on all issues which automatically become binding unless either side objects, factfinding, a public hearing conducted by the appropriate legislative body, and a final determination by that body. Grievance arbitration and dues deduction provisions are mandatory.[23]

One wonders why the first, and at this time only, comprehensive law in the Southeast appeared in Florida, which ranked 44th nationally in proportions of organized public and private employees, with 13 percent of employees in unions and associations.[24] One view holds that the legislation resulted from such influences as the state's rapidly growing urban population and expanding number of public employees.[25] An alternative interpretation attributes the law largely to "historical accident and judicial pressure."[26] Supporting this latter position, a union attorney who helped write the implementing legislation for the Florida law stated that the language which gave rise to the court's decision was placed in the bill, ironically, by right-to-work law advocates.[27] Regardless, the practice of public sector bargaining now seems well established in Florida.

In summary, essentially the only significant recent legislative developments in the Southeastern region affecting the bargaining rights of state and local employees have been the 1974 Florida Comprehensive Statute, the 1978 Public Schoolteachers' Statute in Tennessee, and the 1978 Memphis Statute. In the five states which do not have comprehensive state laws, there have been sporadic, largely unsuccessful efforts during the 1970s to enact public sector bargaining laws.

Extent of Collective Bargaining In the Southeast

Excluding special districts, the percent of government units in the six Southeastern states which engaged in collective negotiations or meet-and-confer discussions in 1979[28] averaged 8.2 percent, compared with 24.2 percent nationally.[29]

Of the 217,598 public employees in Alabama, 14,645, or 6.7 percent, were

[22] Cited at note 5.

[23] Public Employee Amendments, Chapter 77-343, Section 447.503 (1977).

[24] *Directory of National Unions and Employee Associations,* 1979, U. S. Department of Labor, Bureau of Labor Statistics, September 1980, p. 72.

[25] See note 20.

[26] Dennis R. Nolan, "Public Employees Unionism in the Southeast: The Legal Parameters," *South Carolina Law Review* 29 (1977-79), pp. 255-56. This article provides an excellent survey and analysis of the legal framework for public sector bargaining in the Southeastern states.

[27] Ben Patterson, Florida Bar Association member.

[28] In this paper, *meet and confer discussions* refer to the procedure whereby the employer and representatives of employees hold periodic discussions to seek agreement on matters within the scope of representation. If the parties reach an agreement, it may be written in the form of memorandum of understanding. *Collective negotiations* refer to negotiations in which both management and employee representatives are equal legal parties in the bargaining process and decisions are reached jointly through bilateral negotiations. The end result of collective negotiations is a mutually binding contractual agreement. Census 79, p. 102.

[29] Census 79, p. 13.

in bargaining units. Thirteen percent of the employees in municipalities and seven percent of state employees were covered. Of the 14,645 bargaining unit employees, 9,601, or 66 percent, were in local governments. Collective negotiation coverage of public schoolteachers was relatively low, with only 2,647 instructional employees covered.[30]

In 1980, Florida had the largest number and percentage of public employees under collective bargaining contracts, with 47 percent of its 550,000 employees represented in bargaining units. At the state level, 16 percent of all workers were covered.[31] After six years' experience under the general bargaining law, membership in unions and associations and number of employees covered by contracts is still increasing as new units are organized. Recently, much of the growth has been in statewide units.

Collective bargaining in education spread rapidly following passage of Florida's collective bargaining statute in 1974. By 1980, teachers in 65 of Florida's 67 public school districts were covered by collective bargaining contracts. FTP-NEA claimed a membership of 30,000 of the state's 45,000 teachers.[32] Three Florida faculty organizations, FHEA-NEA, FEA, and AFT Local 1180 merged in 1979, forming the United Faculty of Florida, AFT, whose membership included 5,400 of Flordia's 28,000 faculty members in 1980. By 1979, AFSCME represented approximately 85,000 public workers in Florida, including employees of public schools, cities, and counties.[33]

In Georgia, 6,066 workers, or approximately 1.8 percent of the 332,119 state and local government employees, were represented in bargaining units in 1979. Among local government employees, 2.5 percent were represented by bargaining units.[34]

Atlanta's city government has had an informal meet-and-confer policy which has been only sporadically effective. Dues checkoff and recognition have been persistent issues.

The Census data show North Carolina to have the least public employee bargaining units reported at the munieastern states and nationally, with no bargaining units reported at the municipal or state level. However, there are a number of examples of informal meet-and-confer type of relationships. In Durham, the city manager and selected department heads meet "sporadically" with AFSCME representatives to discuss employment issues. Annually, the union presents wage proposals, but apparently no real bargaining is conducted, since wage decisions are made during the regular budget process. Several North Carolina cities contract the operation of transit systems to private firms which bargain with the union (UTU or ATU).

South Carolina had 700, or .4 percent, of public workers represented in twelve bargaining units out of a total of 185,781 employees. Ninety-three percent of these were in education (instruction).[35] In Charleston, following the long and bitter hospital strike in 1969, informal bargaining was conducted for a time, but the union, with no dues checkoff, has since dissolved.

In Tennessee, 17.2 percent, or 43,314 public employees, were represented by bargaining units in 1979. The heaviest concentration was in municipalities, with 32 percent of the employees (largely teachers), while in state government only .2 percent of employees were rep-

[30] Census 79, p. 3.

[31] *The CERL Review* (Winter 1981), p. 31.

[32] Tommye Hutto, "FTP-NEA in Florida," *The CERL Review* (Winter 1980), pp. 20-21.

[33] Thomas J. Fitzpatrick, "AFSCME History in Florida," *The CERL Review* (Fall 1979), pp. 10-11.

[34] Georgia House Bill 55, 1981 Session.

[35] Census 79, p. 52.

resented.[36]. By 1981, bargaining units covered 76 percent of Tennessee's teachers, with half of the school systems involved in bargaining. Thus, of the approximately 40,000 teachers in Tennessee, more than 30,000 are now in systems represented in bargaining by the Tennessee Education Association.[37]

Prospects for the Future

The experience in Florida was similar to that of most other states with comprehensive legislation; passage of the law was followed by the rapid growth in union membership and collective bargaining activity. In Florida, six years after enactment of the public sector statute in 1974, the proportion of state and local public employees under collective bargaining agreements had increased from 28 to 47 percent. Likewise, in Tennessee bargaining spread rapidly after passage of a teachers' law.

It is widely believed that prospects for any significant expansion of bargaining in the region rest on the passage of comprehensive state public sector bargaining laws in the remaining nonstatute states. *U. S. v. Usery* raised serious questions regarding the constitutionality of federal legislation to regulate state and local public sector bargaining. Furthermore, in the prevailing political climate, there seems virtually no likelihood that public sector legislation could pass Congress even in the absence of the constitutional issue. It has been suggested that bargaining rights for state public employees might be tied to revenue sharing legislation. That prospect also seems unlikely at this time.[38]

In the region's state legislatures, where rural interests retain considerable power, most legislators seem strongly opposed to public sector bargaining, and public sector bills tend to languish in committee. A dominant concern in Southern state legislatures is economic development, that is, attracting new industry. Many legislators feel that the passage by a state of public sector bargaining legislation would stimulate the spread of unionism and collective bargaining, in both the public *and* private sectors and, hence, diminish the state's attractiveness to prospective new industry.[39]

The recent failure of the UAW to organize the GM Saginaw, Alabama, Steering Gear Plant reportedly was due, in part, to the organized opposition of workers in this small rural community—a remainder that strong antiunion feelings remain among many southern workers.[40] Disapproval of unions is common also among southern public workers, especially in rural areas.

Also, one senses that public workers are in disfavor with many financially beleagured taxpayers today, who tend to link their higher taxes to public employees' demands for higher wages.

Another obstacle to the passage of broad coverage legislation in the Southeastern states lies in the difficulty of welding effective coalitions among the various interested unions and associations. For example, teachers can be expected to play an important part in campaigns for public sector legislation in the remaining nonstatute states. NEA affiliates, which tend to overshadow the rival AFT in membership and influence in the region, played key roles in the legislative campaigns in Florida and Tennessee. However, the AFT-NEA

[36] *Ibid.*

[37] *Tennessee Negotiation News,* Tennessee School Boards Association, Vol. 2, No. 3, 1980.

[38] *See* note 3.

[39] Thomas A. Kochan, regard in workshop session, IRRA Annual Meeting, December 29, 1979, Atlanta.

[40] *Wall Street Journal,* February 24, 1981, p. 56.

rivalry tends to limit the organizing and political effectiveness of teachers.

A number of forces favorable to the extension of bargaining exist. Fundamental changes are in process in the Southeast. Adjustments to equal rights requirements and shifts in racial attitudes are significantly altering power relationships. With increasing urbanization, the influence of urban and black state legislators, who comprise the core of public bargaining support, is much more apparent today than a decade ago and continues to grow.

Conclusion

Public employees, both organized and unorganized, themselves constitute an important political force. As the real incomes of state and local public employees have leveled off in recent years, these workers, especially at the local level, have become increasingly restless.

The fact that public sector bargaining is becoming widespread in the U. S. both at the federal level, where 60 percent of the employees are now covered by collective bargaining, and at the state level, where a majority of states now have comprehensive bargaining laws, may produce a spillover effect on workers in states where public sector bargaining is unprotected. Today, public sector bargaining operates in some form in most of the larger urban centers, including a number of cities in the Southeastern United States. There are indications that many public workers, including professional and white-collar employees, are becoming more receptive to collective bargaining.

Since strikes by public employees are prohibited in most states (and all Southeastern states), these workers may become more favorably disposed toward bargaining as they become aware of the relatively low probability of strike involvement for most public workers. (The low incidence of work stoppages among organized federal sector workers is reassuring to state and local public employees with these concerns.)

However, the above considerations notwithstanding, I am not persuaded that the state legislatures in the remaining five non-comprehensive-law states are prepared to pass bargaining legislation in the near future. The consensus prediction among those interviewed in this study was that the Southeastern states most likely to pass comprehensive legislation within the next several years are Tennessee and Alabama, the two states with the highest percentage of overall union membership, although strong opposition exists in both states. Prospects for early legislative action in Georgia are considerably weaker and appear virtually nonexistent in North Carolina and South Carolina. In closing, I would suggest that a Memphis-like incident might significantly alter the timetable in any of these states. **[The End]**

Dispute Settlement in the South

By JOHN C. SHEARER

Oklahoma State University

MY INTEREST in labor dispute settlement in the South originated with my move to Stillwater, Oklahoma, from the East over 13 years ago. My interest is both as an academician and as an arbitrator. Having worked as both in an area of the country which has a long history of concentrated industrialization and unionization, I found myself in the wide open spaces, not only geographically

but also with respect to industry and union influence. Even in the relatively brief period since my change in geography there has been a significant movement in many parts of the South, especially in the Southwest, toward higher concentrations of industry and unionization which suggests that some differences between the South and other areas of the country are tending to narrow. These areas are becoming more industrialized, often as a direct result of the movement from older industrial areas elsewhere of firms seeking new environments. Among the differences many such firms value is a more gentle labor climate.

That the so-called right-to-work states are heavily concentrated in the South suggests rather different labor environments from those of industrialized areas elsewhere in which unions have long been far stronger factors in the location calculus.

The diminishing lag of the South in industrialization and unionization in the private sector has only partial parallels in the public sector. There are, perhaps, few major differences between the South and other areas with respect to the nature and functions of public bodies—except for the central role in some Southern states of the county judge. Unionization in the public sector is coming somewhat later in the South, but the lag is not so long as in the private sector.

Bureau of Labor Statistics data for 1978 (the latest available) on work stoppages by region and state show significant regional differences that are consistent with these observations.[1] For that year, the days idled by stoppages were 0.17 percent of estimated nonagricultural work time for the nation as a whole, exactly the same percentage as for the previous year. For Federal Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia) the figure was 0.38 percent—more than twice the national rate. For Region X (Alaska, Idaho, Oregon, and Washington) it was 0.28 percent, and for Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin) it was 0.25 percent. For the South and Southwest we see a far different picture: for Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee) the figure was 0.14 percent, and for Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) it was 0.07 percent—tied with Region I (New England) as the lowest of the federal regions. Earlier years, back to 1957, show generally similar relationships and magnitudes throughout that period.

With respect to dispute settlement, Federal Mediation and Conciliation Service data for 1979[2] (the latest available) show that 10.1 percent of closed FMCS dispute mediation (joint meeting) cases took place in Federal Region IV and only 6.3 percent in Federal Region VI. For the same year, 8.2 percent of non-joint meeting closed FMCS dispute mediation cases were in Federal Region IV and only 5.6 percent in Federal Region VI. "Joint meetings" are defined by the FMCS as "cases in which joint and separate mediation conferences were held" and "non-joint meetings" are defined as "cases followed closely by mediators from assignment until final closing, requiring only informal mediation with no joint conferences."[3] The significantly lower percentages of non-joint meet-

[1] U. S., Bureau of Labor Statistics, *Analysis of Work Stoppages*, 1978, Bulletin 2066, Table 21, p. 50.

[2] Federal Mediation and Conciliation Service, *Thirty-Second Annual Report-Fiscal Year 1979*, Table 12, pp. 20-22, and Table 13, pp. 23-25.

[3] *Ibid.*, p. 15.

ing dispute settlements suggest that, relative to other geographic regions, the South and Southwest were less inclined to settle mediated collective bargaining disputes with informal mediation, possibly indicating a relatively lesser degree of maturity and/or accommodation in the settlement of interest disputes.

Rights Disputes

It is to rights disputes that we shall now turn our attention. Data from the FMCS for 1979 show a surprising incidence of closed arbitration awards in the South and Southwest.[4] Of the total of 7,025 awards that the FMCS administered throughout the nation in that year, 2,263, or over 32 percent, were in Federal Regions IV and VI combined. By far the greatest number (545) were in Texas, which was exceeded by only one other state, Ohio, with 768 FMCS arbitration awards. The third-ranked state was Illinois with 466 awards. On the other end of the scale, New Mexico with 34 and Mississippi with 66 awards were relatively low in the national ranking. Over recent years, the South and Southwest have kept about the same proportions of the rapidly increasing FMCS arbitration load. In 1968, they also accounted for slightly more than 32 percent of such awards.[5]

The experience of the American Arbitration Association contrasts with that of the FMCS. In both 1979 and 1980, only about six percent of all labor cases filed (approximately 17,000 each year) with the AAA were in its Southern and Southwestern regional offices (Atlanta, Charlotte, Dallas, and Miami).[6]

With this brief recitation of background data, I exhaust the statistical evidence I have found on my subject. A thorough search of all the usual information sources failed to reveal any other data which would help us identify and understand any major measurable differences between dispute settlement in the South and elsewhere. I am somewhat surprised at the paucity of statiscal information. The attractiveness of the South to new and relocating industry has long been a subject of intense interest and scholarly activity. A different labor climate has been in the forefront of those concerns. Surely, given the great importance of labor dispute settlement, one could reasonably expect that government agencies and scholars would have collected and analyzed comparative information on dispute settlement—for example, on the outcomes of unfair labor practice cases, of stoppages, and of arbitration cases.

Arbitration

Arbitration, as the final and binding step in many rights disputes and, increasingly in the public sector, as the means to the resolution of interest impasses, warrants special consideration. In what follows I draw on my own experiences as an arbitrator and on those of colleagues also with experience in a variety of geographic and substantive areas with whom I have discussed this topic.

Whatever the area of the country where arbitration takes place it has some particular institutional features. The parties may be local, regional, or national on one or both sides. The employer may be a local owner or he may be part of a regional, national, or multinational firm. The union may be a local independent, or, more typically, part of an international union. The labor agreement may be local, companywide, or even industrywide in scope. The company spokesperson may be a

[4] *Ibid.*, Table 23, pp. 40-41.
[5] *Ibid.*
[6] American Arbitration Association.

local executive or attorney, or a divisional or corporate-level executive or attorney. Outside counsel may be used from any geography. Likewise, the union spokesperson may be the local president, business agent, international representative, or attorney, or he or she may be from the district, regional, or national organization. Again, any type of outside counsel may be used. It is not unusual for one or both sides in an arbitration hearing to be represented by spokespersons from the national level, whatever the region of the country in which the case is heard.

Although most arbitrators tend to hear most of their cases in their own geographic areas, most of the most active arbitrators cover wide geographic areas. My situation is not at all unusual. Although most of my cases are in states contiguous to Oklahoma, I have had hearings in 21 different states, including many in the North and East. In addition to wide geographic involvement, most of the most active arbitrators participate in professional organizations such as the National Academy of Arbitrators, the American Arbitration Association, and the Industrial Relations Research Association that are national in their scope, as are their numerous meetings, seminars, conferences, and training sessions. Whatever their place of residence, arbitrators use the same reference materials and reporting services to keep abreast of developments throughout the country. Arbitrators, then, are a rather national phenomenon and bring to their tasks similar skills and equipment. Therefore, we can regard the arbitrators as rather a constant and, although the highly variable situations of the parties might distort any effort to identify southern differences, such distortions tend to wash out with large numbers.

What arbitrators encounter in handling cases in the South does seem to involve some significant differences from what we face elsewhere. I shall suggest certain areas of difference under the following categories: level of maturity, style, and off-premises considerations.

Level of Maturity

Especially where there are local representatives on both sides, there more often appears in southern arbitrations a lack of familiarity with the nature, principles, and processes of arbitration. I, and other arbitrators, more frequently encounter in the South extreme cases where one or both parties are "out in left field" when it comes to understanding what arbitration is all about.

Permit me to cite a recent personal experience with a locally owned firm (engaged in a substantial regional business) and a local of a major craft union. They had a long and peaceful collective bargaining relationship and had never before had an arbitration. An accumulation of overtime scheduling and related problems had resulted in major discontent among the employees who, after very little effort to process a bundle of grievances through preliminary steps, had voted to "arbitrate."

Neither they, their union representatives, nor the employer had any idea of what arbitration was: witness their assumption that I was there as some sort of a federal mediator (they had obtained my name from the Federal Mediation and Conciliation Service) who would somehow help them to a miraculous resolution of a labyrinth of confused issues in dispute. Since obviously neither party was prepared to arbitrate or even understood what the "final and binding" provision of their agreement meant, I explained what their agreement required of me (this alarmed them greatly) and urged them to consider negotiating the matter among themselves or, if they desired, with me or someone else as mediator. Although

the company was willing, the union felt obliged to proceed in daredevil fashion with arbitration because that was the word the membership had seized on in an impassioned meeting.

In more usual situations arbitrators in the South more often, but not frequently, encounter overt suspicion and even hostility between the parties at the hearing. This perhaps derives from the fact that bargaining relationships are often newer and less well-accommodated than elsewhere. It is more common in the South to meet circumstances where strong, recent (and obviously unsuccessful) employer resistance to unionization leaves a bitter residue that affects dispute settlement.

I handled the first several arbitration cases for southern parties who had just entered into their first agreement (really an armed truce) after several years of bitter battling over representation. The first arbitration cases resulted from the inability or unwillingness of first-line supervisors to live by the new rules. My opinions incorporated some pedagogy as to what those new obligations entailed. Subsequent cases with these parties revealed rapid learning on both sides of how to live together after years of warfare.

My last comments on maturity relate to that of the legal environment for dispute settlement in the South. Arbitrator friends have told me of instances not too many years ago where southern courts set aside some of their awards which had overturned discharges. The courts' logic was that, if the employer has the right to hire, he also has the right to fire, "just cause" provisions of the labor agreement notwithstanding.

A curious example of official immaturity is rampant in my state right now. Oklahoma has a Police and Firefighters Arbitration Act that has the unique feature that in impasse arbitration the award is binding on the union but not on the municipality. Last year, in four of eighteen cases that went against the cities, they rejected the award of the tripartite arbitration board.

The police and firefighters unions are understandably unhappy about the law as it stands and the legislature recently considered a novel solution to the unions' dissatisfaction. The proposed legislation provided, upon rejection by the municipal authorities of the arbitration award, for a special election on the question of acceptance or rejection of that award. I quote: "If the majority report of the arbitrators is rejected and an election is called, the arbitrators shall prepare a concise summary of their recommendations, a comparison of their recommendations with the current status of the policemen and firemen, and an estimate of the annual fiscal impact on the municipality. The arbitrators shall also prepare a ballot title not exceeding two hundred (200) words, which shall contain the gist of the proposition couched in language that may be readily understandable by persons not engaged in the practice of law . . . ."[7]

Whatever happened to the inviolable doctrine of functus officio—that the arbitrator's function and authority necessarily ceases with the rendering of the award?

Except for such legislative innocence, differences in level of maturity seem less pronounced in the public sector, where the southern lag is less than is often the case in the private sector. In the South, as elsewhere in the nation, the public sector parties sometimes spend an inordinate amount of time defending

[7] State of Oklahoma, House of Representatives, House Bill No. 1481, February 18, 1980, pp. 6-7.

principles and prerogatives that are not under attack, in attempting to keep the other party off balance, and in reinventing, the hard way, the wheels within wheels that were long ago invented and are now fairly well-lubricated in the private sector.

Style

At least as significant as differences in levels of maturity are those of style of dispute settlement. After years of arbitrating mainly in the South, I am occasionally shocked in my northern or eastern cases by the deportment of some advocates. I have on a few occasions been obliged to counsel them as to proper decorum when their arguments become too loud or bitter, when they persist in rude interruptions, or when they flap their wings too vigorously. Although such behavior is unusual, I have almost never been obliged to adjure southern advocates as to their deportment.

Some southern advocates cultivate a relaxed, but not casual, atmosphere in arbitration hearings through courtly speech and behavior, complete with genteel deference to the opposition—even in the face of sharply contradictory or accusatory testimony. Such courtliness, which is genuine in southern situations, would seem contrived, unnatural, or even ludicrous in most hearings outside the South.

Courtliness, despite its obvious benefits, can sometimes disguise latent paternalism. Soon after my move from the East I was shocked in a Mississippi case, rich with courtliness on both sides, to hear that the employer, who was part of a national firm, kept such close control of grievance forms that employees had almost to beg the superintendents to make them available. I doubt that any northern local of that same major union would have tolerated such a situation.

Off-Premises Considerations

The line between employer jurisdiction over on-premises and off-premises conduct seems more blurred in the South than elsewhere. The relationships between job problems and off-duty situations are often closer. Many more southern employers operate in small, isolated communities, some of them close to the old company-town situation. In many arbitration cases, the antagonists have extensive off-duty relationships which may or may not be friendly. In small towns they often belong to the same church or social groups or have marvelously intertwined family ties and/or enmities. Such relationships often influence the processes of dispute settlement. Parties often attribute to those relationships motivations for behavior on the job by employees or supervisors. Although it is impossible for me to generalize as to the net effect of such relationships, for they are infinite in their variety, off-premises relationships and conduct often assume a unique significance in the South.

Conclusion

I would like to conclude by referring to an area of disputes which is of immense importance in all areas of the country—discrimination disputes. I have frequently asked union representatives throughout the South what proportion of their time they spend on discrimination problems. Many report that they spend a majority of their time on such problems and almost all report a considerable expenditure of time.

It must be time well-spent, for, in my experience and in that of many other arbitrators, discrimination cases reach arbitrators no more frequently in the South than elsewhere and southern cases are presented at least as skillfully and usually more realisti-

cally and sensitively than they are elsewhere. In fact, I feel that southern practitioners could teach their counterparts elsewhere a great deal in this difficult and important area of dispute settlement. **[The End]**

A Discussion

By CHARLES P. BARRY II

Kaiser Aluminum & Chemical Corporation

AS A BUSINESS representative, southerner, former public employee, and labor/employee relations practitioner, I comment on these presentations solely on the basis of my personal experience and opinion. I conducted no formal research in the areas and, due to my employment background, my comments may tend to be employer-oriented.

Mr. Bain's overall presentation was both enlightening and well-founded. Industrial relations activity is definitely on the rise in the South, with more of the nation's population moving to the Sun Belt states. While being in general agreement with the overall content of the presentation, I will make some additional comments and raise some questions that may not be in full agreement with the information presented.

In the development of new bargaining units in the South, both companies and unions have become more professional in their approaches to employees, to each other, and to the National Labor Relations Board. As a result of this change, the statistical data available for research may not be comparable with data compiled several years ago when unionization was developing in the North. The union organizers today are much more reluctant to take "no win" positions to a vote before the NLRB, thereby increasing the statistical percentages shown in published data on the success of organizational drives. At the same time, companies are utilizing more consultants, increasing the education and awareness of plant management to the organization process, and locating smaller plants in more rural areas to avoid the tendency of unionization by their employees.

In regard to right-to-work laws in a majority of the states in the South, it is contended that these laws are not as favorable to employers as is generally perceived. In effect, these laws have created an atmosphere where employees who do not wish to join bargaining units can do so while working in a unionized plant. The tendency of "minding my own business" by many southerners has created a lack of foundation from which the employer can build a counter group of employees in an organizational drive. This weakens the employer's natural defense since those employees not wishing to become union members can do so without becoming involved in the organizational process.

The overall lower percentage of nonfarm workers who are unionized in the South can be attributed to several factors. Most employers today provide benefits that are comparable with those received by unionized employees; plant locations in rural communities create an "outsider" situation for union organizers; employers develop strategies of union avoidance rather than address problems after the organizational attempt is already under way; and small plants present a much more difficult

organizational problem than did the large facilities in major cities in the industrial North.

Mr. Crawford's presentation is most representative of the southern public sector bargaining process. In general, his viewpoints seem consistent with my personal experience, with the following comments made as additional thoughts on the subject.

One of the reasons for the slow progress of public sector bargaining is the general southern attitude toward unionization as being an "Industrial Northern" problem. In general, the majority of Southern state legislatures have been supported and elected by constituents with long family roots in the South. These constituents and their elected representatives view unionization with little knowledge of what unions are, how they developed, and why. Most southerners have based their opinions on what they have read in newspapers, seen on television, or heard in general, which tends to be such things as strikes, boycotts, violence, and other information generally negative to unionization. Southerners also have very strong feelings of allegiance to their states, cities, and towns which makes unionization in the public sector even more unpopular.

Labor unions and employee organizations in the South tend to represent smaller groups in various industries and, therefore, are more fragmented and have less of a power base with which to influence the southern legislative process in comparison to their nothern counterparts. The bargaining power to achieve better legislation for public sector bargaining is yet to be established in the South.

Dispute Settlement in the South

Mr. Shearer, who has arbitrated many cases throughout the South, presented a very real picture of the differences in dispute settlements when compared with such settlements in the North. In the southern labor organizations there has been very little dispute settlement training, and there are few union staff members with long-term experience or extensive training.

Also, there are virtually no major labor organizations based in the South today, which tends to leave staff representatives and local organizations with much less support and contact and, therefore, they are less formalized and professional. Most southern local unions are smaller in size, which results in a lack of funding for educational purposes and less formalized experience on a day-to-day basis.

In general, most of the organized plants are located in rural areas where most employees know each other and many employees have relatives who work in the plant. This causes local unions to address many cases in more of a personal aspect than would occur in large locals in major cities. This problem and the fact that many southern locals arbitrate their own cases without staff or international union assistance tends to burden the arbitration process with more petty grievances, poorer case presentations, and a general lack of professionalism, as Mr. Shearer described in his presentation.

As the bargaining process grows in the South, the dispute process is expected to improve rapidly, as was the case during heavy growth periods in the Northern states. One area not discussed in the presentation is the arbitration precedent already established in the North and its impact on the southern dispute process. Many cases which have been arbitrated have established industrial norms or precedents. Thus, cases involving these issues will probably not be arbitrated because the parties have recognized and accepted

the history already developed. Therefore, the total number of arbitration cases may never reach the number experienced in the North.

General Comments

The southern bargaining process will continue to grow, with both employers and unions facing challenges in dealing with an enlightened work force, increased legislation and legal activity, heavy foreign competition, and the general bargaining process. The southern experience is expected to develop rapidly, with the continued movement of industry and population to the South and, therefore, more opportunities for the bargaining process. As these opportunities develop, so will the process that they foster. The presentations here were excellent in content and most thought-provoking in reviewing the southern bargaining experience.

[The End]

SESSION V

Industrial Relations in the Coal Industry

The UMW Perspective on Industrial Relations

By ROBERT C. BENEDICT

United Mine Workers of America

FIRST OF ALL, before I get into my remarks, I would like to explain how I happen to be here. President Church's secretary called Tuesday morning and said, "President Church would like to see you in his office." Since I make frequent trips to President Church's office, and it seems that I never have the necessary information or material with me, I thought I could save some time and trouble if I knew the purpose of my visit. So I asked the secretary if she had any idea what it was President Church wanted. She said, "I'm not sure, but I think he wants you to represent him at an IRA meeting." Well, I was terrified. I could just see myself going to Belfast. But luckily, it was the IRRA, and I'm happy to be here. President Church sends his regrets that he is unable to attend.

The moderator said that I was kind of a pinch hitter for President Church, and I suppose you could call me that. That reminds me of the story about the fellow and his wife who were avid golfers. They were sitting at the breakfast table one morning, and his wife turned to her husband and said, "If I should suddenly leave this world or if I were to pass on, and you were to remarry, would you bring your new wife to live in our home—the home we built together and worked hard for, and spent so many happy years?" Her husband thought for a minute and answered, "Well, I would have no qualms about that, it wouldn't bother me if it was all right with her; sure I'd bring her here." Well, the wife was a little disappointed at that and she sat there a couple of minutes and said, "Well, if you brought your new wife into our home to live, would you let her wear my clothes?" And he said, "Why, I guess I would if she wanted to, if she liked your clothes. It wouldn't bother me if she wore your clothes." Well, the wife was even more disturbed with that response, and she then said, "I guess you would also let her use my golf clubs." Her husband replied, "No, she couldn't use your golf clubs." This really surprised the wife, so she said, "You mean you would bring her into our home, you would let her wear my clothes, but you wouldn't let her use my golf clubs?" And he said, "Well, it isn't that exactly, it's because she is left-handed."

So, you might say I am sort of a left-handed pinch hitter.

I am going to speak briefly on the negotiations that are going on, or that we would like to see going on, at the present time. Of course, you realize that the United Mine Workers are on strike and have been on strike since March 27. One proposed agreement has been turned down by the membership, and as of now we have been unable to get the industry back to the bargaining table to try to resume talks and end the strike.

While the present coal strike is seemingly a setback to those who had hoped that labor-management relations in the coal industry were geared for better things in 1981, it would be a gross error for analysts not to recognize a difference between the present situation and those in the past. The negotiations this year were conducted in an atmosphere that was not supercharged with tension from the coal fields. And, compared to the 1974 and 1978 negotiations, they proceeded in an orderly manner. And, indeed, a tentative agreement was reached as a result of those negotiations prior to the expiration of the old contract, which has not happened for several years. The proposed agreement was ratified by the bargaining council the first time it was presented to them. The fact that the membership rejected the contract, or that the membership is now on strike, should not be permitted to cloud from view the existence of an atmosphere within the union that is quite different from that which prevailed in prior years.

Movement Toward Stability

There are very clear signs of substantial movement toward stability, at least on the union's side. I think that, for the first time since I have been actively involved in the union, we seem to have our ducks in a little straighter row than the industry does. One very clear sign of that stability has been the continuing reduction in the number of wildcat strikes which were quite common during the 1970s. In 1977, unauthorized work stoppages resulted in the loss of an estimated 2.3 million man-days of work. By 1979, the lost time was down to 300,000 man-days. And, while the figures are not yet available for 1980, we are certain that they will reflect a further reduction.

In assessing the instability of the 1970s as it impacted upon both the union and the industry, one cannot overestimate the significance of the sharp jolts that the industry experienced. For over 20 years up to the late 1960s, employment in the industry had been declining. As a result, the age of the industry's workers was considerably above average for the nation's labor force. The injury rates, including fatal injuries, were scandalously high. Two things happened to cause a surge in employment. First, the demand for coal picked up sharply. Second, the enactment of the Coal Mine Health and Safety Act of 1969 forced operators to add new workers to their work force in order to meet the rigid safety standards imposed by the Act.

In the five years between 1969 and 1974, employment in the industry grew by almost 33 percent. As employment in the industry grew, the average age of the industry's work force declined dramatically. For example, in 1970, employees under the age of 35 accounted for only 30 percent of the work force. By 1975, over 50 percent of the work force was under 35 years of age. By contrast, the number of employees 55 years old and older declined from 21 percent of the work force to less than 12 percent during the same period. By the same token, the 1969 safety legislation produced some positive results with respect to both fatal and nonfatal accidents. It must also be mentioned, however, that the increase in employ-

ment which included many new, inexperienced employees, as well as many employees not directly involved in production but involved in meeting the requirements of the 1969 Safety Act, led to a declining production. That decline continued during the entire decade of the 1970s.

On the industry's side, the pickup in demand for coal produced an equally dramatic shift. What had been a plodding industry suddenly became the industry of the future, and pretty soon the list of major coal companies began to read like the directory of the American Petroleum Institute. During the 1950s when the coal industry was in a slump, many of the large oil companies began buying coal companies and coal reserves because they were the only ones who had the capital to do it. And, as time progressed, they saw that their interest in the energy market would be enhanced if they had both the oil and the coal reserves. They continued to invest more and more of the large profits that they made from oil in coal mines and coal reserves. They now own a large percentage of the coal reserves of this country.

While all this was happening, the union itself was undergoing substantial changes in structure and personnel as a result of the reform movement. Much authority shifted from the international union president to the district presidents, each of whom operates fairly autonomously and, together with the independently elected international executive board members, make up the union's bargaining council. In the 1978 negotiations, the negotiating team had considerable trouble in getting an agreement through the bargaining council, whose approval is necessary before the agreement may be submitted to the membership.

Another indicator that, despite the strike, the future is not bleak for labor-management relations is to be found in the data on productivity. According to the coal operators' data, output per hour in 1980 finally did a turnaround. For the year ending June 30, 1980, output per hour was 7.7 percent greater than it was for the year ending June 30, 1979. It was with all these facts that the union and the industry went to the bargaining table to try to reach a new agreement. It is with all these things in mind that we keep attempting to get the industry back to the bargaining table. We think it is in the interest not only of the membership of the United Mine Workers and the coal industry but also in the interest of this country.

Arbitration Review Board

I want to say a few words about the Arbitration Review Board. The Arbitration Review Board was established by the parties in 1974. The purpose of the Arbitration Review Board was to cut down on the amount of arbitration in the coal industry by having a final authority to make binding contract interpretations, or, in other words, to interpret what the parties had really written.

When I was a district representative in Illinois, I would go to the third-step grievance meeting with four or five arbitrators' decisions supporting the union's position on the issue in dispute. When I would get there, the industry representative would have half a dozen arbitrators' decisions supporting the industry's position. Under those circumstances, when there is a 50-50 chance of winning, it is extremely hard for me to tell one of our coal miners that I cannot arbitrate the case, and it is equally difficult for the company's labor representative to tell the production person at the mine—the mine superintendent—that he cannot arbitrate. As we keep arbitrating cases of that type, the stack that he brings in gets a little higher, and the stack that I

bring in gets a little higher. The purpose of the Board was to settle those issues once and for all with an authority that was unimpeachable.

The ARB was also designed to establish and maintain panels of arbitrators for each of the UMWA districts and to make assignments of cases in a fair and equitable manner. There are probably some arbitrators in the audience; I know there is one here, but I am going to talk about them anyway. I am sure that you company representatives out there, as well as union representatives, know that certain arbitrators are more favorable to them on certain issues than are other arbitrators.

If the process of selecting an arbitrator consists of going to the Federal Mediation and Conciliation Service or the American Arbitration Association and getting a list of names, each of those names must be researched to determine how that arbitrator has ruled on the particular issue in dispute. It is a very time-consuming and difficult task to do all the research work. Consequently, it does nothing but prolong the arbitration process, which is too long to begin with.

As soon as the panels were established, the staff of the Arbitration Review Board assigned cases on a rotation basis. Each arbitrator takes his turn and is assigned whatever case or issue the parties are presenting at that particular time.

The Board consisted of one union representative, one industry representative, and the chief umpire. As the moderator said, I was the union representative. The industry representative and I were advocates of our party's position on the issues presented, and the chief umpire made his decision based on the contract and our arguments. The chief umpire was unfamiliar with the coal industry, and we kind of had to steer him through it, because, as most of you people are from West Virginia, you know the coal industry is a little different from most other industries, and industrial relations in the coal industry is much different from what it is in most other industries. Therefore, we sort of led him by the hand, but about the time we got him broken in to the point that he was beginning to understand the coal industry and the problems of the people in the coal industry, both union and management, the 1974 Agreement expired.

Failure of the System

I think it is only fair to say that, for a variety of reasons, the system did not work as it was set up under the 1974 Agreement. One reason was that it was abused by both parties. There were about 800 cases appealed from a total of about 7,000 that were arbitrated in the industry during the term of the 1974 Agreement. Both of those numbers are almost unbelievable. It is incredible that there could be that many cases arbitrated, and it is almost unbelievable that over 10 percent of them would be appealed by one party or the other.

Perhaps another reason was the backlog of cases which resulted from the time needed to get the Board into operation. The parties felt that the ARB was going to solve all of their problems and wanted to get it into operation as soon as possible. They gave themselves 90 days to get it set up and operating. The 90-day period to set up an operation like that may have seemed reasonable to the parties at the time, but it proved to be unrealistic. The parties, after the agreement was signed, started arbitrating as usual. The losing party promptly started sending its appeals to the Arbitration Review Board, but there was no such animal. So the Bituminous Coal Operators' Association and the United Mine Workers kept all those cases and stacked them back in a corner

until the Board was finally put in place. The first hearing of the Board was 14 months after the effective date of the 1974 Agreement. That was quite an extension of the 90 days allotted.

Since almost half of the term of the 1974 Agreement had passed before the Board was operational, only 126 precedent-setting cases were decided prior to the expiration of the Agreement. At the expiration of the Agreement, the parties established an interim board. The interim board decided another 289 cases which were not precedent setting. It was intended just to settle those cases which were pending before the Board.

During the 1974 Agreement, there were three changes made in the ground rules to try to get the process to work, because both parties still had confidence and felt that something of that nature was needed. But those changes did not work.

In 1978, the parties changed the format completely. Rather than have a tripartite board, they went to a single chief umpire. They gave the chief umpire authority to be more selective of the cases that he accepted for review. He had the authority to reject the cases even though they met the criteria for appeal. He had the authority to reject them purely on the basis that he did not want to mess with them or that, in his judgment, they were not of great importance to the industry. There was more responsibility put on the people in the field. By that, I mean that either the coal company or the United Mine Workers' district which was appealing the case had more paper work to do. There were supporting statements and briefs to submit. The time limits for each step were also shortened. There was also a change in the ground rules under the 1978 Agreement. Although there were some improvements, the system still did not work.

There was much dissatisfaction on the part of our membership due both to the delay in having a final decision on issues which had been appealed and in the content of some of those decisions. As a result, the pressure is great from rank-and-file members of the union to abolish the Arbitration Review Board. That pressure is so great that the international union feels that the ARB must be eliminated. That is not necessarily my personal opinion or the opinion of the union leadership. However, it is obvious that that is what our membership wants, and we represent the membership. Therefore, the tentative agreement that was turned down earlier contained provisions eliminating the Arbitration Review Board. The proposed agreement did, however, establish a joint committee to study problems of arbitration and labor relations within the coal industry.

I personally feel that eliminating the Arbitration Review Board is bad for both sides. It is obvious that the procedure as it existed under the 1974 Agreement did not work, and the procedure as it existed under the 1978 Agreement did not work, but it is imperative that there be some final authority. Otherwise, the parties are going to be running to court all the time either to get an absurd decision enforced or to get an absurd decision set aside.

Conclusion

We have, at the present time, in the neighborhood of 100 arbitrators in the system in the various districts. We have some very good arbitrators and the quality of the decisions is, generally speaking, very good. But, even a well-renowned arbitrator, who is very experienced in arbitration and an expert on contract interpretation, and all in all a really top-notch arbitrator, is liable to come right off the wall with something that neither party can live with because, as I said earlier, the coal industry is so different from any other

industry. I will give you a couple of examples that come to mind.

In one case, a grievance was filed over work jurisdiction. The classified employees on the outside of the mine were complaining because the exempt warehouseman was hauling supplies from the warehouse to the shaft. They filed a grievance claiming that the work belonged to the bargaining unit and demanding that exempt people cease performing that work. The case was arbitrated and the arbitrator agreed with the union that the work was classified work and it belonged to the bargaining unit. But, in his remedy, rather than order the warehousemen to cease doing the work, he ordered that he must join the union. Now, neither party could live with that type of decision.

Another example concerns a bereavement clause in our contract which provides three days off with pay when a member of your immediate family dies, such as brother, sister, father, mother, and so on. The grievant's half-brother died and the employer would not pay him because he was a half-brother. The grievant claimed that the deceased was just like a brother to him, and he demanded three days' pay. That case also went to arbitration. The arbitrator reasoned that, if an employee is entitled to three days' pay upon the death of a brother, he is entitled to a day and a half for a half-brother. It is this type of decision that I think makes it necessary that we have some sort of final authority.

By the way, on the first case the ARB ruled that the warehouseman did not have to join the union; he just had to quit doing the work that belonged to the bargaining unit. On the half-brother case, we looked up "half-brother" in the dictionary and found that the definition is, "male offsprings with common parents or with one common parent," so we gave the grievant pay for the other day and a half.

[The End]

The 1981 Coal Strike: A View from the Outside

By WILLIAM H. MIERNYK

West Virginia University

STRIKES in the coal industry have occurred every three years for the past decade and a half. They have become, in essence, self-fulfilling prophecies. About three months before a contract is due to terminate, production is stepped up. Utilities purchasing coal from companies under contract with the UMW increase their inventories from the normal 30-day level to at least a 100-day supply.

The prestrike buildup gives the miners a chance to augment savings to help carry them and their families through the strike. By the time the contract expires, many are ready for a break. If the miners had voted to accept the original 1981 agreement negotiated by the UMW and the BCOA, most companies would have had to go on short time within a few weeks—or perhaps even days—after the referendum in order to give inventories a chance to work down.

Seen from the outside, the contract voted down by the rank and file was a good one. It gave the miners a substantial wage increase which, incidentally, about matched the industry's rate of productivity improvement over the past two or three years. The miners

did not, of course, reject the contract over the issue of wages. They turned it down because of a provision which would relieve the operators of the obligation to pay royalties on nonunion coal run through signatory company tipples which was first negotiated in 1964.

The only logical explanation of the first 1981 referendum—at least to an outsider—is that the miners really did not understand the issue they voted down. There was a breakdown of communications between Sam Church and the bargaining council on the one hand and local leaders on the other. The problem was exacerbated by so-called "dissidents" running for office in several district elections scheduled for May 1981. Those challenging incumbents did nothing to clarify the reasons why the bargaining council chose to give up royalty payments on nonunion coal in exchange for an admittedly meager widows' pension of $100 per month.

One cannot tell from the outside, of course, why the union negotiators chose to make this trade. The most likely reason, however, is that they knew there are legal ways for signatory companies to avoid the royalty payments if they choose to do so. If that is the case, the union negotiators knew that they were exchanging what could at any time become a dead letter in dealing with a particular company for a modest pension which could be increased in later agreements.

Decline in Strength

One consequence of the cycle of strikes which started in the mid-sixties has been a steady decline in the relative strength of the UMW. The union was at peak strength in 1950 when John L. Lewis negotiated the first industrywide wage agreement with the Bituminous Coal Operators Association.[1] Indeed, the BCOA was as much a creation of Lewis as it was of the operators. When that landmark agreement was signed, signatory companies accounted for 90 percent of the nation's coal output.

When Lewis, one of the giants of American labor history, retired in 1960, the union was taken over by lesser men. His immediate successor, Tom Kennedy, was an honorable man and a dedicated labor leader. But he was ill when he succeeded to the presidency, and when he died in 1963 the leadership fell to Tony Boyle. The decline of the union during Boyle's tenure is too well-known to require repetition here, but one consequence was the rise of the Miners for Democracy (MFD).

In a court-ordered election, in 1972, Arnold Miller, the MFD candidate, defeated Boyle. The following year, the UMW constitution was rewritten, and the most important change was Section 7 which provides for rank-and-file ratification of all contracts by secret ballot.

The UMW continued to lose ground under Arnold Miller, although coal production was expanding. Miller was an inept administrator and a weak leader.[2] By the time he took over the union, UMW mines accounted for about 70 percent of the nation's coal output. The decline was not because of defections by union members. Indeed, union membership grew slightly after the upturn in coal production started in the early 1960s. But most of the expansion of production occurred in the West, where the UMW had little organizing

[1] William H. Miernyk, "Coal," *Collective Bargaining: Contemporary American Experience*, ed. Gerald G. Somers (Madison, Wis.: Industrial Relations Research Association, 1980), pp. 25-29.

[2] For an excellent account of the rise and fall of Arnold Miller and the MFD, see Paul F. Clark, *The Miners' Fight for Democracy* (Ithaca, N. Y.: New York State School of Industrial and Labor Relations, Cornell University, 1981).

success, and in nonunion strongholds in Kentucky and parts of the Midwest.

On November 16, 1979, Arnold Miller, who had a long history of illness, resigned and was succeeded by Sam Church. Although Church had been a supporter of Tony Boyle, even when he ran against Miller in 1972, he was Miller's hand-picked successor.[3] He appears to be the most capable leader of the UMW since John L. Lewis. But, where Lewis had forged a strong national union, Church inherited a weak one with a legacy of militancy which has no doubt contributed to its relative decline. By 1981, UMW mines accounted for no more than 44 percent of the nation's coal output.

When John L. Lewis threatened to bring the national economy to a halt, even before the 1950 agreement, his threats had to be taken seriously. Today, a coal strike appears to have little impact on the national economy. Even in coal-producing states, such as West Virginia, the impacts are far less severe than they were in the past.

As Clark points out in his perceptive account of the rise of the MFD, voter ratification of agreements requires a knowledgeable membership. Modern labor-management agreements deal with complex legal and technical issues that require the assistance of specialists on both sides of the bargaining table. If the rank and file are to vote on those issues dispassionately and intelligently, they must not only understand the issues, but they must know why the bargaining council behaved as it did during negotiations.

Threat to the Union

The referendum, hailed as the epitome of union participatory democracy when it was adopted by the MFD, could prove to be the undoing of the UMW. It has happened before. In the 1890s, the Cigarmakers Union, which gave the American Federation of Labor its first president, Samuel Gompers, was the nation's second-largest union (with 27,000 members). That union, too, adopted the referendum. In the 1920s, the Cigarmakers were faced with the challenge of mechanization in nonunion shops, but this failed to dampen their militancy. The union eventually succumbed because, in the words of I. M. Ornburn, one-time president, the union was "cursed with the referendum. Now that is strong language, but it's the truth."[4]

The UMW need not follow the route of the Cigarmakers, although it is a possibility that should not be ruled out. If the union continues to lose relative strength, there will be a "tipping point" at which it will be a union in name ony. As it is, the industries that UMW mines supply can survive long strikes. And, the bargaining position of the union seems to become weaker after each succeeding strike.

Having won the referendum after a long and bitter struggle, the miners are not likely to give it up. But, if the union is to reverse the course which has progressively sapped its relative strength since 1960, behavior patterns will have to change. A union representing workers responsible for less than half of an industry's output cannot behave like a union which has the power to close an industry down.

Conclusion

The UMW must somehow recapture the solidarity and unity of purpose which gave John L. Lewis the ability to speak for the membership as a whole. While this will sound like a timeworn cliché, the referendum system will work only if there is com-

[3] *Ibid.*, p. 132.

[4] Sumner H. Slichter, *Union Policies and Industrial Management* (Washington, D. C.: The Brookings Institution, 1941), p. 377.

plete communication and understanding between the leadership and the rank and file of the union. Members of the bargaining council will have to explain the reasoning and the tradeoffs involved in negotiations to local union presidents. They, in turn, will have to transmit this information to members. The members must have full knowledge of what they are being asked to vote on and why they are being asked to endorse the decisions of the president and the bargaining council.

The referendum can be—as its sponsors clearly hoped it would—the purest form of democracy. But, that kind of democracy requires that every member of the organization work to protect it. The alternative is something more closely akin to anarchy. The inability of its members to agree led to the ultimate demise of the Cigarmakers. That experience should serve as a constant reminder to the officers and members of the UMW. It could happen again.

[The End]

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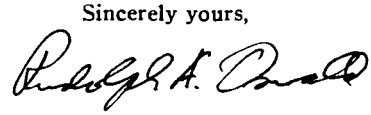

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