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1980 Spring Meeting

April 16-18, 1980

Philadelphia, Pennsylvania

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Industrial Relations Research Association Spring Meeting

April 16-18, 1980 — Philadelphia, Pennsylvania

PREFACE

1980 Spring Meeting
Industrial Relations Research Association

"Eight Issues for the Eighties" was the theme of IRRA's 1980 Spring Meeting in Philadelphia, as both the speakers and the audience took a look ahead at what the industrial relations community might be facing as it moved through the decade. How the problems might be approached, or resolved, provoked debate, with the only consensus being that the issues were perhaps more complex than any the parties had faced in the recent past.

Congress Hall, the scene of other historic debates, was the setting for the forum entitled "The Outlook for Collective Bargaining: Accommodation or Confrontation?" with Wayne Horvitz, Director of the Federal Mediation and Conciliation Service, presiding. Labor's perspective was presented in a paper by William Wynn, President of the United Food and Commercial Workers, and management's by Harry Gudenberg, Vice President of ITT.

Speakers at the four panel sessions examined how economic uncertainty might affect bargaining, industrial relations in a job-loss environment, the realities of efforts to improve the quality of work life, and new views of arbitration. In the workshops, the topics were energy, affirmative action, and bargaining structures.

At the closing session, Arvid Anderson, who chairs the tripartite New York City Office of Collective Bargaining, described what he sees as "The Trilateral Shape of the Eighties." Although he believes it is too early to forecast "whether the labor-management-government relations will be marked by cooperation and consensus or . . . confrontation and conflict," he is optimistic "about the contribution that trilateral systems, both voluntary and mandatory, can make toward the resolution of the very complex problems that face us."

The Association and all of the members attending the sessions are grateful to the Philadelphia chapter of IRRA for planning and carrying out a stimulating and highly successful program—and especially to the coordinator, Richard D. Leone; the program chairperson, Gladys Gershenfeld; and the arrangements chairperson, Edward A. Pereles. Our thanks also go to *Labor Law Journal* for initial publication of the papers.

BARBARA D. DENNIS
IRRA Editor

The Trilateral Shape of the Eighties

By ARVID ANDERSON

Chairman, Office of Collective Bargaining, New York City.

WHEN I AGREED to the suggested title of "The Trilateral Shape of the Eighties," I was not aware that the word "trilateral" is regarded in this election year as a dirty word. *Newsweek* recently described the "Trilateral Commission," a private consortium of business, banking, and government officials, as a group that is suspect among conservatives because of its "elitist" makeup and its international bent.[1] My reference to the term trilateral, however, is to the role of the business, government, and labor communities in dealing with, primarily, domestic problems.

Why should there be an interest in tripartite solutions to labor-management problems? Isn't collective bargaining essentially a bilateral process, and, therefore, isn't it a better policy to keep government out of the picture? I will not pursue such theoretical or philosophical questions. I accept the reality of participation in labor-management issues by government—federal, state, or local—either as a matter of law or as the supplier of a substantial part of the funding needed to resolve problems.

As an administrator of collective bargaining statutes, I have learned that much more can be accomplished by persuasion than by compulsion and that agreement and consensus are preferable to dictation. I am convinced that we are more likely to achieve success if government, management, and unions join forces and resources in striving to resolve the difficult and complex problems that await us in the 1980s.

There are a number of formal trilateral arrangements involving cooperation among labor, management, and government in the area of labor-management problems. I will cite a few examples. Late last September, the Carter Administration and the American labor movement under the leadership of Lane Kirkland entered into a "National Accord" calling for close cooperation and consultation between the Administration and labor on a number of national policy concerns. While the National Accord is a bilateral document, the statement recognizes that the implementation of most of the policy goals requires the additional cooperation and participation of third parties, namely, the business community, public employers, and the Congress.

[1] Allan J. Mayer, et al., "The Trilateral Elite," *Newsweek* (March 24, 1980), p. 38.

A major goal of the National Accord is a voluntary policy of pay and price restraint. Reaching that goal has required the direct participation of labor, business, and public representatives.[2] The Pay Advisory Committee to the Council on Wage and Price Stability, consisting of an equal number of business, labor, and public members, was established to carry out this objective. The Pay Advisory Committee, under the leadership of that uniquely talented proponent of the tripartite approach, John Dunlop, former Secretary of Labor and former Director of the Cost of Living Council, has worked closely with the business community and labor leaders to develop the voluntary pay guidelines.

Examples

Professor Dunlop established a series of joint labor-management committees while he was head of the COLC to monitor collective bargaining in particular industries. The Joint Labor-Management Committee of the Food Industry continues to this day. A similar committee exists in the men's clothing industry and in trucking. Professor Dunlop also chairs a unique joint labor-management committee, which was created by statute and is charged with the resolution of police and firefighter disputes in the Commonwealth of Massachusetts.

The Massachusetts Legislature gave the committee, which is composed of an equal number of representatives of public employees and public employers, plenary authority over the resolution of contract disputes, including the power to arbitrate impasses.[3] As a consequence, although the state's labor relations statute provides for final and binding arbitration of interest disputes, very few cases have gone to arbitration. The vast majority of disputes are settled by negotiation between the parties aided by the joint labor-management committee.

The State of Connecticut last year adopted a statute providing for tripartite final-offer arbitration in teacher disputes. The Connecticut statute established a fifteen-member arbitration panel composed of an equal number of public, labor, and management representatives. It requires that the panel selected to resolve an individual dispute be chosen from the statutorily mandated tripartite panel. The law requires, further, that the chairman of each panel be a public member.[4]

The New York City Office of Collective Bargaining is an example of a tripartite labor relations agency. The OCB was created by an agreement between the City of New York and its municipal unions, which was enacted into law by the City Council in 1967. The agency is charged with the administration of a comprehensive public-sector labor relations statute and also has the authority to make final and binding determinations on appeals from impasse panel awards. Impasse panel awards are a form of interest arbitration.

Meeting Fiscal Crises

There are other tripartite structures for dealing with specialized areas such as apprenticeship programs, productivity issues, safety committees, pension plans, and environmental concerns. There are also examples of ad hoc and informal tripartite approaches. The joint effort by Chrysler, the UAW, and the federal government to prevent, or

[2] "White House, AFL-CIO 'National Accord' on Second-Year Program," *Collective Bargaining—Negotiations and Contracts*, Vol. 1 (Washington, D. C.: Bureau of National Affairs, 1979), p. 10:21.

[3] Mass. Gen. Laws Ann., Ch. 154, L. 1979 (effective July 1, 1979).

[4] Conn. Gen. Stat. Ann., P. A. 405 and 422, L. 1979 (effective October 1, 1979).

at least to forestall, the bankruptcy of the corporation is an example. This effort required not only modifications in the auto workers' labor agreement but also the assistance of the Administration and the Congress of the United States. It is further expected that UAW President Douglas Fraser will be made a member of Chrysler's Board of Directors.

Such a step is in the direction of the European model of codetermination, a concept rejected as heresy just a few years ago by AFL-CIO Secretary-Treasurer Thomas Donahue, then George Meany's assistant. When Donahue was asked about the American labor movement's interest in codetermination, he declared that labor was not interested in being "the junior partner in success and the senior partner in failure."[5] However, the demands of survival can cause old beliefs to be cast aside.

Felix Rohatyn, the financial genius of Lazard Freres and Company, who has engineered countless mergers of giant corporations and who has played a major role in New York City's financial survival, has advocated the creation of a Reconstruction Finance Corporation—an RFC—to meet industrial fiscal crises, rather than having the Congress attempt to cope with Chrysler-like crises on a case-by-case basis.

Even before the tripartite bailout of Chrysler, New York City unions, in cooperation with major New York banks and the City administration, invested 30 percent of their assets in municipal pension funds, well over three billion dollars, in order to purchase city securities when no one else would do so. Explaining the Teachers' Union's willingness to participate, Albert Shanker said, "If the City doesn't survive, our contract isn't going to be worth a damn. If the boat is going down, you better get together and bail." The huge pension fund investments also brought about cooperative efforts by labor officials, city and state administrators, and the business community to lobby the federal government for loan-guarantee legislation. Similar cooperative efforts have recently been made to put together fiscal rescue combinations in such financially distressed cities as Chicago, Cleveland, and San Francisco.

The cooperation between labor, management, and government in New York City and in other municipalities that was necessary to insure financial survival does not mean that relationships at the bargaining table are not adversarial nor that confrontations over wages, hours, and working conditions do not take place. As Jack Barbash noted in his commentary in the recent IRRA publication on collective bargaining: "Contrary to the hopes of the earlier philosophers of collective bargaining a generation ago, the adversary relationship persists as the mode that the unions and managements find best suited to their institutional requirements. The parties depart from the adversary relationship only to the extent that collaboration is necessary to increase or preserve the common pot from which their respective shares are financed."[6]

Open-Meeting Handicaps

The intervention of government as a third party in a bilateral collective bargaining process can also engender some special problems. For example,

[5] Thomas R. Donahue, Address before the International Conference on Trends in Industrial and Labour Relations, Montreal, Canada, May 24-28, 1976.

[6] Jack Barbash, "Collective Bargaining: Contemporary American Experience—A Commentary," *Collective Bargaining: Contemporary American Experience*, ed. Gerald G. Somers, IRRA Series (Madison, Wis.: IRRA, 1980), p. 586.

the Pay Advisory Committee is unnecessarily handicapped by the fact that the Advisory Committee Act calls for open meetings.[7] Chairman Dunlop has charged that the open-meeting provisions of the Advisory Committee Act seriously debilitate and frustrate the work of the Pay Advisory Committee by requiring that it meet in the presence of the press.

Professor Dunlop stated: "Leaders or representatives of groups and organizations basically will not make concessions to other points of view and away from established positions and stated resolutions of their organizations, without having the opportunity in important matters to explain the reasons for changes to their key associates or constituents in their own words and to state 'what they got for it' rather than to have to rely on the explanations, tortured or otherwise, expressed to the press. It is well understood that international negotiations or discussions cannot be public and reach decisive results; it is no less true in discussions relating to wage policy, collective bargaining in the small or in the large."[8]

I recognize that the public has a right to know what issues are at stake and what recommendations are made by public representatives, including the Pay Advisory Committee. But, if the public also expects that a tripartite Pay Advisory Committee is to make constructive and reasonable recommendations for voluntary pay restraints, then real collective bargaining must take place and collective bargaining, despite what others say, cannot take place in a goldfish bowl. The work of the Pay Advisory Committee has been constructive in spite of the open-meeting handicap.

For example, it reached a unanimous recommendation for a voluntary pay range of 7½ to 9½ percent, a rate about one-half the current inflation rate. In order to reach that agreement, the committee had to resort to what I call "government in the moonshine." The committee complied with the letter of the open-meeting law—regular public meetings were held. In addition, however, a number of separate caucuses and private discussions were required in order to reach a tripartite consensus on complex issues. My experience with collective bargaining and with the Pay Advisory Committee convinces me that the open-meeting concept should not be applied to collective bargaining or to tripartite advisory committees which must engage in collective bargaining if they are to serve the public interest.

Structural Difficulties

There are some structural difficulties with the collective bargaining process which should be addressed in the 1980s, such as how to involve third parties, who are not present at the bargaining table but who have a tremendous say in the outcome of the negotiations. A prime example of this problem is the health-care industry. Health care is paid for largely by tax dollars, whether it is provided by voluntary system or by governmental institutions. I refer to the fact that so much money goes into the delivery of health services from Medicare and Medicaid funds that it is really government which determines the reimbursement rates which are, in turn, adopted by the third-party payers.

Further, it is the state government that fixes the reimbursement rate, and the state is often only responsible for

[7] Advisory Committee Acts Section 10, as amended, Pub. L. 94-409, 5(c), 90 Stat. 1247 (September 13, 1976).

[8] A paper prepared for publication at a future date by John T. Dunlop, Harvard University (February 1980). See also John T. Dunlop, "Collective Bargaining and Government Policies in the United States: Future," *Collective Bargaining and Government Policies* (Paris: OECD, 1978).

25 percent or, at most, half of the cost involved, with the rest of the money coming from the federal government. Neither the state nor the federal government is present at the bargaining table. Under such circumstances, how can we achieve participation in the making of bargaining decisions by the "real" employer who has to finance the settlement—the state and federal government?

Another example of a structural problem in collective bargaining is evidenced by the recent strikes of the New York City transit workers and the Long Island Railroad employees. A state authority, the Metropolitan Transit Authority, is the legal employer of both the transit workers and the railroad employees, but state, federal, and local subsidies are a necessity for the survival of urban mass transit, not only in New York City but around the nation. While there was consultation by the MTA with the Governor and the Mayor during the bargaining, there is great uncertainty as to how the respective settlements are to be financed. The decisions as to the tax increases and fare increases needed to fund the agreements are political as well as economic.

In the case of the Long Island Railroad, a lawsuit is still pending as to whether the labor dispute is governed by the Railway Labor Act, a private-sector law, or by the New York State Taylor Law, a public-sector law. If the applicable law is private, there is a right to strike. If the public law is applicable, there is no right to strike and workers who strike lose two days' pay for each day on strike.

A similar problem is developing in education. *The New York Times* reported last month that, as a result of Proposition 13, as much as 80 percent of the funds for education in California will come from state sources.[9] However, the California bargaining law contemplates that bargaining shall take place between the local school board and the local union. How do you get participation at the bargaining table by the state, which has to pay 80 percent of the bill? Can we assume that the state automatically will provide 80 percent of whatever solution is arrived at? Similar cases could be cited concerning welfare workers and the defense industry.

Problems and Solutions

Our colleague, Professor Thomas Kochan, recently prepared a report to the Secretary of Labor entitled "Labor-Management Relations Research Priorities for the 1980s." Professor Kochan described a number of problems which not only need research but need trilateral participation if rational solutions are to be found.

"(1) The most pressing labor policy issues of the 1980s will continue to involve the economic and non-economic terms and conditions of employment rather than the procedural aspects of collective bargaining. Finding solutions to these problems, however, will require developing a better understanding of the relationships between collective bargaining policies, structures, and practices and these problems.

"(a) The economic pressures of inflation, unemployment, and lagging productivity will require the continued search for policies relating changes in wages, economic benefits, and labor costs to national economic policies. (b) Concern for improving the terms and conditions of employment for American workers in such areas as occupational safety and health, economic security and dislocation, equal employment opportunity, quality of work, etc., will continue to be at the center of attention

[9] *The New York Times*, March 9, 1980.

in public policy debates and private practice. The 1980s will be a time of searching for a better fit between labor-management relations and governmental policies in these areas."[10]

Included in a list of tasks which labor-management-government committees could undertake in the 1980s should be a reexamination of the effectiveness of existing statutes, procedures, and strategies governing the agencies that administer labor policies, such as the National Labor Relations Board, the National Mediation Board, the Occupational Safety and Health Administration, and the Equal Employment Opportunity Commission. A reexamination of unemployment compensation and workers' compensation statutes and their administration could be a worthy tripartite task. Tripartite study and advisory committees also might be a means of improving the administration of state labor agencies. Joint labor-management committees in the public sector may develop more comprehensive grievance arbitration procedures, as has been done in the private sector.

The cooperation of labor, management, and the government is also needed to reexamine approaches to dispute settlement in both the private and public sectors, including both the strike weapon and interest arbitration. In our mixed economic system of governmental and private enterprise, it is becoming difficult to determine whether the legal structure for bargaining should be governed by public- or private-sector laws, but the economic structure is even more puzzling.

What is clearly private or public employment? For example, are Conrail and Amtrak workers private or public employees? Should health-care employees, who are paid in some cases 100 percent by Medicare and Medicaid tax dollars, have the right to strike because they are employed by a voluntary institution, while public health-care workers are forbidden the right to strike?

A major task of tripartite cooperation should also be to improve the climate of labor-management relations. Clearly there is a need to reverse the trend toward polarization that has emerged in recent years. The continuing campaign for a "union-free environment" and the hard line taken by some major industries toward labor organizations guarantee conflicts well into the 1980s and threaten constructive trilateral efforts to achieve peaceful solutions to industrial relations problems.

Conclusion

I have given only a partial listing of the problems of the eighties which could be addressed by trilateral groups. There is more than enough work to go around for both the practitioners of industrial relations and for those who research and study these developments.

As a believer in collective bargaining and as one who works in a tripartite structure, I am optimistic about the contribution that trilateral systems, both voluntary and mandatory, can make toward the resolution of the very complex problems that face us. But, it is too early in the decade and too turbulent a political and economic period to forecast whether the future of labor-management-government relations will be marked by cooperation and consensus or whether the major theme in the eighties will be confrontation and conflict. **[The End]**

[10] Thomas A. Kochan, *Labor-Management Research Priorities for the 1980s—Final Report to the Secretary of Labor* (Washington: U. S. Department of Labor, January 1980), pp. 7-8.

FORUM

The Outlook for Collective Bargaining: Accommodation or Confrontation?

Confrontation at the Bargaining Table

By WILLIAM H. WYNN*

United Food and Commercial Workers, AFL-CIO, CLC

I APPRECIATE THE OPPORTUNITY to address this group today on one of organized labor's most vital concerns of the 1980s. I was asked to speak specifically about the outlook for the collective bargaining process during this decade and to assign my opinion as to whether we are entering a period of accommodation or confrontation.

At the risk of sounding like a politician, I want initially to say that I am somewhat leery of absolutes. In considering the polar and extreme terms "accommodation" and "confrontation," we must bear in mind the extended gray area in between. Few things in the world are to be found precisely at any extreme. Collective bargaining is an involved and complex process, and, consequently, many aspects will be spread across that wide spectrum. We will encounter confrontation at one point, accommodation at another, and some median quality at yet another.

On the whole, however—and to demonstrate that I am not evading the issue—I fully expect the general tenor of collective bargaining during this decade to be one of confrontation. In speaking of the general tenor, I am talking about collective bargaining activities for the whole range of American labor.

I do not believe that confrontation will be the mood of the eighties because of lack of growth in the economy. While the rate of economic growth may well continue to be slower than we might like, I believe that it will grow. The great figurative economic pie will not shrink nor will it remain stagnant. We can continue to demand larger slices of the fiscal pastry in order to improve the lot of American workers, whose share in the income distribution hasn't increased over the past 50 years and has in many instances even gone backwards.

* Mr. Wynn was unable to be in Philadelphia for the forum. His paper was presented by William J. Olwell, International Vice President, United Food & Commercial Workers International Union, AFL-CIO, CLC.

I realize that, of course, if the perception of management is that the pie is going to shrink, demands will be made to change work rules and other factors relating to productivity at the negotiating table. The productivity rates that we are constantly bemoaning as one of the prime sources of our economic woes are difficult to establish accurately, especially in the service trades. Productivity measurement in the retail industries, and indeed in all industries which do not produce a tangible product, is usually inaccurate and misleading. These measurement problems demand correction more than ever as the service sector grows to what is expected by 1990 to be 70 percent of the job forces.

There are a number of other factors that will impinge upon bargaining, including greater life expectancy, the life positions of the members of the post-World-War-II baby boom, the number of women in the work force, the increasing burden of paying sufficient pensions, plant closing and relocation patterns, and the rate of unemployment.

If the President's actions to reduce inflation are effective, and I do expect to see improvement within the next few months, and if the inflation rate is slowed into the eighties, a great barrier to accommodation will be removed. Inflation, as you know, is now a very serious problem for negotiators.

I further assume that President Carter is determined not to impose mandatory wage and price controls and that whoever may take office next will also not impose controls. That circumstance, naturally, would have a profound effect on bargaining.

So, after telling you what I believe will *not* largely contribute to confrontation, let me discuss what I am convinced will produce a confrontational state for collective bargaining in the 1980s.

Belligerence

Over the past few years, we have seen a more and more obvious and open belligerence toward organized labor expressed by the business community. I do not suggest that this attitude in itself is a novelty—far from it. However, the overtness of management's hostility and attacks on labor are of the type which we have not experienced for some half-century. Management has become very confident that its arguments are received much more sympathetically by the public than was the case a few years ago. It is precisely that development of confidence that has been producing and will produce confrontation at the bargaining table.

As we enter the 1980s, I expect to see an escalation of business-backed assaults on organized labor, on government protections and regulation, and on officeholders sympathetic to workers.

If business is successful in its plans to erode, weaken, and eliminate legislation designed to bring order to industrial relations—if those laws are sufficiently damaged and weakened—we may be returned to an era resembling that which ended with the passage and enactment of the Wagner Act. Prior to the National Labor Relations Act, there was frequent conflict between labor and management, marked by mass violence.

In this regard, I would like to make what is simply an observation, but it is a consideration to note. Since the NLRA, with labor's recourse to law, there has been an absence of violent confrontation of any significance. However, should the law be emasculated or expunged, as is the apparent desire of the current regime of business people, we could well see restagings of the Battle of the Overpass and the Pullman Strike.

I say that because the young people of the 1960s and 1970s who participated in the mass demonstrations and upheavals of that time are moving into local union leadership in many parts of the country. Their attitude toward the use of civil disobedience to achieve socially desirable ends is one which could have dramatic manifestations if they are unable to fall back on protections of the law and the courts.

Adversary Relationship

There, of course, exists a natural adversary relationship between management and labor, and that is what collective bargaining is about. But, the stepped-up attacks on labor are of an almost staggering magnitude. And, just as disturbing as the sheer weight of the antilabor campaign is the newly found sophistication of business with its proliferating front groups augmenting its traditional mouthpieces such as the U. S. Chamber of Commerce and the National Association of Manufacturers.

This new finesse is evident in the extensive and expensive public relations programs mounted by business over the last several years. Instead of denouncing government outlays for such things as human-service programs, business now publicly acknowledges the need for these endeavors and then works to achieve budget cuts, knowing full well that the cuts will most drastically hit those same items.

The exceptions to this behavior now occur when businesses have something to lose with human-service program cuts. Food-marketing chains profit greatly from food stamp users; many employers are crazy about subsidized CETA workers; and the construction industry lobbies for building finance programs.

While maintaining its good-guy image, business bankrolls reactionary right-wing, single- and multiple-interest groups which violently protest allocations for social programs such as food stamps, social security, consumer protection, job stimulation, equal rights and equal opportunity, unemployment insurance and workers' compensation, national health insurance, child welfare, and housing. At the same time that it is improving its posture for public consumption, but not its private stands, on social issues, business management is openly and deliberately conducting its escalated war on organized labor.

Besides the usual antilabor activities of the U. S. Chamber, the NAM, and the National Right-to-Work Committee, business is now sponsoring and abetting the mushrooming antiunion consulting specialists. Unfortunately, these consultants have been highly successful as of late in their decertification and antiorganizing campaigns.

All over the country, in virtually every industry, these professional union-busters are advising employers, running high-priced but heavily attended seminars on "maintaining nonunion status," and generally subverting peaceful industrial relations. They are frustrating the right of workers to organize, and, even if they lose an election, they are there to lead management in evasion of responsibility, delay by prolonged litigation, and protracted collective bargaining as well as in other strategems for withholding workers' rights.

Recent Conflict

To my thinking, the action which really summed up the new business militancy was the recent frontal attack on a modest labor law reform act. Privately, many members of management admitted that the proposed legislation would have negligible effect on the ability of unions to organize and said that they had no real objections to its enactment.

Publicly, though, the Congress and the nation was deluged with propaganda not only excoriating labor law reform but challenging the very legitimacy of labor unions themselves. The apparently moderate Business Round Table, peopled by the supposed "statesmen" of business, reacted like Reed Larson to the proposed changes. From every management quarter, a cry went up announcing the arrival of the Apocalypse should labor law reform be passed. Wholesale business failure and economic collapse was forecast by lip-chewing corporate public relations officers and the Chicken Littles of major business. Tremendous and unrelenting pressure was put on the members of the Senate who were knee-deep in five million pieces of antireform mail.

Business won that battle, but the victory has proved to be a pyrrhic one. By its naked and calculated aggression, management forces tipped their hands as to what we could subsequently expect. A great many trade unionists were stunned by the massive antilabor onslaught on labor law reform and began to reassess relationships with management even in apparently trouble-free areas. Maybe, as some journals suggested after the labor law reform loss, we had lost some of our clout on the Hill, but at the same time we lost what remained of our naiveté in regard to business having become more reasonable over the last few decades.

It still amazes me that the same employers who are constantly beseeching us to step up organizing of their non-union competition suddenly reversed themselves on that labor law reform issue which would simply have restored balance and would not affect organized businesses. It also amazes me that these business people expect us to continue marching side by side with them to Capitol Hill to fight for import restrictions to protect their profits.

Another indication of the spirit of challenge that we will be encountering is the growth and direction of business-oriented political action committees in the past five years. The number of such committees has doubled and redoubled along with their assets with which they hope to buy office for friends of laissez-faire capitalism. Their bottomless money chests make the political committees of the labor community insignificant by contrast.

Conclusion

To epitomize: we are expecting management confrontation at almost every point of our functions in the 1980s. We are expecting conflict politically. We are expecting conflict on social issues. We are expecting conflict on workers' rights. And, we are expecting conflict in collective bargaining.

We will continue to make bargaining progress for our members throughout the decade. We will not sacrifice our people on the altar of wages while they suffer from uncontrolled price rises. We will not win every round, but we will be succcessful and we will realize considerable justice for the American worker. **[The End]**

New Areas of Accommodation

By HARRY R. GUDENBERG

International Telephone and Telegraph Corporation

I AM PLEASED to have this opportunity to meet with you today and to share some thoughts with you. Collective bargaining, as you all know, is a complex and dynamic area. Any attempt to predict it with accuracy would only prove to you how wrong

I could be. Since I really don't want to do that, what I will do is comment on those things that I see taking place in our economy today and offer a few suggestions on how labor and management can move together to aid collective bargaining in the foreseeable future.

It may surprise some of you, but I'm not going to launch an attack on collective bargaining, since I basically believe in the system and think it works fairly well. What do need to be looked at are some new areas of accommodation in the light of the kind of society we live in today and its part in the economy of the United States in the 1980s. Events in those areas are dramatic and require some new direction.

Let's look first at our society. We must begin by stating a fact: as a nation, we have some ills, but we also have many pluses, and, I might add, many other nations and the people of those nations would be pleased to exchange places with us. Our economic ills are well known: high inflation, restrictive credit, and problems of making current income meet expenditures, among others. These are problems that affect every individual to some degree and also the business community.

We should also, however, mention our pluses, for these are often overlooked. We are a nation with above-average earnings and standard of living, with technological capabilities beyond compare, and, even today, a stable government and economy. As we look around the world, these are major accomplishments. And, let's not forget—we also have the abiltiy to laugh at ourselves, which is important.

No doubt, with that background, we have the ability to maximize our future opportunities, but—and here's a concept not often easily accepted today—we will have to make some selective sacrifices, sacrifices in our style of living. For example, one could talk about the impact of the costs of energy, and of our rate of business, financial, and personal growth, and of our ability to deliver improvements in our social system today, without having the corresponding ability to pay for them. These things require sacrifices.

Now, remembering that I'm a believer in our current system, like most of you, let's look at some of the areas where management and labor must work together to obtain some new directions for our collective good. I think that there are four critical areas. Let me share these with you.

Critical Areas

First, there must be a pay restraint policy. It must be a policy that will accept the fact that our pay rates must voluntarily lag behind the rate of inflation, and accordingly we must suffer some loss of real income in order to aid in controlling inflation. Inflation will not stop by itself.

The good news is that many union leaders are supporting such a concept, as evidenced by their actions as part of the Administration's Pay Advisory Committee. However, more is required, since these concepts must be explained and sold to union members—and, as you all know, that's not easy, but it's also a joint effort, and we must achieve it.

Also, all parties to the collective bargaining process must seek a redefinition from the Bureau of Labor Statistics of their reporting of actual increases in the cost of living. The Consumer Price Index as restated in 1978 overstates the real cost of living, for we all know it uses current costs for items that most of us are not replacing monthly, such as mortgages, autos, and the like. But you've heard these arguments before. They are true, and Index items must be corrected as part of a pay restraint policy.

Second, there must be a joint accommodation on the issue of productivity. Management and unions must work together to improve our output

without increased costs. The parties must determine a way to increase output for the common good. Included in this objective must be a fair sharing of the rewards of success. Management must be prepared to share, and unions and workers must be prepared to eliminate some of the restrictive practices that have grown up over the years of bargaining. Again, one can report some success—the construction industry, for one, stands out—but it's not enough. More must be done. New and novel approaches are needed in order to focus attention and provide solutions to this issue, and let's not forget that employees' efforts are needed also to make such programs succeed.

Recognition and Cooperation

Third, there must be a recognition that industrywide bargaining and contract settlements can be destructive to our economy. This concept will be hard to accept. We all recognize the difficulties of this proposal, and we also recognize that industrywide standards have long been a labor objective. But, in our economy one must ask, "For what purpose?" Why obtain a settlement, throughout an industry, that forces some companies to go out of business or to go back to employees to seek an abatement of such settlement? Why not recognize the economic realities early and work to protect jobs and businesses and sacrifices for their overall benefit rather than to destroy the very things we are all determined to protect? Now that's a subject that will take some accommodation.

Finally, labor and management must work together to influence the course of legislation. They both must be prepared to sacrifice individual interests for the economic welfare of the country. In recent years, including our current legislative activities, we see intensive lobbying efforts by both sides to push their particular efforts without total regard for the impact on the business community, on further government regulation and on making government an ever-increasing part of every individual worker's life, and on the costs of these actions. The continued regulation, rulemaking, and costs associated with those activities is stifling our economy. Someone has to pay.

I think that as we look ahead we should accept the statements of our political leaders when they say that they want less government regulation. We also ought to help them fulfill that objective. We can do so by stopping the tremendous drives that go on for special-interest legislation. Don't we all have more than we can handle today? As I think of the legislation that has involved us all in recent years and that is now proposed in our Congress and state legislatures, it's truly mind-boggling. I haven't listed the regulations, for you know them as well as I do. However, let's remember that more legislation would further restrict our ability to move ahead.

Conclusion

So these are the four areas—pay restraint, productivity, limits on industrywide bargaining, and limits on legislation—in which we need new direction in the 1980s. There are others, but these are the key ones. If we are going to do our share, management and labor have got to develop answers to those problems. If we can't work together, we will allow conflict to grow, and future generations will look back at us and hold us responsible for helping to undermine the exceptional system that makes the United States what it is and has been. I think our responsibility to ourselves and to the generations of the future demands that we seek accommodation and solutions and benefits for all people and all sectors of the economy. As an optimist, I am confident that we can work together toward that end and that we can succeed. **[The End]**

PANEL SESSION I

Bargaining in an Uncertain Economic Arena

Job Security: The Focus of Union Initiative

By STEVE BECKMAN

International Union of Electrical, Radio, and Machine Workers, AFL-CIO, CLC

IN MY REMARKS, I will not be exploring the causes of the uncertainty confronting union negotiators today. While this would be an interesting and timely topic, the question at hand is how unions will handle uncertainty.

There is no shortage of uncertainty facing unions currently preparing to negotiate or renegotiate contracts. Uncertainty regarding recession and inflation, though, is nothing new for experienced bargainers, who have lived through recessions deep and shallow and inflation of varying proportions (though not as extreme as we now face). Nor is the intrusion of the government into bargaining an unprecedented development. The current guidelines (voluntary controls) for wages and prices follow in the footsteps of many such programs run administratively through the executive branch of the federal government.

What is different this year, and possibly unique in American history, is the confluence of these three—recession, inflation, and controls. Controls and inflation are commonly found together, but recession has only been recently accompanied by high inflation. Another factor essential to analyzing the current situation, and especially important to the industrial unions in the United States, is the prolonged stagnation of employment in the U. S. manufacturing sector. In order to understand this, we must look at the changing structure of American manufacturing firms and how this has affected the work force. Because IUE represents primarily workers in the durable goods industries, that is largely the basis for my remarks.

Let's look first at the uncertainties mentioned, recession, inflation, and government voluntary controls, and at bargaining goals intended to deal with each.

Despite what economists and politicians may argue, I would say that we have been in a recession for almost a year. Employment in manufacturing in March 1980 was lower than in January 1979, and the purchasing power of workers has been declining steadily over this

period. Attempts to sustain demand over the past year were only marginally successful, but the Administration, late in 1979, threw in the towel and opted for provoking a more severe recession rather than attempting to correct the growing imbalances in the economy.

As in the past, unions have sought to strengthen contract provisions for supplementing unemployment compensation during layoffs and assuring recall rights for workers on layoff. The labor movement has pushed for extended benefits and federal standards for unemployment compensation as a further protection for some, but so far has been unsuccessful. Major changes in supplemental unemployment benefits were not made in major 1979 negotiations. Those without such protection, of course, will give it a higher priority when bargaining in the current environment. As a whole, the type of plan now negotiated is seen as appropriate for dealing with business-cycle fluctuations, though the duration of supplemental benefits may have to be lengthened.

Inflation has certainly been a major problem in the past year and will continue to be for at least a few years to come. The decline in real spendable earnings of eight percent for production workers in manufacturing in the year to February 1980 shows the serious impact of double-digit inflation on workers. Adoption of, or improvements in, cost-of-living adjustment formulas has been a high priority for union negotiators. All major industry negotiations this year either improved the formula to produce higher cost-of-living yields or made adjustments more frequent, or both.

In negotiations with General Electric, IUE changed the cost-of-living clause to go from annual to semiannual adjustments and improved the formula from one cent for each 0.3 percent Consumer Price Index increase to one cent for each 0.2 percent increase. The Rubber Workers negotiated a COLA advance to help make up for the delay between price changes and COLA adjustments. The delay reduces the buying power of workers. Again, the adoption of a COLA mechanism or the strengthening of an existing one was the primary response of union negotiators to the high rate of inflation faced.

Bureau of Labor Statistics figures show that negotiated wage increases rose during 1979 for contracts without COLA provisions but not for contracts with COLA provisions. If the rate of inflation continues at its present pace of over 15 percent, such moderate increases will not continue. As the real earnings figures show, negotiated increases are not keeping up with inflation. The real purpose of the COLA provision is to protect the value of the negotiated wage increases. This follows the labor movement's basic standard for wage increases which is the rate of productivity *plus* the cost of living.

Higher wage increases will be needed in the future if real wage increases are to be secured. Already, as a recent *Wall Street Journal* front-page story reflected, wage settlements are climbing to protect workers' living standards.

A Carter Administration official recently told a Communications Workers of America conference that real wages will not rise throughout the 1980s, which is tantamount to saying that labor's share of the national income will fall—a somewhat astonishing prediction and one unlikely to receive passive acceptance by union leaders and especially members. The need for higher increases to maintain real wages in the face of inflation, and the Carter Administration's insistence that workers

will suffer real income losses in the years ahead, bring us to the next item—the government's "voluntary" guidelines.

Voluntary Guidelines

This program, instituted after "jawboning" failed, was inadequate from the beginning. The initial wage standard of seven percent was well below the rate of inflation at that time and allowed no room for workers receiving wage increases in line with productivity increases. It also set a single standard for all industries, which is not appropriate given the vast differences in conditions between industries. The response of labor to the plan was, essentially, to ignore it and bargain to meet the needs of their membership. It was quickly perceived by labor that no effective mechanism was provided by the guidelines to check price increases. Besides, many goods were not covered by the guidelines. For instance, imports were excluded from coverage, thus encouraging companies to shift production overseas in order to raise prices and improve profits. Many employers have found the wage guidelines convenient for backing up a tough position on wage increases, while little restraint on prices has been imposed.

The guidelines for the program's second year of 7.5 to 9.5 percent, while allowing a range for settlements, still set a maximum below the current rate of inflation and assure those who comply of losses in real wages in the year ahead. It seems that the intent of the guidelines was to limit the income of workers, reduce purchasing power, and thereby bring on the recession. This policy was moderately successful; combined with the more recent credit restrictions and tight fiscal and monetary policies, the recession now seems certain to worsen, reducing workers' buying power even more. It has yet to be demonstrated that there is an equal sharing of the burden of fighting inflation, as agreed to by the Administration in the National Accord with the AFL-CIO.

In cases where unions are forced to comply with the guidelines, attempts have been made to minimize future lost wages. Some unions have negotiated one-year contracts or made provision for reopening the contract for new wage negotiations during a longer agreement. This prevents unions which normally negotiate longer contracts from being tied to wage increases lower than allowed. The higher allowed increase in the second year of the Administration's guidelines shows the value of this strategy. The creative mathematics of the Council on Wage and Price Stability have brought numerous contracts into compliance when the parties to the contract did not apparently meet the standard.

The Manufacturing Sector

This brings us to the situation of the manufacturing sector of the U. S. economy. This is the context of, and therefore it shapes, the union response to the current recession, inflation, and controls. Some figures will show what I mean by stagnation in this sector. Total employment in manufacturing was 19.8 million in January 1969 and 20.7 million in March 1980. While total U. S. employment grew by 31 percent over this 11-year period, manufacturing employment grew by 4.5 percent. The figures for production-worker employment are worse—14,533,000 in 1969 and 14,674,000 in 1980, an increase of less than one percent. Figures for the durable goods segment and for the electrical-electronics industry, where IUE's membership is concentrated, show a similar pattern.

In some parts of the manufacturing sector, production-worker employment was higher in 1966 than at any time since. While business cycles and infla-

tion have been economic realities faced by unions since their earliest history, stagnation in manufacturing employment is a fairly recent phenomenon—one which has created a great deal of uncertainty for American industrial workers.

The union response to this situation has been to emphasize job security in negotiations, and various means have been developed by different unions to provide security of employment for their members. Earlier retirement at full pension has been negotiated to provide more jobs for young workers. This is one of several measures intended to improve employment opportunities by shortening workers' working life. Other negotiated provisions focus on shortening the work year—reducing the number of days worked in a year to increase employment. Provisions such as paid personal days off, longer vacations, and more holidays are examples of this.

These types of improved job-security measures help most in situations where employment is not growing because of slow-moving processes such as technological change embodied in new machinery or shifts in demand which do not cause large layoffs overnight. But, the stagnant overall employment situation in manufacturing, when combined with the shift of production plants overseas or to another part of the country, poses a very serious threat to the job security of union members. A different type of contract provision is necessary to meet the needs of workers faced with this environment.

Plant Closings

The problem of plant closings is being attacked through union support for federal legislation as well as at the bargaining table. Union negotiators will attempt to prevent companies from shifting jobs by raising the cost of making such changes. First, unions are negotiating neutrality pledges for organizing drives at other company locations. This reduces the likelihood that the company will save on labor costs by moving work from a unionized plant.

Second, unions are negotiating special layoff and early-retirement provisions for workers who lose their jobs due to relocation. IUE's contract with Westinghouse provides that workers with 15 years of service, when laid off due to location closedown, job movement, or product-line relocation, get 150 percent of the normal lump-sum layoff benefit. Prior notification of the union by the company is required before relocations. Early retirement for workers age 50 with 25 years of service is available to workers affected by plant closings or job or product relocation. Workers in these plants who would be shifted to another job in the plant paying at least 10 percent less than their previous rate because of a product relocation would be eligible for the special early retirement.

These are all mechanisms for insuring that the most senior workers are not left without pension protection when a plant is closed or cuts back and for encouraging those who are willing to retire to do so to allow younger workers to stay on the job when plant employment shrinks. These measures, and similar ones negotiated by other unions, are a step toward providing job security for members within the context of stagnant overall employment and the policies of many companies aimed at restructuring their U. S. production.

Restructuring

The reasons behind this restructuring, and its social impact, are of grave concern to unions and their members. In the electrical-electronics industry, a major factor in this process has been the internationalization of production for the domestic market. Production facilities of U. S.-based companies in

the industry dot the globe. Many of these have supplanted production for the U. S. market, while others have supplanted U. S. exports. In any case, U. S. jobs have been lost to these facilities for the past 20 years, causing severe dislocation for U. S. workers and communities.

Other industries have also experienced these problems, and, as the process of internationalization of production proceeds, even more industries will be affected and manufacturing employment will be reduced. This makes the dislocation a national problem and one that must be addressed soon if we are to prevent its getting out of hand.

The social impact—workers without jobs and communities without sources of employment and tax revenues—of the relocation of jobs is growing daily. The manufacturing production workers left unemployed have little hope of finding jobs that require the skills they have developed because of the lack of expansion in manufacturing employment. They are not readily employable in occupations that are growing—technical, administrative, clerical, and sales jobs. These workers and their families experience tremendous hardship as a result.

The communities suffer a similar fate. Large employers suddenly shut down, leaving a lower tax base in their wake. The lower earnings of workers affects nearly all the businesses in the community, so the impact can spread to retail stores and providers of health and other services, as well as the ability of local government to provide services. Plant relocation and product relocation are certainly social problems that require legislation as a supplement to collective bargaining, since the costs of these corporate decisions are borne by state, local, and federal governments.

Conclusion

In summary, of all the uncertainties faced by industrial workers in the years ahead, uncertainty about the existence of their jobs concerns them most. The focus of union initiative has shifted from income security, protection from recession, inflation, and programs like the voluntary controls to job security.

Since there is no national commitment to a policy of full employment despite passage of the Humphrey-Hawkins bill, the loss of one's job and the loss of any expectation of getting it back as occurs when a plant closes places a tremendous strain on the worker. The stagnation in manufacturing employment has made the skills of many manufacturing industry workers unneeded, making it difficult for them to find other employment. It is this situation that has led unions to fight for prior notice of plant or product-line relocation, to consider placing union officials on corporate boards of directors, and generally to seek to limit the freedom of corporations to decide unilaterally where and how to produce.

American industrial workers increasingly believe that their own well-being and the well-being of industrial America are being injured by the continuation of that corporate freedom. If for no other reason, this is why so many unions support the ideas and goals of Big Business Day, which is being observed today around the country. **[The End]**

Challenges to Collective Bargaining

By BERNARD E. ANDERSON

The Rockefeller Foundation and University of Pennsylvania

COLLECTIVE BARGAINING is always conducted in an uncertain economic environment because neither labor nor management can be assured of the future at the time agreements are negotiated. At the time this panel was planned, there appeared to be more uncertainty than usual about the prospective state of the economy during the year ahead. Much of the uncertainty that existed several months ago, however, has given way to a series of events, and the economic environment for collective bargaining in 1980-81 now appears more clear than before.

These brief comments will trace the broad outline of the projected economic environment; identify the significance for collective bargaining of the projected economic conditions; and identify several challenges to collective bargaining that might emerge from current changes in the composition of the work force.

Five recent developments suggest that collective bargaining might be conducted in a prolonged period of sluggish economic activity during 1980 and early 1981. First, credit has turned from easy to tight as the Federal Reserve Board has raised the discount rate and imposed a wide range of restrictive regulatory measures affecting consumer credit. These measures can be expected to reduce significantly the level of consumer spending observed in recent months.

Next, fiscal policy has become very restrictive. During the first six weeks of the year, the nation witnessed an unprecedented reversal of budget policy in which a mildly stimulative fiscal year 1981 budget submitted in mid-January was rescinded and replaced by a restrictive budget providing for a small surplus. In addition, plans have been made to reduce federal spending in fiscal year 1980 below authorized levels.

Debt obligation of consumers is very heavy, and concern for the future, coupled with credit restrictions, should retard further advances in spending for durable goods purchases requiring long-term contracts. Moreover, the money supply in constant dollars continues to fall and is now rising at half the monthly rates observed in late 1979.

Finally, inventories appear to be in better balance now than during the period immediately preceding the 1974-75 recession, but expected reductions in spending should affect inventory accumulation and contribute to a rising rate of layoffs. The recent announcement of plant shutdowns by Ford and General Motors may be only the most dramatic evidence of worsening trends related to inventories. In March, 17.5 percent of the unemployed had been laid off, compared with only 13.4 percent in the same month in 1979.

These developments, and others that might be noted, add up to an expectation for a declining rate of economic growth but with a continued high rate of inflation during the year immediately ahead. A reasonable scenario follows.

(1) The increasing rate of layoffs, together with a slower but continued rise in labor force participation among new entrants into the labor market, will contribute to a rise in the unemployment rate to about 8.0 percent in the fourth quarter of 1980, compared with 5.9 percent during the comparable period of 1979. (2) Despite the recession, inflation will remain relatively high, and in late 1980 will be in the neighborhood of 11.5 percent per annum. The underlying rate of inflation is now thought to be about eight to nine percent per year. Increasing labor costs, coupled with low levels of productivity, will place increasing upward pressure on prices.

(3) Slower growth should improve the U. S. position in the international balance of trade (as less oil is imported and more agricultural products exported), but domestic expenditure for foreign manufactured goods, especially automobiles, will maintain imbalance in that sector of the economy. (4) Interest rates should begin to decline toward the end of 1980 but may be high for most of the year. This will have an adverse effect on the construction industry, which is likely to be sluggish for most of 1980.

Implications

These conditions have important implications for collective bargaining. Indeed, although bargaining usually occurs under conditions of uncertainty, the current set of economic conditions will be especially troublesome for labor and management. Greater slack in the economy is expected to reduce inflation by discouraging large wage increases and creating resistance to price increases. In 1980, however, wage negotiations will occur in our environment of worsening recession but a high rate of inflation in which real wages are likely to decline even with generous wage settlements. Real average weekly earnings declined by 3.1 percent in 1979 but by 6.1 percent in January 1980.

As the inflation picture has worsened, the downward pressure on real wages has been severe. Cost-of-living adjustment clauses in labor agreements will repair some of the damage, but even with COLA it will be difficult for wage earners to keep up with advancing prices. In addition, the broad application of COLA over a period of time can compress the wage structure, creating problems of maintaining skill differentials—another item that could well become an issue in future bargaining.

A second implication of the current conditions is that they almost guarantee that collective bargaining will be conducted within the framework of a wage/price stabilization policy for several years. Current wage stabilization policy seems based on the assumption that wage earners will experience a decline in real wages as attempts are made to bring inflation under control. The avowed purpose of the current wage guideline of 7.5 to 9.5 percent is to prevent the sharp rise of energy and housing prices in 1979 from spilling over into 1980 wages and costs and thus becoming built into the underlying inflation rate.

The irony is that, while few, if any, analysts familiar with recent economic trends believe that the current inflation had any significant impetus from the labor market, wage earners are expected to play a large role in helping bring inflation under control. A major challenge for collective bargaining in 1980-81 will be how to minimize the reduction in real wages while contributing to the moderation of labor costs necessary to avoid worsening the underlying rate of inflation.

This objective is more likely to be achieved through a wage stabilization policy that allows different wage settle-

ments for various sectors of the economy rather than a policy that attempts to impose a single guideline across the board for all industries. Broad flexibility in the application of the wage stabilization policy would minimize distortion in the wage structure and would reduce the tendency toward catchup wage settlements after the policy is removed. Further, sectoral application of stabilization policy, as was experienced under the Construction Industry Stabilization Committee and the Food Industry Committee during the early 1970s, would allow more flexibility in joint labor-management adjustment of nonwage elements of bargaining in the context of the national stabilization plan.

Looking beyond wage negotiation in collective bargaining in 1980, there are also implications for job security. For example, as layoffs begin to rise sharply, there undoubtedly will be demands for adjustment in job-security arrangements to minimize the adverse effects of layoffs on women and minorities. The seniority versus affirmative action question was vigorously debated during the 1974-75 recession, and a renewal of that debate is likely in an environment of rising unemployment. There have already been some discussions concerning the possible application of the *Weber* decision to the issue of layoffs.

Conclusion

As the nation moves beyond the problems anticipated for 1980, there may be other challenges to collective bargaining. One is likely to be the issue of quality of work life, especially in industries with a large and rising number of younger workers. Another issue will be opportunities for upgrading minorities and women. During the 1970s, the emphasis of affirmative action was on hiring practices.

In contrast, during the 1980s issues related to upgrading will gain greater emphasis. Collective bargaining will be challenged to devise creative ways to accommodate the demands of a work force increasingly composed of younger workers and of women whose work life aspirations and wage expectations might require adjustment in both the content of labor agreements and, perhaps, the process of bargaining itself. The difficulty is that the challenge of such adjustment will be made even greater by the unfavorable economic climate expected to exist for the early years of the decade. **[The End]**

PANEL SESSION II

Industrial Relations in a Job-Loss Environment

The Telephone Industry in Pennsylvania

By W. E. WALLACE

Federation of Telephone Workers of Pennsylvania—TIU

I BELIEVE I am addressing you this morning as a result of a breakdown in communications. That is at least appropriate since I have made a living for so many years patching up communications breakdowns. As a token labor union representative on the otherwise very distinguished committee that helped plan this Spring Meeting of the IRRA, I volunteered that I had some familiarity with efforts and results in bargaining contractual provisions that provide some limited job protection in an industry, and in an area, which is losing jobs faster than attrition can handle.

I could sum up my evaluations of the subject which is the title of this panel, "Industrial Relations in a Job-Loss Environment," in one word—bad. You are certainly in a location that has been devastated by job losses. Since 1966, the Mid-Atlantic, New England, and Great Lakes regions have lost 1.4 million manufacturing jobs. Pennsylvania has lost 218,900 manufacturing jobs in the last ten years. Philadelphia alone has lost 145,000 jobs of all kinds in the last ten years. The jobs lost are the ones which paid the best wages and were the ones best able to support families and pay the kind of taxes the community needs to collect to provide needed services, especially in our cities.

The telephone company is unique in that it is affected by all of the reasons that contribute to job losses in Pennsylvania and a few reasons it invented itself. On the other hand, the phone company can't pack up and move South or move to Taiwan.

Jobs in the Bell of Pennsylvania have gradually decreased from nearly 36,000 in 1970 to 33,000 in 1975 and to less than 32,000 in January 1980. During this decade, the number of phones in service increased 30 percent. The company forecast for 1985 is a 25-percent reduction in employees to about 24,000.

The principal reasons for loss of jobs in the telephone industry in Pennsylvania (and elsewhere) are general loss of business due to plant

closings and the flight of industry out of Pennsylvania to the Sunbelt and abroad; a rate of computerization that the general public can't really conceive of and a marriage of communications and computer technology; and competition from other terminal-gear companies and other common carriers providing private-line local and intercity service. There is also a gigantic shift to-do-it-yourself telephone installation and repaid being pushed on the public by the industry itself.

The general loss of business hardly needs any explanation.

The rate of computerization, and I use that word instead of the old word "automation" because the whole telephone network is a single, interconnected mammoth computer, eliminates people in wholesale batches. Calls are switched by computers which run unattended, constantly check themselves, disconnect circuits causing trouble, and plug in spare circuits. In some cases, the computers can actually repair themselves, and, even when human hands are needed, the machine supplies the brains by telling the humans what to do.

Computerization lends itself to remote monitoring and intervention, and that leads to centralization. Where there once were telephone-operator jobs in every town and city, all telephone operators in Pennsylvania are concentrated in six or seven locations, and the total number is drastically reduced. Where there were repair clerks who answered the 611 calls and took your trouble reports in 70 different locations in Pennsylvania, there will soon be only two locations with a total number of repair clerks reduced by two-thirds.

All recordkeeping is computerized. Complex testing is computerized. On-premise switchboards are computerized and remotely administered. Microwave and light-wave cable reduces construction work. It is actually possible to have a human-free (not just a union-free) environment in the telephone industry. The only limiting factors are capital and time. Technology in the telephone and the whole communications industry is accelerating at a rate that is frightening to many of us who work in that industry.

Competition

Another factor that reduces jobs, at least in my section of the industry, is the new sanctioning and blessing of competition in the telephone business. Even those who have rejected all forms of religion have certain sacred words, and two of them are *competition* and *deregulation*.

The Federal Communications Commission has tired of waiting for the Congress to pass a new law to redefine the charge given to the FCC. That body passed its own "communications act" recently when it ruled that, beginning in 1982, the whole terminal-gear industry, including AT&T, will be deregulated and AT&T will be able to compete in the computer field. The phone companies will have to set up hands-off subsidiaries on a regional basis to sell deregulated equipment. This has implications for labor relations too complex to even get into this morning.

A few small companies like ITT, MCI, IBM, Xerox, and RCA have already moved in and entered the parts of the industry which are easiest to compete with, and which offer the best chance for profits. One of the computerized segments of the industry that is causing huge losses in the membership which I represent is the business terminal-gear segment, one of the most labor-intensive segments. Now, in the name of fair play and more competition, the franchised phone companies, including AT&T, have succeeded in getting the FCC to free them from regulations and to allow them to com-

pete in some areas where they are presently disadvantaged by regulations or shut out entirely.

Allow me to make a prediction irrelevant to the subject. AT&T, a monopoly almost untouched by competition until recently, increased productivity an average of 10 percent per year during the decade of the 1970s. It held price increases to about half of the increase in the Consumers Price Index and produced a quality national telephone system. With much more competition and much less regulation during the 1980s, phone service quality will go downhill and prices will rise dramatically, but profits will rise even higher, both for the competitors and AT&T. However, some things will remain. *Competition* and *deregulation* will still be sacred words.

Self-Installation and Repair

The fourth factor I pointed to as a source of job loss in my industry was the shift to do-it-yourself telephone installation and repair. Partially to meet the competition of the terminal-gear vendors, and partially because the installation and repair of telephones is labor and capital intensive and the charges don't cover the expense, the franchised telephone companies are going all out to condition customers, particularly residential customers, to do their own telephone installation and repair work.

Most homes are now "modularized," which means you can simply plug a telephone cord into a jack and often the phone will work. Of course, you have to take time off from work, use your precious gas, stand in line, and transport your telephones and directories home. The incentive is that you save a very modest amount of money. In the case of repair, the phone company will tell you to bring the set in for an exchange and will tell you only if you are obstinate that a home visit by a repair man is free and that you have that option. Allow me a few seconds to repeat what you may have seen on billboards or bumper stickers here in Pennsylvania—"You don't have to go to a phone store." "There is no charge for repair calls." "We still make house calls."

So much for the reasons for job losses in my industry. What effect does that have on labor relations?

Effect on Labor Relations

To its credit, Bell of Pennsylvania has stated publicly that it would do all it can to avoid layoffs, and it has done just that. We have had no layoffs since 1958, unlike many Bell System companies which have had extensive layoffs in recent years. This requires a near freeze on hiring, moving people temporarily and permanently to other locations, and retraining people to do new jobs. Hundreds of Pennsylvania Bell workers have voluntarily been moved to distant locations, mostly Sunbelt states, to find jobs where their skills could be used.

In an environment where there is a surplus of workers, work rules and absence controls are enforced rigidly. The number of discharges have increased many times since the times when skilled labor was in demand. The temptation in management is to weed out the less desirables by discharging rule-breakers rather than by laying off by seniority. The only practical safeguard against this form of layoff is the due-process rules negotiated into the contract, and the grievance-arbitration process and the just-cause standard. A job-loss environment means much more work for union officials, personnel officers, lawyers, and, above all, arbitrators.

Job-Security Measures

We in the Bell System, and here in Pennsylvania, have attempted to negotiate many job-security measures. We

believe that these measures have been at least partially responsible for the reductions, so far, in the work force without layoffs.

In the aftermath of the Depression, layoff allowances, which could be very costly, were negotiated. Layoffs by seniority became standard in telephone contracts. Here in Pennsylvania, a contract labor clause was negotiated which, among other provisions, required the elimination of contract labor before there could be a layoff of employees who did work similar in nature to the work done by the contractors. This has proven a strong deterrent to layoffs since the phone company has a strong interest in keeping contractors working and available. Many of them would go out of business without the phone company business.

In recent contracts, telephone unions have made, as a Number One bargaining demand, "Lifetime Job Security." This sounds like a "pie in the sky" impossible demand. Actually, this is what telephone workers in the bargaining unit and salaried and management employees have actually had in the past—and hope for and expect in the future. The companies, of course, have not agreed to this demand as yet, but several kinds of provisions have been negotiated to provide some job security and to cushion the economic effects of job losses and job relocations.

Pension formulas have been increased and the penalties for early retirement have been reduced. An employee who is 55 and has worked thirty years can retire with a pretty decent pension. Many of them faced with job uncertainties do just that. The average age of bargaining-unit employees who retire is 57. The average age of first-line supervisors retiring is 56.

SIPP

There is a program called SIPP, which stands for Supplemental Income Protection Program. An employee whose job is being eliminated because of technological change, and who therefore would have to be moved to a lower-paying job or would have to move to a similar job away from home, can take advantage of SIPP. He or she would first have to be eligible for pension. The benefits would be up to $250 per month, in addition to the regular pension amount, up to four years or until the employee becomes 62. Effectively, this reduces the age for getting Social Security income or the equivalent from 62 to 58.

For those who are under 58 and faced with the same job loss or dislocation, there is RIPP, or Reassignment Income Protection Plan, which guarantees the higher pay rate of the old job for an extended period, followed by a gradual reduction to the rate for the new job. For those who must move in order to keep a job, there are negotiated payments to ease the financial burden of moving. These include some very specific charges, such as connection charges for telephone, gas, electric, and TV hookup.

We have negotiated, in addition to ten paid holidays and vacations ranging from two to five weeks, five additional excused work days—three with pay and two without. The purpose of excused work days is very simply to spread the ever-decreasing amount of work over more employees. Simple mathematical computation indicates that five additional days off requires a work force two percent larger than without the excused days. Two percent of 30,000 is 600 additional employees working and 600 fewer on unemployment compensation or welfare.

We have had joint automation committees in our contracts since 1966. These committees meet whenever some technological change which will impact upon jobs is being planned. The

committees attempt to work out some procedures for minimizing the impact. Typically, if a particular work center is being eliminated, the affected employees would be given first choice at any job openings nearby and, if desired, could get SIPP, or RIPP, or could elect an early retirement, or even a voluntary layoff with layoff allowance. These committees have often failed to do what they were intended to do, but sometimes they have succeeded well.

Conclusion

The job-security provisions we have been able to negotiate have been fairly successful in cushioning the economic effects of our own particular job-loss environment. The prospects for the next five years are for accelerated job loss in our industry, particularly in the Northeast and Middle West. Our bargaining efforts this summer will be directed at new and improved protections. This is really all that we can do. Perhaps labor and management could be more inventive and more effective in alleviating the problem of job loss through collective bargaining, but, at very best, collective bargaining can only put a band-aid on a regional and a national problem that could be compared to cancer.

Chase Manhattan's econometric forecast for 1985 predicts an unemployment rate of 38 percent for whites and 68 percent for blacks. What is needed is a recognition of the problem, and the public will do something about it.

Our industries need to be modernized and made more efficient. They should not be permitted to move and desolate a whole community. Our industries need to be protected against unfair foreign competition, just as the foreign competitors protect their own industries. American investors who move jobs to foreign lands should be penalized, not rewarded with tax breaks.

Make no mistake. The problem of job loss with its side effects—poverty, high taxes, broken families, lack of education opportunities for the young, illness, divorce, and suicide—can't be solved by collective bargaining. It can be solved but only if we really want to solve it. We obviously have not yet decided to do so. **[The End]**

The Pact After the Pill

By JACQUE D. ANGLE

Pennsylvania State Education Association

IT WASN'T THE INTERNAL combustion engine. It wasn't cheap, unorganized labor. It wasn't the transistor. It wasn't foreign government-paid-for modernization or any of the other usual causes of a declining industry. What did us in was the pill, the Supreme Court, women's liberation, inflation, and the change in the family. These factors produced the declining enrollment in our public schools during the 1970s.

Since 1852, when the Pennsylvania State Education Association was first organized, education had been an industry of virtually constant growth. The pauses along the way were usually related to war. However, the immediate postwar production of children was usually inversely proportional to production in other sectors of society.

Ironically, the decline in live births in Pennsylvania began in 1970, the same year that Act 195, guaranteeing collective bargaining rights to teachers, became effective. The Act provided the

right to bargain over terms and conditions of employment, for arbitration of grievances, and for a system of impasse resolution, including mediation, advisory factfinding, and the limited right to strike. At the time the Act became effective, fewer than 100 of our 500 teacher locals had some form of collective bargaining agreement. From 1970 through 1973, the greatest portion of our effort was spent certifying locals and reaching first contracts.

By 1973, our research staff was projecting that public school enrollment would begin to decline immediately, and our members recognized that the number of professional staff also would decline. In Pennsylvania, both student enrollment and the number of teachers have declined and will continue to do so for the next seven years. From a peak of more than 2.3 million students for the 1972-73 school year, we have had a decline to slightly less than two million enrolled for 1979-80. Our research projections are for fewer than 1.7 million students by the 1986-87 school year. The increase in live births during the past three years indicates that we should begin to experience an upturn for 1987-88 and level off at approximately 1.8 million students by the end of the 1980s.

In tandem with the pupil decline, we have begun to experience a reduction in the number of full-time classroom teachers from a peak of 116,000 in 1975-76. This year we have approximately 109,000 classroom teachers; we project a low of 96,000 by 1986-87 and a leveling off at approximately 98,000 by the end of the decade.

Since the reduction of more than 600,000 students could have meant as many as 30,000 fewer teachers and our present projections indicate a maximum decline of 18,000, we believe that the methods we employed have been at least moderately successful. Our commitment to our members and to education provides the basis on which we advocate that job security for teachers pays off in better education for our children.

While it would be impossible in this forum to outline the specifics of the PSEA program, I will attempt to give you a flavor of what we have done and what we hope to continue to do. I admit that our initial reaction to the prospect of declining student population was to wait for people to start having more babies. However, since a public-relations campaign to increase world population didn't seem feasible in the middle 1970s, we decided to attack the problem head-on.

The first, and perhaps most important, facet was to be honest with our members. In our publications, we predicted declining enrollment and took positions relative to the value in, and the opportunity for, a reduction in class size. However, at the same time we informed our members of the possible consequences and began to develop a program to deal with these consequences.

During a week-long meeting of elected officers and staff in the summer of 1976, we put together the basic program. We have continued to refine and evolve new and creative approaches, but we are still working toward the basic short- and long-term goals developed in 1976.

Any program involving collective bargaining for teachers in Pennsylvania must have at least two major elements. The first is a state-level approach that results from education's being a function of our Commonwealth. The second, and most important, is a local program that reflects the impact of hoped-for statewide accomplishments but is independent enough to survive on its own. It was clear that our local leaders were seeking an approach that would solve the problem in a hurry so that they could get on with teaching children.

However, they quickly recognized that the process would be difficult with many hard decisions to be made, and, as it turned out, they were willing both to do the work and make the decisions.

Local Bargaining Strategy

One of the major, and perhaps most successful, elements of our program was kicked off at the beginning of the 1977 round of bargaining. A coordinated bargaining approach was used to introduce the same set of proposals related to job security: just cause, class size, and other education concerns. Three hundred and twenty-five of our locals simultaneously placed these items on the bargaining table on January 10, 1977. The program included news conferences all over the state to announce the PSEA bargaining package of Commitment and Action to Restore Education. The CARE-coordinated bargaining program, directed by Jerry Fuchs, assistant executive director for field operations, produced a significant increase in the number of job security, just cause, and educational provisions in our contracts.

In November 1978, all contracts for the 1977-78 school year were read, and a computerized analysis of the impact of the CARE package was produced. It was obvious that, while the program was more successful than anyone had hoped, there were many locals experiencing severe difficulty in bargaining a seniority clause. This provision, to guarantee that experienced and more expensive teachers would be retained in a district where a reduction in staff could not be handled by attrition, required another approach.

The successful experience with the CARE-coordinated bargaining package led to the development, during 1978-79, of a new and expanded collective bargaining manual for use by our staff and local leaders. The new contract manual provided proposals for all provisions, with particular emphasis of job security, just cause for dismissal, class size, early retirement, and other creative approaches to deal with declining enrollments. This was sent to the field for use during the 1979-80 collective bargaining year. We will evaluate the impact of the new contract clause approach at the end of 1980 and once again decide which direction we should take.

State-Level Strategy

From the beginning of our organization, bargaining at the state level with the legislature and the governor has been one of our most successful approaches to advocacy for our members and for education. Since free public schools were first created in 1832 and constitutionally mandated in 1875, a body of law that impacted on the terms and conditions of employment for teachers had evolved.

With the passage of Act 195, the provisions in the School Code became minimum levels of agreement between teachers and their school boards. Contract provisions in the areas of salary, benefits, and terms of employment immediately exceeded the Code-mandated minimums. With the impact of declining enrollment, some of the Code provisions covering reduction in staff had been improved upon in the majority of our contracts. However, less than 28 percent contained seniority provisions by 1976.

Tandem with the introduction of the CARE package at the local level, a number of *legislative* proposals to deal with the problems of reductions in staff, seniority, residency, school discipline, and unemployment compensation for teachers were drafted and introduced by PSEA. The initial evaluation of our local success in obtaining a seniority clause mandated an all-out effort for passage of a new school law to provide that the least senior teacher

be the first to be furloughed. Because of the difficulty in convincing the legislature to negate hundreds of evaluation systems then in use and to replace them with a seniority system, an all-out effort by PSEA at all levels was required. By the end of 1979, we were encouraged by the successful passage of major elements of our package, including furlough by seniority and unemployment compensation for teachers.

School Funding

The program to deal with school funding on the macroeconomic level was implemented in 1977. PSEA developed, introduced, and lobbied to enactment a completely new school finance system (Act 59) which removed the tie between the number of students and the amount of state reimbursement. A new factor, based on the median spending per student, was put into the school finance system and eliminated the impact of declining enrollment.

The new power-equalized approach to educational funding introduced for the first time the element of income as a wealth measure, combined with a reimbursable amount based upon local taxes. The position that declining enrollment would produce a reduction in state support could no longer be held at the table by those on management's side. In 1979, with the support of an endorsed governor, the PSEA-created subsidy system was implemented. More than $122 million in new state support was sent to local school districts to be used to improve the educational product and partially offset the impact of declining enrollment.

The Organizational Program

During the past five years, PSEA increased the size of our programs and our staff, and we are beginning to once again increase our membership. The increase in the PSEA program was the result of a major decision by our membership. The members were faced with the difficult task of choosing either to look for a new area of expansion or to close ranks into what promised to be a smaller size professional union. The decision of our House of Delegates was to go all-out to expand in the area of organizing and bargaining for non-certified school employees.

While PSEA had, from the beginning, represented and bargained contracts for support staff, it was not until the late 1970s that our members voted to increase the percent of their salaries going for dues and to hire ten additional full-time professional staff. Assignment for the new staff was to organize and bargain for those educational employees that make up the support unit.

In addition to reaching out for new members, efforts were also intensified to increase the percent of teacher members. By the 1978-79 membership year, more than 96 percent of the professional staff in units represented by PSEA were members.

The Rest of the Program

In addition to the bargaining, legislative, and organizational programs, all other areas of PSEA were impacted as a result of declining enrollment. Our members expected and received dynamic and immediate support to help them deal with this most difficult issue.

The objective of our legal program during this period was to make it as difficult as possible to reduce the teaching staff. Every teacher was guaranteed that his or her interest would be protected whenever a school district began to take the initial step toward reduction.

A number of school districts attempted to reduce staff, *not* because of declining enrollment but because of financial difficulties. Since this was not one of the reasons for furloughing set forth in the school laws of Pennsyl-

vania, we were able to prevent any reduction based on this premise. The problem of declining enrollment, however, was much more difficult. School law requires a hearing prior to furlough. When school districts did not hold the proper hearings, we were able to recover substantial sums of back salaries.

Every teacher furloughed receives all the legal assistance and support we can muster. The legal end of the program has been extremely successful. Relatively few teachers represented by PSEA have lost their jobs. Partially as a result of our legal effort, the overwhelming majority of the reduction in staff has occurred through attrition.

Our professional development staff worked to provide the latest results of research in the areas of class size and student discipline. Their creative support in developing new contract clauses to deal with educational concerns helped to reduce the impact of declining enrollments in each of our school districts.

Our research staff expanded its program to produce enrollment projections based upon 15 years of live-birth data and retention rates in school districts. While these data generally established that enrollments were declining, they were quite helpful when school districts tended to overstate the issue. In addition, our research staff trained local leaders in the use of budget analysis, provided expert testimony during hearings, and generally worked to supply backup information necessary to deal with the issue.

The final element of the battle was the responsibility of our public relations division. Our PR staff and the state public relations committee produced outstanding publications for both our members and the public to sell those educational issues that would tend to reduce the effect of declining enrollment. A series of pamphlets were developed to be used during American Education Week and in public forums to identify PSEA positions on class size, student discipline, and expanded educational offerings. Further, the public relations division kept our membership informed by reporting on difficulties faced by locals with severely declining enrollments.

When our members recognized that their union was mounting a substantial, comprehensive program to attack the issue and was winning significant gains for them, they responded with the support we needed to continue upgrading our effort. Their awareness that they could win on both the local and state levels supplied motivation to stimulate their participation in solving the problem.

I would say that all areas of PSEA have become better as a result of our having to deal with the issue of declining enrollment. I don't believe that we have any magical system to deal with this issue. However, if there is any advice I can offer, it's to listen to your members, work awfully hard, be fully committed, and keep moving.

[The End]

The Labor Relations Impact of Store Closings in the Retail Food Industry

By PHILIP E. RAY

Joint Labor-Management Committee of the Retail Food Industry

INDUSTRIAL RELATIONS in a job-loss environment is not a pleasant subject to discuss. It cannot be talked about abstractly as though the millions of workers who are thrown out of work each year existed only as numbers in a computer or cogs in the economy.

The men and women who lose their jobs because plants close down face the same problems and realities as we do. In the retail food industry, they are the men and women who load, unload, and drive trucks, handle produce, stock shelves, and check customers out of the supermarket. When that supermarket, for any number of possible reasons, closes down, those people enter the ranks of the jobless.

Psychologists compare what happens when a closing occurs to the loss felt when a family suffers a personal tragedy, such as the death of a loved one. When employees lose their jobs, especially when it is through no fault of their own, they feel angry, bitter, even victimized, and suddenly powerless.

It is important to understand where those feelings come from. A job is more than an economic lifeline, though, if that is all it were, the loss would still be tremendous. A job is part of a person's identity which unemployment takes away; a job is part of a person's social contacts with the world. It is also something that makes an individual feel useful, needed, productive, and self-sufficient. Compounding the personal tragedy of a job loss is the impact that it has on the employee's family.

There is another important similarity, in addition to the suffering, common to both a personal tragedy and the loss of a job. When the loss of a loved one occurs without warning, its impact is more severe than, for example, when it occurs after a long illness which gave family members time to prepare for the loss and plan for the future. Similarly, when job loss occurs without warning, employees, and those who depend on them, are caught unprepared, making it even more difficult to cope with what has suddenly happened to them.

On the other hand, when a union and its membership are notified in advance that a plant or store is being phased out, by the time the closing occurs, they have had time to adjust and make some plans. The loss may still be substantial. It may be impossible for the employees who are being let go to find the same kind of work, or the same level of wages, but at least they have been spared the trauma of waking up one day to find the world they lived in turned upside down.

This is a strong argument for prenotification. Most European countries already have laws that make it mandatory for employers to inform em-

ployees of any layoff or shutdown well in advance. Eight states in this country are considering such laws, and two bills covering closings have been introduced in Congress. Wisconsin already has a law that requires an employer to give at least 60 days' notice before any closing may take place.

Most of these proposed laws, in addition, would require other measures—continued health-benefit payments for specified periods of time, retraining and relocation rights if the plant is moving, severance pay for employees, and tax liabilities to local governments for a period of time to help the community as well as the employees to adjust.

In the retail food industry, more than 100,000 people have lost their jobs in the past five years because of store closings.[1] A large number have occurred with little or no advance warning. In addition to the individual hardships they have caused, these closings left in their wake a residue of mistrust and damaged credibility between supermarket chains and the major unions in the industry.

Almost half of these job losses are accounted for by cutbacks at two major food chains which closed large numbers of unprofitable stores. The first occurred in 1975. Some 1,252 stores and 28 warehouse food terminals were closed within six months, and nearly 23,000 workers lost their jos. The second major cutbacks by a chain took place between November 1978 and December 1979 and added another 22,000 food-industry workers to the job-loss count. Other closings that occurred over this period took place in smaller numbers or in individual stores.

There are usually valid reasons why a store should close. Sometimes the neighborhood it originally served has changed and no longer can support the store. Sometimes a powerful competitor has moved in with a more modern store that seriously hurts business for an older facility with limited parking and shopping areas. Sometimes a store, after several years of trying, just doesn't attract the business that was hoped for when it was opened, and the only prudent decision at that point is to shut the doors.

Effects

When stores in the retail food industry close, certain things can be expected to happen. First, employees who worked there the longest will have the toughest time finding a new job in the industry. The retail food industry is a service industry and the skills required, for the most part, can be readily learned. What managers seek in employees are personal qualities such as enthusiasm, cheerfulness, courtesy to customers, a pleasing appearance and disposition, and a willingness to work hard and take less desirable shifts. These qualities, rightly or wrongly, are assumed to be more common in younger employees. In addition, longtime employees of a store or chain become identified with it and, if it fails, they are associated with failure.

Second, there is a good chance in the retail food industry that the store that closes will open again but under different management. Even in the worst of times, people are reluctant to give up eating.

On the other hand, according to one company's study after a number of closings, the chances are less than one in five that the store that reopens will be a union store. Most of the stores that reopen after a major chain has shut its doors are locally or regionally owned and operated food retailers who often have resisted organized labor. The fact that these stores are nonunion,

[1] United Food and Commercial Workers International Union, *Store Closings: Economic Disaster,* UFCW Action No. 1 (January, 1980), pp. 10-13.

and in some instances antiunion, also makes it hard for former employees of a chain store to get jobs in the new operation.

Not every store closing, however, is a hard-luck story. Sometimes closing an outmoded store simply means that employees will be transferred or offered jobs in a new and more modern location.

Store closings have significantly affected labor-management relations in the retail food industry. Some stores headed for failure end up going the Title XI Bankruptcy route. Under the law, a judge hearing the circumstances can unilaterally make changes in the collective bargaining agreement if, in the judge's opinion, that agreement is detrimental to the continued operations of the store.

This procedure does not sit well with unions, who argue that their members are paying for the mistakes of poor management and that management ends up getting concessions from the court that it could not win at the bargaining table. The union's instinctive reaction is to suspect management of trying to introduce an element of blackmail, or at least a veiled threat, in the next round of talks. Tensions grow between the two sides and cooperation and trust are diminished.

Store closings remind even healthy employers of their own mortality. They may begin to see the union as an impediment to the management flexibility that they feel they need to avoid the same fate as their less fortunate competitors. Suspicions can grow, and again cooperation is reduced.

Finally, there are some lessons in all of this. The retail food industry, like many industries these days, is two-tiered. The major chains are organized, but many of the regionally or locally owned and individually owned stores are not. In many locations, union and nonunion supermarkets compete nose to nose.

Retail food unions cannot afford to make the major chains uncompetitive, or they will lose some of the best friends they have in this business. Nor can the supermarket chains afford to wage war with their unionized work force, or they will be the big losers in this highly competitive field. Common sense dictates that cooperation is in the best interest of both sides.

That, of course, is why the Joint Labor-Management Committee of the Retail Food Industry was founded. The committee has a good overall record in its role of getting labor and management to understand each other and work together to come up with acceptable solutions to mutual problems.

Reasons

Still, there have been 7,000 store closings and 100,000 jobs lost in the past five years. Some of these closings could have been avoided. Why weren't they?

First, there is the basic problem of credibility. A frequent management bargaining position when a contract is renegotiated is to claim that it must have additional relief to stay in business. Too many cries of wolf make it hard for the union to know when management really means what it is saying.

Second, the union's guiding principle is to treat all employers the same and to insure all its members are treated and paid equally. To grant concessions, another way of saying to show favoritism, to one employer damages that principle. Third, other employers with contracts do not want special concessions granted to their competitors, so they let the union know that they will demand the same concessions if they are granted to the stores that are in trouble.

Fourth, most stores that reopen do so as nonunion enterprises. Organized labor's traditional premise in the food industry has been to underemphasize that unpleasant reality and insist that, if one store closes, people have to eat so another one will open. It does not matter whose; let management take its lumps. Some unions and their local affiliates, however, seem to be getting away from this position.

Fifth, it is not enough for one union or even several unions to make concessions. All unions must agree. A number of stores could have been saved in one major closing, except that a single union held out.

Sixth, channels of communication between labor and management in the food industry, especially at the local level, are not as good as they should be. By the time union and management begin talking about possible store closings, the problem is probably all but out of hand and harder to correct than if dialogue had started months or years before.

Seventh, there is a widespread lack of knowledge among a large percentage of employees in the industry about the field they work in. Many of them find it hard to believe that a national food chain can be in financial trouble in any location. They doubt what management tells them, and sometimes they doubt and mistrust what their union tells them as well. This is a problem for the retail food industry and is one that needs action.

Eighth, if reductions in staffing are needed to preserve stores, management, as well as the union, may be reluctant to act. As already noted, most managers believe the young, smiling checkout clerk, who is friendly to customers, is a greater asset to a store than an older employee, who also happens to be at the top of the scale. Union contracts, however, provide for layoffs by seniority.

Finally, the main reason why the parties have not done more in the past is that they are only now beginning to recognize the problem as a problem. Like a number of state legislatures and the Congress, the retail food industry is suddenly waking up to the problem of closures and job losses and their adverse impacts and recognizing that something should be done. Just what should be done is not clear.

Transition

An interesting article by Peter Drucker in the *Wall Street Journal* suggested that a new legal right is evolving in western industrial society—the right to a job as a form of property. This is analogous to the right that feudal farmers had to hunt on the land, farm it, and make their livelihood from it, although they did not own the land and could not sell it.[2]

Today, according to Drucker, a job is as vital to most people as access to land was to the peasants in premodern Europe. Something so vital should be protected, he argues, and not taken away without recompense. If Drucker is right, society will have to start rethinking some of its basic premises about employment and industry. As an observer of the retail food industry experience, I believe that it is still within the power of the parties to come up with the best solutions to the problems and the differences that separate them.

Some JLM Committee members have questioned why the collective bargaining process and the actors themselves have been unable to accommodate the need

[2] Peter F. Drucker, "The Job as Property Right," *The Wall Street Journal*, March 4, 1980.

for change reflected in the number of store closings. The process of resource adjustment in the retail food industry has been painful yet subtle. For labor and management to influence that process, they must jointly expand the scope of their relationship beyond the emotions of the bargaining table to include an in-depth, objective discussion of industry economics.

To make that transition, however, unionized companies will have to acknowledge their unions as partners rather than adversaries on issues which are vital to both. The unions, in turn, will need to accept the responsibilities that go with partnership.

Store closings invariably lead to finger-pointing at each other by labor and management. This exchange of blame has heightened the union's awareness of and interest in management issues, which either may broaden the scope of conflict or sensitize the unions to other industry competitive pressures.

If the latter develops, the basis for a meaningful discussion has been established, and the opportunity for successfully heading off and/or better managing further dislocations will be enhanced. If the former situation develops, labor-management confrontations will have been escalated, perhaps to a point where only legislative remedy can sensitize the parties to each other's needs.

I hope that the closings in the past five years, which representatives of labor and management have characterized as unsatisfactory, have not left a bitter taste too lingering to enable the parties to confront this problem objectively. **[The End]**

PANEL SESSION III

Realities of Improving the Quality of Work Life

Quality of Work Life Projects in the 1980s*

By PAUL S. GOODMAN

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SINCE THE EARLY 1970s, there has been a proliferation of quality of working life (QWL) projects. These projects attempt to bring about fundamental changes in organizational and labor-management relationships. Basically, they illustrate new ways to restructure work in order to improve the organizational effectiveness. This paper reviews QWL efforts in the 1970s and suggests possible characteristics of QWL projects in the 1980s.

No single definition of QWL projects has been accepted by managers or union leaders. In this paper, QWL projects are distinguished by two definitional characteristics. They attempt to *restructure multiple dimensions of the organization* and to *institute a mechanism which introduces and sustains change over time.*

Restructuring *multiple dimensions* of the organization means that the change effort attempts to change the organization as a total system rather than to change any one of its parts. Change, then, is directed at the authoritarian, decisionmaking, reward, communication, technological, selection, and training dimensions within an organization rather than at any one dimension. Therefore, a new program of job enrichment or supervisory training does not fit our definition, because only programs that change multiple dimensions in an organization are defined as QWL projects. The focus of the multidimensional change is generally to provide greater democratization of the workplace, greater control for the worker over his or her environment, and greater joint labor and management problem-solving.

The *mechanism* (or organizational unit) *to introduce and to sustain change* is the second characteristic of QWL projects. This means that a mechanism *internal* to the organization is created to diagnose organiza-

* This research was partially supported by the Organizational Effectiveness Research Program, Office of Naval Research, Contract N0014-79-C-0167.

tional problems, introduce changes, monitor the changes, and make adjustments. The purpose of this mechanism is to institutionalize the process of change.

QWL project goals vary for different organizational settings. In general, improvements in economic indicators (e.g., productivity), psychological indicators (e.g., improved work satisfaction and the ability to grow and develop new skills), and labor-management indicators characterize most projects.

QWL projects have taken many different forms. Some occur in a union setting, others in nonunion plants. Some occur in existing organizations, and others have begun in brand new plants. More of QWL efforts in existing plants occur in a union setting; more of the new plant projects are nonunion.

Motivations to undertake a program have varied from attempting to resolve an economic crisis to avoiding unionization to ideological reasons of democratizing the workplace. The specific organizational changes have included major modifications in decisionmaking practices (e.g., workers are more involved), communication networks, training methods, reward systems, and changes with scheduling.

One way to sharpen our conception of QWL projects is to outline briefly a well-publicized project—the Rushton Mining Experiment.[1] Rushton is a coal mine located in north-central Pennsylvania. In 1973, the presidents of Rushton and of the United Mine Workers of America agreed to sponsor jointly a QWL project. A labor-management committee, with an external research team, was set up to design and monitor the QWL project. Funds from the federal government provided initial support for the research team. The Ford Foundation sponsored an independent evaluation of the project. The initial design was for an 18-month program.

Program Characteristics

The change program developed by the research team and labor-management committee had eleven major characteristics. (1) Goals: safety; increased productivity; higher earnings; greater job skills; and job satisfactions were the five major ones. (2) Focal unit: the major unit of analysis was the mining section. Miner performance was evaluated on a section, rather than crew, basis to increase cooperation and decrease competition between crews.

(3) Autonomous work groups: responsibility for a daily production and direction of the work force was delegated to the crew. (4) Foreman: the foreman was no longer responsible for production; this was delegated to the crew members. Safety became the foreman's primary responsibility. He was also to become more involved in planning activities and integrating the section with the rest of the mine.

(5) Job switching: all men were expected to exchange positions and learn other jobs within their crew so that the crew would be multiskilled. That is, the crew would develop the flexibility to be able to staff any job. Movement between jobs did not require bidding as it would under the regular contract.

(6) Pay: all members of the experimental section received the same rate of pay; it was the top rate for the crew. The rationale for the same pay and high rate was that all men in the crew assumed equal responsibility for production and maintenance of equipment. Also, the crew members agreed to perform multiple skills.

[1] P. S. Goodman, *Assessing Organizational Change: The Rushton Quality of Work Experiment* (New York: Wiley-Interscience, 1979).

(7) Additional crew members: the traditional crew consisted of six production men. In the experimental section, two support men (who lay track and transport supplies) were added to the crew. These two support men were traditionally drawn from the general labor force and assigned to a section only when support work was needed.

(8) Joint committee: a smaller labor-management committee (five from the union and five from management) was instituted 75 days after the experiment began to supervise the daily operation of the program. The larger labor-management group which initiated the project remained intact but dealt with broader policy issues.

(9) Grievances: grievances were not initially processed through the traditional grievance machinery. The expectation was that grievances would be resolved within the experimental section. If not, they were to be brought to the joint committee. Failure to resolve the grievance at the joint-committee level would lead to the use of the traditional grievance machinery.

(10) Training: a major part of the change effort was to train the miners to be professional miners. A training program on safety, legal practices, ventilation, roof control, and other matters was a major part of the change effort.

(11) Allocations of gains: no gain-sharing plan was worked out in the initial agreement. Rather, the following general principles were established. If no gains resulted, the company would assume all the costs from the experiment. If gains occurred, the company would be reimbursed, and the remaining gains would be allocated between labor and management.

The initial plan for change is significant because it represents a contract between labor and management outside the existing union-management contract. Also, both union and management gave up rights they previously enjoyed (for example, certain rights over job-bidding procedures or rights to direct the work force). Finally, the changes discussed above represent a major alteration in how work was conducted at Rushton.

The Bottom Line

What were the results of the 1970s' QWL projects? Let's answer that question by examining results reported in the first three or four years and then examining any follow-up studies after that period. In the Rushton case, there were slight productivity improvements, positive shifts in attitudes, and improvements in safety practices, worker skills, and knowledge over a three-year period. While it is difficult to summarize accurately the total QWL picture in the United States, it appears that: (1) Most QWL projects seem to result in increases in job satisfaction, feelings of personal growth, job involvement, and organizational commitment. (2) Absenteeism, turnover, and tardiness are strongly and positively affected in most QWL projects. This finding agrees with the increased worker satisfaction.

(3) Mixed results exist with respect to productivity. Productivity increases in about half of the QWL experiments, while it remains the same in the other half. (4) Most projects create more skilled and flexible work forces. The result is that the organizations end up with more valuable human resources.[2] The picture we draw from these findings identifies modest gains from QWL efforts in the first three or four years.

Another way to view the bottom line is to examine the functioning of these programs five or six years after their inception. Recently, I conducted a

[2] P. S. Goodman and E. E. Lawler, *New Forms of Work Organization in the United States*, monograph for the International Labor Organization, Geneva, Switzerland (1977).

study of QWL projects that had been in operation for at least five years. Basically, I wanted to see if the projects were functioning or had remained institutionalized. The general finding was that at least 75 percent of the projects were *no longer* functioning; none of the programs in unionized settings was still in operation. These findings seem similar to other research in this area.[3]

To review, I cite these two basic findings. (1) The QWL projects initially experienced a modest amount of success, and (2) over time (e.g., five years), many of the projects were no longer operational.

These two findings are not surprising if you review the historical and intellectual content of the projects. Most of these projects were *experimental in nature*. By definition, the projects were explorations into uncharted areas. Organizational theory is not that well developed to provide clear guidance in these experimental projects. Also, few, if any, organizational interventions in the early 1970s matched the scope of the change attempted in the QWL efforts. That is, there were no practical examples to build on. Given this context, it is not surprising that we did not experience a greater success rate.

Factors Affecting the Long-Run Viability

The 1970s represented a time when labor and management jointly designed some significant alternative arrangements for restructuring work. Many of these efforts, although initially successful, have not persisted over time even though the parties wanted to create long-term arrangements. Why these programs did not persist over time may provide some insight into opportunities for the 1980s.[4] We can identify ten reasons why QWL did not remain in effect over time.

(1) Sponsorship: many QWL projects had an internal sponsor. When this sponsor left the organization or changed the focus of his commitment, the viability of the project decreased. (2) Transmission: most of the projects did not account for the influx of new workers. When a project began, the workers were thoroughly trained in QWL principles. However, once a program was in operation, mechanisms to socialize new members in QWL behavior were not introduced.

(3) Feedback: many of the projects did not have good feedback mechanisms to identify whether QWL behaviors were being performed or to provide current information on the results of QWL actions. (4) Diffusion: many the QWL projects were started in parts of organizations. Little attempt was made early in the project to facilitate diffusion of QWL programs to other parts of the organization. Conflicts between QWL and non-QWL parts of the organization developed; the conflicts hurt the long-run viability of the project.

(5) Unbounded mandate: many of the projects were unbounded. That is, labor and management had an open or unbounded contract to improve the effectiveness of the organization. The ambiguity of the mandate led to difficulties in assessing the direction or results of QWL efforts and contributed to tensions between labor and management. (6) Congruency between existing values and proposed QWL values: underlying most projects are values con-

[3] R. E. Walton, "The Diffusion of New Work Structures: Explaining Why Success Didn't Take," *Organizational Behavior* (Winter 1975), pp. 3-21.

[4] P. S. Goodman, E. Conlon, and M. Bazerman, "Institutionalization of Planned Organizational Change," *Research in Organizational Behavior*, ed. B. M. Staw and L. L. Cummings (Greenwich, Conn.: JAI Press, 1979).

cerning giving workers more control, more responsibility, and more autonomy over their workplace. In many cases, these values were in conflict with the modal values of the organization. Although a sponsor may initially promote the QWL effort, the conflicts in values work against long-run QWL effectiveness.

Other Factors

(7) Total system commitment: since QWL efforts bring about total system change, it is necessary for the total organization to endorse the program. In many of the QWL efforts, there was commitment at the top of the company and union but not throughout the relevant membership. (8) Long-run reward systems: long-run viability of QWL projects is to some extent dependent on the availability of attractive rewards. Many QWL projects created rewards that were initially attractive (greater responsibility), but the relative attractiveness of these rewards seemed to decline over time.

(9) Organizational environment: a benign organizational environment seems necessary for any long-term persistence of QWL efforts. In situations of sudden changes in demand, costs, or products, economic forces within the organization became dominant and decreased focus on QWL activities.

(10) Structure of union-management relations: a basic difficulty with many QWL projects is that the structure project creates problems within the union which affect the project's long-run viability. This inherent conflict appears in four areas. First, most QWL efforts are introduced into one part of the organization so that some organizational members share benefits not received by others. Conflict then occurs among the union members.

A second type of conflict appears among local union leaders and members. QWL efforts can lead to substantial increases in local union leader-management interaction. This higher level of association can lead to union members feeling suspicious about their local leaders.

The third level of conflict occurs between the QWL orientation, which calls for cooperative behavior, and adversary orientation, which characterizes traditional collective bargaining behaviors. Conflict between the cooperative and adversary mode appeared in many QWL efforts; the consequences of this interface can have both positive and negative effects. Improved problem-solving behavior in QWL can facilitate problem-solving in the collective bargaining arena. Conflicts over collective bargaining issues (e.g., handling of grievances) can spill over and inhibit QWL activities.

The critical point is that the potential conflict between the cooperative mode of QWL and the adversary mode of traditional collective bargaining can limit the viability of the QWL effort. The fourth level of conflict can appear between the local and international. Most of the activity in the work-restructuring projects has occurred at the local level, while approval for the experiment has generally come from the international.

As experimentation occurs at the local level under a sheltered agreement, new forms of labor-management relationships are developed. Some of these new arrangements may be outside the current labor-management mandate. In this situation, an interesting political dilemma occurs. On one hand, at the local level, union and management have a mandate to innovate.

On the other hand, and especially if the new labor-management arrangements are considered far beyond boundaries which could be incorporated in a future collective bargaining agreement, the international may only view

the local QWL project as experimental and temporary. Without long-run legitimation, the local project is unlikely to survive. This can result in conflict between the local and international if the local wants the project to continue.

QWL Projects in the 1980s

In this paper, we have identified three important phenomena. First, in the 1970s, QWL efforts represented a new form of labor-management cooperation designed to change the fundamental nature of the workplace. Second, the initial effect of these programs has generally been positive across a variety of organizational effectiveness indicators. Third, many of the programs do not seem to have long-run viability; after five or six years, many of the QWL programs are not functioning. These phenomena will shape the future QWL experiments.

Will there be growing or declining interest in QWL efforts? While we do not have any models to make systematic predictions, it is likely the projects will be on the decline. Several factors point to decreasing emphasis on future QWL experiments.

(1) The major government financial support for QWL which characterized the early 1970s has decreased. (2) There has been no major development in QWL centers which served as catalysts for getting projects underway. (3) While many organizations have initiated QWL projects, we do not find a consistent diffusion of QWL projects after the initial effort.

(4) There has been no major growth in union interest in QWL efforts. Some internationals (e.g., UAW) have supported these programs from the beginning, but the labor movement has not embraced QWL efforts. (5) The national media has not emphasized QWL developments.

The Structure of New QWL Projects

While there may not be a proliferation of QWL efforts in the 1980s, new forms of work organization designed by labor and management will continue. QWL programs did have positive effects, but these effects were not sustained over time. Because of their experimental nature, it is not surprising that the long-run success rate was not more favorable. Given the experience of the 1970s, what factors should shape the design of QWL efforts in the 1980s?

(1) Specific versus unbounded programs: the QWL efforts in the future should have a specific focus in both content and time. That is, they should focus on improvement of a specific area (e.g., safety, absenteeism, and alcoholism) rather than general objectives such as improving the quality of working life. The area selected should be important to both management and labor; it should also be manageable and measurable. In past QWL projects, labor and management efforts were spread over a wide area. Also, a specific timetable for completing goals (e.g., reducing lost-time accidents) should be specified.

(2) Amount of change advocated: many of the QWL changes advocated in the 1970s were at substantial variance with the organizational structure and value system. Prior to an intervention, the organization (e.g., Rushton) was characterized by traditional lines of authority and division of work. After the change, there were substantial modifications in the authority, responsibility, and the nature of work. Since these more radical changes existed in an operational unit of the larger, traditional organization, tension and conflict developed which worked against the QWL effort.

The proposal, then, is not to introduce any radical changes but to develop an

evolutionary system which slowly changes parts of the existing traditional system to the QWL ideal. As change is introduced and accepted, the larger organizational unit begins to assimilate the new structure and values and the stage is set for the next period of change. If our hypothesis for slow evolutionary change is correct, then we will modify our timetable for QWL efforts. In the 1970s, eighteen-month or two-year programs were common. In the 1980s, we should plan for a five- to ten-year time frame.

(3) Stable leadership environment: while no organizational environment is without change, it would be preferable to set up QWL in areas where the principal union and management leaders (i.e., power centers) are in place over a predictable period of time. Basically, we want to minimize the effect of changing sponsors. This factor will limit the population for QWL efforts.

(4) Total system commitment: It has been said before that QWL effort will not persist unless there is commitment throughout the organization. The word "organization" in this context means both the union and company. For the union, it means the international, regional, and local levels. In the past, initiators of QWL projects secured commitment at some organizational levels, hoping that others in the organization would fall in line. This did not happen, and the projects failed over time.

The critical implication is that QWL efforts need to be considered more in a phase-development process. The first phase needs to be a commitment-development activity where key organizational participants pledge support for the QWL project. If the first phase is not successfully completed, the project should be terminated. This commitment process must occur in the union and company before initiation of QWL design plans.

(5) Target of change: most of the QWL changes in the 1970s focused on lower-level organizational participants—white or blue collar. Little effort was devoted to changing the organization of management or professional personnel. It is not clear why the target of change should be the production or clerical work force. A corollary of gaining total system commitment may be to introduce QWL at multiple organizational levels. The change should be instituted not simply within the focal organization but also within the union as an organization.

(6) Long-run reward systems: many of the QWL projects in the 1970s were built around short-term reward systems. People were given greater opportunities for participation, autonomy, and responsibility, which, in most cases, had positive effects. Over time, the attractiveness of these rewards waned, as did the projects.

Two things seem particularly important in designing a long-run reward system. First, regardless of the attractiveness of intrinsic rewards, there should be a financial plan connected with QWL behaviors that functions over time. (Programs that have relied solely on intrinsic rewards have not been successful.)

Second, there should be a mechanism which revises and modifies QWL reward systems. It is unlikely that anyone can design a set of reward systems at the beginning of the project that will remain powerful over time. There should be a mechanism that senses, for example, when opportunities for participation are declining in attractiveness and designs new reward opportunities. Implicit in the discussion of long-run reward systems is the assumption that the structure of the particular organization in question permits the design of such systems.

Conclusion

The QWL projects of the 1970s represent attempts to find alternative forms of work organizations. These projects have the potential to improve the well-being of the workers, the character of labor-management relations, and the economic efficiency of the firm. Given their experimental nature, it is fair to say many projects experienced initial success. Over time, the success rate has been less optimistic. Some of the factors contributing to this lack of persistence have been discussed.

QWL projects will be initiated in the 1980s, although at a slower rate than during the past decade. More projects will be initiated in nonunion settings. The reason for the greater selection of nonunion settings is that there may be structural conflicts between traditional collective-bargaining arrangements and the QWL arrangements. Projects initiated successfully in a union setting will require total system commitment throughout all levels of the union and focal organization, a stable leadership environment, and a willingness to introduce change in the union organization, as well as in the focal organization. In addition to these changes, QWL projects in the 1980s need to be limited in focus and in the amount of change advocated. Future QWL projects should be designed as evolutionary systems taking longer periods of time, and designed with mechanisms to create viable long-term reward systems. **[The End]**

PANEL SESSION IV

New Views of Arbitration

Satisfying the Demands of the Employee

By ROBERT COULSON

American Arbitration Association

ARBITRATORS AND LABOR ATTORNEYS tend to bring a down-at-the-heel perspective to the topic of grievance arbitration. Ho-hum! It is part of our daily work. We know how it operates. We are confident that the system will exist forever. Do you feel that way?

I have been asked to make a few provocative observations and to say something new about arbitration. I welcome that assignment because I am worried about labor arbitration.

It would do no good for me to tell you again that grievance arbitration plays a useful role in the collective bargaining process and that it continues to resolve thousands of contractual disagreements.

Surely, arbitration is a useful institution. It affords labor unions an opportunity to provide an important individual service to their members. The grievance process keeps contract interpretation questions out of the courts. Management knows that arbitration is preferable to work stoppages. American unions have learned that they don't have to strike over individual grievances. It assures compliance by both parties to the contract. Grievance arbitration is good business for both parties.

Arbitration is good for labor arbitrators. It provides a livelihood for several hundred professional arbitrators who are successfully selected in the peculiar market for arbitrator services. As we see, in the "Garden of Arbitration," there is harmony between the anointed: the parties and the arbitrator.

But, as in the Garden of Eden, there is a serpent and there is an apple. In the 1980s, increasing numbers of union members are mature, skeptical, experienced consumers. With knowledge comes high expectations. They expect a high degree of performance from their union. They demand that management comply with each individual right contained in the contract.

I will be talking about what the parties and the arbitrators must do to satisfy the demands of this increasingly litigious consumer: the union member, the employee.

Grievance arbitration was not conceived as a consumer-complaint mechanism. The rules and procedures were designed for the convenience of union representatives and management staff as part of the collective bargaining relationship. They were designed solely for institutional interests.

Let the record show that they have been administered for those institutional interests. Far too many arbitration systems are convoluted and distorted by the political and professional needs of the parties.

It is not difficult to design and administer an expedited grievance procedure. Many parties have done so. Most have not. Informality was the original concept: grievances would be handled quickly and economically. The American Arbitration Association offers Expedited Rules. If top management wants such a procedure, it has only to reach for it.

But let's look at what happens out there in the world of arbitration: tedious multiple steps in the grievance procedure; delays; unnecessary formality; briefs and transcripts which add to the cost; long-winded arguments by lawyers about arbitrability; attempts to keep out evidence; and adjournments, delays, and postponements, for reasons that often relate more to the convenience of attorneys and company or union officials than to the merits of the case. These procedures are viewed by many individual employees as unnecessary corruptions of the ideal process.

Added to these chronic complaints is the problem of arbitrator acceptability. I no longer smile when a jovial arbitrator confesses that he is unable to accept cases for the next five months nor when I learn that an arbitrator is falling behind on writing opinions. Overbooking does no service to the process. I don't think that unions and employers who insist on such an arbitrator are being sensitive to the expectations of the human beings who are involved in the case, to the grievant, and to the other employees, both workers and supervisors who care about the decision. These people are distressed by the case being in limbo. They anxiously await its resolution.

There is no shortage of trained and qualified labor arbitrators. Why do the parties continue to demand a relatively few overbooked professionals? Are they afraid to go outside their own circle of acquaintances?

Unnecessary Delay

Unnecessary delay is an enemy of the system. We recommend that every collective bargaining contract be reviewed by the parties to eliminate unnecessary grievance steps and to scrutinize the administration of the procedure for bottlenecks and to facilitate expedition. The system should be looked at through the eyes of the individual grievants who must live with the grievance procedure. Grievance arbitration has become a consumer tribunal.

This is no longer an academic exercise for labor unions. With the surge of fair representation cases in recent years, the union can protect itself by providing a streamlined grievance system for its members. Union members expect arbitration to be a swift and rational avenue of justice. Members become frustrated, alienated, and bitter when they are faced with unexplained delays, when legal mumbo jumbo keeps them from telling their story, and when the resolution of their case becomes lost behind the opaque innuendos of the lawyers.

If we forget that the individual rights of people are involved in the dispute being arbitrated, we will continue to see an increasing number of decisions being tried again in courts, or by dis-

crimination agencies, or before the labor board. In those tribunals, the same dispute—the same facts—will be slightly tilted to fit whatever statutory right is being tested. Not only will indiivdual grievants be bringing such cases, but, as we know from *Hussmann Refrigerator,*[1] other employees affected by the award will be suing the parties.

In a society where workers already feel imposed upon, ground down by inflation, worried about their jobs, overeducated for their work (but indoctrinated in our American tradition of independent action), we can expect plenty of disgruntled, potential litigants. In the past decade, law schools have doubled production. There are lawyers to spare, eager to litigate the individual complaints of workers who feel that grievance arbitration has failed them. Legal service plans and clinics, surplus automobile negligence lawyers, and other entrepreneurial attorneys are ready to listen to these unhappy workers, eager to sue for damages.

Corporate Responsibility

Corporate responsibility is relevant to these remarks. Just as the public and the consumers are looking to corporate management for responsible leadership, so too are individual employees looking to their corporate employers and to their unions for responsible use of the grievance arbitration process.

If grievance arbitration collapses because of the accumulated failings of the professionals who manipulate its controls, it will be replaced by a government tribunal which will promise individual workers a fair share of individual justice. This is not a mirage. In every other developed nation, industrial tribunals or labor courts handle the kinds of complaints that we call contract grievances.

That same government model for providing individual employment justice is waiting in the wings on the American stage. If our unique form of contractual dispute settlement fails to deserve the continuing loyalties of the American worker, it will be replaced by an all-purpose government employment tribunal.

The late George Meany called grievance arbitration the "essence of freedom." He was using the term the same way he used "free collective bargaining" or "free enterprise system." We shoud realize that, in the eighties, these "free" systems are at risk. Regulation and expanded government services present a dangerous alternative.

If legislative hearings were held today and I described some of the chronic failures of arbitration systems that have come to my attention in muckraking terms, a case could be made for consolidating all employee-related grievances into one all-purpose government tribunal. If those of us who are responsible for the future of private arbitration fail to preserve its fairness and its usefulness, the privilege of providing employment justice will fall into the hands of government.

If you believe that grievance arbitration should be preserved, you should do your part to cleanse arbitration of whatever unfairness or inefficiency or pettifogging may be creating complaints that could lead to rejection of the process.

The American Arbitration Association is committed to improving arbitration. We will continue to encourage parties to use informal and expedited procedures, select arbitrators who can give prompt service, and think about how the system looks to the workers and supervisors whose disputes are being decided. **[The End]**

[1] 593 F2d 83 (1979), cert denied (US SCt, 1979).

The Crossroads of the Future

By THOMAS W. JENNINGS

Sagot & Jennings, Philadelphia, Pennsylvania

SINCE ITS INCEPTION and particularly for the past quarter century, labor arbitration as an institution has generally been considered by our system of law to be virtually sacrosanct. From the early days of *Lincoln Mills*[1] and the *Steelworkers' Trilogy*[2] through the *Gateway Coal* case,[3] the Supreme Court has time and again reinforced the foundation of the legal pedestal upon which labor arbitration had been raised. Thus, we were told that the arbitration process is the "keystone" of federal labor policy. In like fashion, the National Labor Relations Board by 1955 was echoing the same sentiments in its *Spielberg* decision.[4]

At the heart of this judicial adulation of labor arbitration was, of course, its finality. By restricting their inquiry to little more than a determination as to whether there was an obligation to arbitrate and then rubber-stamping the resultant arbitrator's award, the courts accomplished two very important achievements. First, they fostered what they fondly called the "sound and mature" labor relations policies that promoted labor peace. Second, and perhaps of equal importance, they avoided cluttering their own dockets with thousands of labor relations disputes that had little, if any, similarity to the more mundane matters that normally appeared before them.

Buoyed by a seemingly unending stream of judicial praise, the labor relations community passed through the 1960s and much of the 1970s smugly assuming that the institution of arbitration would remain eternally inviolate. Many, if not most, of the employers and unions, who with ever-increasing frequency utilized arbitration as a dispute-resolving mechanism, believed that, as long as the institution continued to serve the needs of the contractual parties, it would continue to operate without any significant interference from the courts or governmental regulatory bodies. Mirroring the sentiments of the parties, arbitrators viewed their role in the process as one of service to the two principal parties.

In retrospect, this confidence was grossly misplaced. As early as 1967, the Supreme Court in its decision of *Vaca v. Sipes*[5] warned the labor relations community that the arbitration process was not its exclusive domain and that a union's "arbitrary, discriminatory, or bad faith" conduct

[1] 353 US 448, 77 SCt 912 (US SCt, 1957), 32 LC ¶ 70,733.

[2] *Steelworkers v. American Mfg. Co.*, 363 US 564 (US SCt, 1960), 40 LC ¶ 66,628; *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 US 574, 80 SCt 1347 (US SCt, 1960), 40 LC ¶ 66,629; and *Steelworkers v. Enterprise Wheel & Car Co.*, 363 US 593, 80 SCt 1358 (US SCt, 1960), 40 LC ¶ 66,630.

[3] 414 US 368, 94 SCt 629 (US SCt, 1974), 72 LC ¶ 14,192.

[4] 112 NLRB 1080 (1955).

[5] 386 US 171 (US SCt, 1967), 55 LC ¶ 11,731.

in the handling of a grievance would allow a disgruntled employee to sidestep the process and submit his contractual dispute to a jury for resolution. Thus, over thirteen years ago, the Court reminded us that the grievant possesses some very real, and legally protectable, interests in the fairness of the arbitration procedure.

In the nine years following *Vaca,* we witnessed the birth of what we now call the "duty of fair representation" insofar as it is applied to the arbitration process. However, while the post-*Vaca* litigation collaterally attacked the institution of arbitration, it was for the most part directed toward failure to arbitrate rather than at the essence of the process itself. Furthermore, the vast majority of decisions during this period of time continued to emphasize the importance of maintaining the stability in a labor relationship between union and management while, at the same time, they paid little more than lipservice to the individual rights of the employees within that relationship.

The Hines Case

In 1976, there was a dramatic turn of events. In that year, the Supreme Court handed down its decision in *Hines v. Anchor Motor Freight.*[6] That decision will, I believe, eventually revolutionize our total perspective as to the role of labor arbitration in the collective bargaining relationship of the 1980s.

There is a saying that "bad facts make bad law." *Hines,* of course, is the tale of some truck drivers who were discharged for falsifying their expense sheets by overstating the amount that they paid at a particular motel. They staunchly maintained their innocence to their union representatives and asserted that the motel clerk could be the true culprit. The union representatives ignored their protestations and merely pled for mercy at the joint panel arbitration hearing that subsequently sustained the discharges. Needless to say, four months after the arbitration panel issued its "final and binding" award, the motel clerk did admit that he, and he alone, had embezzled the money. Shortly thereafter, the discharged truckers sued both their union and their former employer.

In its defense, the employer argued to the court that by its contract it had agreed to arbitrate all disputes to a "final and binding" conclusion and that it had arbitrated and won the discharges in question, and, therefore, the highly touted "finality" of the arbitral process insulated the company from further liability. Not so, replied the Supreme Court.

In so holding, the Court stated that the individual rights of the employees to a fair hearing must be balanced against the interests of the parties and of federal labor policy that are fostered by judicial recognition of arbitral finality, Thus, the Court stated, when the union's misconduct "seriously undermined" the integrity of the arbitral process, the process is simply not entitled to enjoy finality.

After Hines

After *Hines,* the rest is history. To use a well-worn cliché, the floodgates of litigation were thrown open and the law suits challenging the finality of arbitrator's awards poured through. Each year since *Hines* has seen a dramatic increase in the number of law suits alleging "perfunctory" union representation in the preparation and presentation of grievances. At least

[6] 421 US 928, 96 SCt 28 (US SCt, 1975), 77 LC ¶ 11,115.

insofar as the metropolitan areas of the country are concerned, it is the rare union and company that during the past three years has not been either sued or named in an unfair labor practice charge by a disgruntled employee who was disappointed by the outcome of his arbitration.

Change in Judicial Attitude

More disturbing than the mere number of law suits that have been initiated since *Hines* is the fact that the employees are winning these suits with increasing frequency. Many factors contribute to this phenomenon, not the least of which is a marked change in judicial attitude toward the grievance and arbitration procedure. Perhaps as a result of the numerous fair representation suits now appearing on the dockets, federal judges are rapidly abandoning their previous reticence to delve into the mysteries of labor relations. Additionally, in that in most jurisdictions the employee is entitled to present his case to a jury, we now find ourselves trying to explain the concepts of "just cause" or the workings of a grievance procedure to juries composed of file clerks, engineers, gas station attendants, and sales persons.

The result of this recent judicial sojourn into the inner workings of the labor arbitration process dramatically affected virtually every aspect of that process. Thus, courts have refused to recognize the finality of arbitrators' awards because a jury concluded that a union did not adequately investigate a grievance, that the union did not make every possible contractual argument during the course of the arbitration hearing, or that the union simply did not argue the grievant's case with sufficient vigor. Indeed, while the courts officially proclaim that the disgruntled employee must prove more than simple negligence on the union's part in the preparation and presentation of grievances, the cases actually tried to the jury are simply union malpractice actions.

In short, the previously existing judicial confidence in the integrity of the arbitration process as being a fair method of resolving labor disputes with finality is rapidly dissipating and is being replaced with a cynicism regarding the extent to which that process can protect the right of individual employees. Indeed, even the National Labor Relations Board, previously one of the staunchest defenders of arbitral finality, has recently decided in its *Suburban Motor Freight*[7] case that it will no longer defer to an arbitrator's award dealing with potentially discriminatory conduct unless it can be shown that the statutory issue was both presented to and considered by the arbitrator. Prior to *Suburban Motor Freight*, the Board had trusted the contractual procedures to protect both the employee's contractual and statutory rights. However, the trust exists no more.

The practical impact of the last several years upon the collective bargaining relationship and upon the arbitral process itself is readily evident and hardly requires protracted discussion. Well-meaning judicial attempts to regulate procedure and structure of the labor arbitration process under the guise of fair representation actions have in many cases been incredibly insensitive to the realities of that process and have imposed burdens upon it that, I believe, it cannot long sustain.

Additionally, and of greater importance, is its effect upon the very role of labor arbitration within the

[7] 247 NLRB No. 2 (1980), 1979-80 CCH NLRB ¶ 16,648.

collective bargaining relationship. Thus, if the parties cannot rely upon the finality of an arbitrator's award, little purpose would be served by utilizing the process in the first instance. Yet, after *Hines,* no arbitrator's award is truly "final" until it has been approved by a jury.

Consumer Dissatisfaction

Numerous factors have led to the circumstances in which we presently find ourselves. However, I agree wholeheartedly with Bob Coulson's hypothesis that the principal reason is what he calls "consumer dissatisfaction" with the product. The rank and file are simply disenchanted with a system that has, in many cases, unwittingly become an end in itself. To a large degree, we have lost sight of the facts that the arbitration process belongs to the employee, that it was designed and intended to resolve employee problems in the workplace, and that the employee must believe in it if it is to function.

Bob's criticisms of the process are amply justified. With rare exception, the plaintiff in a typical fair representation suit inevitably tells the story of how he waited for months to have his grievance heard, during which period he never spoke with his business representative. On the day of the hearing, he told his business representative his version of the story as they walked into a room filled with people that he did not know. At that point he heard for the first time the company present the actual evidence that it possessed underlying the discharge.

Confronted by lawyers and an arbitrator who speak a language that he does not understand and thoroughly confused as to what is happening around him, there is little wonder why the grievant subsequently questions the integrity of the piece of paper permanently terminating his employment relationship that he receives several months later.

The handwriting is clearly on the wall. The courts will simply not permit the circumstances just described to continue. If in this decade we are to salvage the finality of the labor arbitration process, we must readjust the perspective with which we view certain elements of that process.

The Grievant's Rights

Whether we agree or disagree with the philosophy of *Hines,* we can no longer view labor arbitration involving individual rights as a matter solely between the company and the union as an entity that resolves disputes on behalf of, rather than with, the employees that it represents. Instead, we must recognize and accept the fact that the grievant is not an interloper in the grievance and arbitration procedure and that he possesses a right to meaningfully participate in that procedure and to secure meaningful protection by that procedure.

If we were to recognize the existence of the grievant's rights within the grievance procedure, many of the problems that eventually gave rise to the *Hines* decision and that Bob Coulson previously discussed would readily dissipate. Thus, meaningful participation compels adequate investigation, preparation, and communication on the union's part.

In like fashion, there exists no good reason why the average grievant cannot understand the unavoidable ritual that necessarily accompanies even a modestly formal arbitration hearing. It is, after all, his hearing. Recognizing his obligation not only to the parties but also to the preservation of the system, the arbitrator

should make certain that every grievant understands what is happening to him during the course of the hearing.

The parties' acceptance of the fact that the grievant is, by law, entitled to enjoy the protection of the grievance procedure would ameliorate the interminable delays that presently plague the process. In that the essence of the process is a speedy resolution of disputes, an accommodation—enforced, if necessary, by the arbitrator—must be struck between the grievant's right to such a resolution and the busy schedules of the union or company officials.

Conclusion

We have but few options. Either we abandon the concept that labor arbitration is a dispute-resolving mechanism solely between the company and the union as an entity or we will witness the destruction of the labor arbitration process as we know it.

Each of the participants in the process has a vested interest in maintaining the integrity of the process. Whether it is viewed from an altruistic or entirely pragmatic point of view, the underlying philosophy of the system simply must be accommodated to the developing law. The minor infringement upon the previously unfettered discretion of the three principal participants caused by a meaningful recognition of the grievant's right and role in the grievance procedure is a small price to pay for the continued vitality of the system itself.

In a very real sense, the 1980s have placed us squarely at the crossroads of the future of labor arbitration. To continue to resist change so as to preserve the old order would be the sheerest of follies. By seizing the opportunity now to reevaluate the position that labor arbitration will serve in the overall collective bargaining relationship of the 1980s and by intelligently reacting to change, we will be able to develop a stronger and more effective system that responds not only to the needs of the employer and the union but, more importantly, to the employee for whom the system was intended.

[The End]

Grievance Mediation: A Trend in the Cost-Conscious Eighties

By GORDON A. GREGORY and ROBERT E. ROONEY, JR.

Gregory, Van Lopik, Korney & Moore, Detroit, Michigan

A TREND THAT APPEARS to be developing as we move into the 1980s is a renewed interest in grievance mediation.[1] Currently, a good number of parties use the procedure on an ad hoc basis, and there are a significant number of collective bargaining agreements that include it as a formal step in the grievance

[1] Prior to World War II, grievance mediation and the strike were the prevalent methods of settling grievances. Since that time, binding arbitration has become the most prevalent method of resolving grievance impasses.

procedure.[2] In addition, the Federal Mediation and Conciliation Service, the American Federation of Government Employees, the National Federation of Federal Employees, the National Association of Counties, and at least one local of the American Federation of State, County, and Municipal Employees have begun programs to familiarize members with the procedure.[3]

Also indicative of this trend was a paper prepared by this firm in late 1978 in which it was found that a large percentage of state and federal mediators currently working in Michigan support and encourage the use of grievance mediation.[4] The paper also found evidence that suggested that the procedure is effective in settling grievances prior to arbitration —a situation that could also promote increased use of the procedure.

This brief paper will examine grievance mediation along with several reasons that could account for the renewed interest in the procedure. It will be suggested that much of the interest is the result of mediation's effectiveness in achieving settlements and the cost and time saving advantages it offers as a step in the grievance procedure prior to arbitration.

Grievance mediation is broadly defined as any effort on the part of a neutral person to assist two parties in reaching agreement on a grievance that is moving toward or is actually at impasse. The role of the neutral person, who is usually a state or federal mediator, is one of assistance and persuasion. He attempts to resolve the impasse through encouraging the parties to resolve the grievance voluntarily.

In further defining grievance mediation, it is important to distinguish between grievance mediation and other forms of third-party dispute resolution such as rights arbitration, expedited rights arbitration, factfinding, binding factfinding, labor-management grievance committees, and even "binding mediation." The essential difference between these and grievance mediation is in the role of the third party. In mediation, he is not an adjudicator. In the other forms, in general, he takes more of an adjudicative role and his actions are subject to greater procedural constraint. The following figure shows a general conception of grievance mediation in relation to other forms of dispute resolution, emphasizing the role of the third party.

In movements to the right, the dispute resolution techniques are generally more formal, while movements to the left are in the direction of less formal techniques. Techniques to the right are on the average subject to greater procedural constraint, e.g., an arbitrator's actions are limited by the collective bargaining agreement. Techniques to the left are subject to less procedural constraint, e.g., agreements are usually silent concerning permissible mediator actions. Thus, he has a great deal more freedom to assist the parties in reaching agreement.

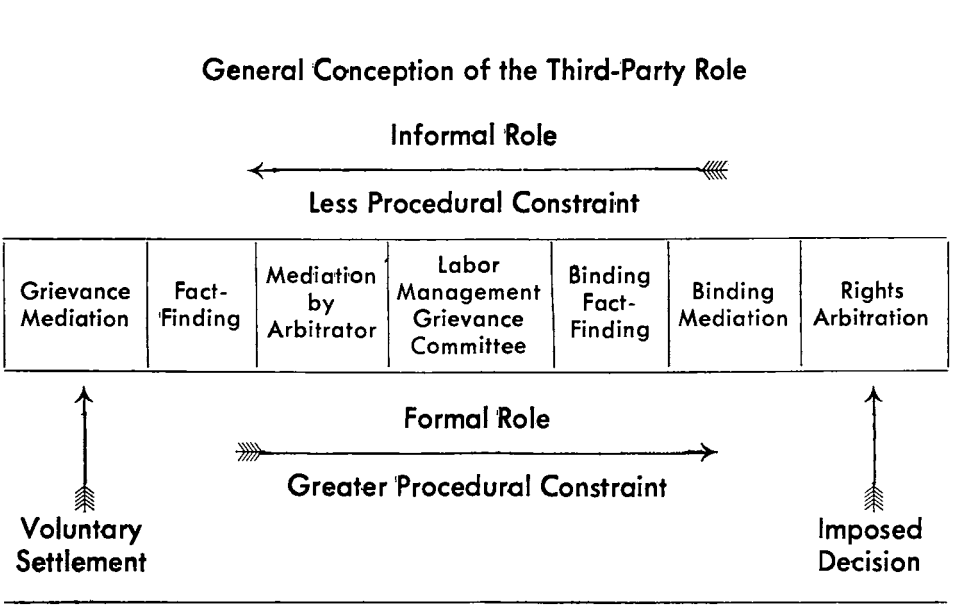
Forms of Grievance Mediation

There are essentially four forms of grievance mediation. (1) As an alternative to arbitration: in this sense, it is usually the final step in a grievance procedure that will ul-

[2] Grievance mediation is provided as an intermediate step in approximately 3 percent of private-sector contracts. Bureau of National Affairs, Inc., *Basic Patterns in Union Contracts* (Washington, D. C.: BNA, 1975), p. 32.

[3] Mollie Heath Bowers, "Grievance Mediation: Another Route to Resolution," *Personnel Journal*, Vol. 59, No. 2 (February 1980), p. 134.

[4] Law firm of Gregory, Van Lopik, Korney & Moore, *Grievance Mediation: Observations on the Michigan Situation*" (1978).



timately lead to a strike if resolution is not accomplished during mediation. This type of grievance procedure has largely been replaced by binding arbitration.

Others are: (2) Where an arbitrator attempts mediation at some point in the arbitration proceedings; (3) where grievance mediation is formally recognized as a distinct step in the grievance procedure and is conducted by someone who will not later serve as arbitrator if the grievance reaches that step; and (4) where grievance mediation is voluntarily agreed to by the parties on an ad hoc basis. This paper is concerned with only Numbers (3) and (4), and all comments henceforth will be in regard to those two forms.

Grievance mediation is not a substitute for rights arbitration. It is viewed as a quick and economical way to capitalize on the advantages inherent in introducing an objective third party into a potential or existing impasse situation, hopefully to avoid having to use more costly and time-consuming arbitration. However, one approach to understanding why grievance mediation is generating new interest is to compare its characteristics to those of rights arbitration.

Cost Considerations

Settlements achieved by grievance mediation are generally cheaper than those reached by arbitration. This is usually true even if the parties use a private mediator and is certainly the case if the mediator is supplied by the Federal Mediation and Conciliation Service or a state agency. With the average daily cost of an arbitrator approaching $300,[5] along with increasing related costs such as legal fees, there is an incentive to try grievance mediation.

Labor-Management Relations Considerations

At times, it may become necessary for parties to turn to third-party assistance in the resolution of a pend-

[5] Mollie Heath Bowers, "Grievance Mediation: Settle Now, Don't Pay Later," (Washington: American University, 1979), p. 1.

ing or existing impasse. At this point, it may be preferable to use grievance integrity of their grievance procedure to a greater degree than if they proceeded directly to rights arbitration.

Under grievance mediation, the parties in dispute make the final decision in resolving the grievance. Under arbitration, a third party imposes a decision upon the parties. In terms of living with a decision, both presently and in the future, the former method is usually the most desirable.

Time and Precedent-Setting Considerations

The phrase "justice delayed is justice denied" is very relevant when considering grievance resolution. It is important that a grievance be settled as close to the source as quickly as possible. Time delays, for any reason, may widen the rift between the parties and harm present and future relations. The proceedings under rights arbitration are often protracted. Mediation, being less formal, takes a shorter time to implement and can usually progress at a much quicker pace.

A grievance may occur over an issue not fully developed. In such instances, it may be advisable to mediate a settlement rather than arbitrate. Arbitrating the issue at this point may set a precedent which may later cause even greater problems for the parties, including conflicting arbitration awards.

A compromise solution using grievance mediation would allow the issue to develop fully without prematurely "freezing" the issue. Also, such an approach does not preclude an arbitrator from ruling on the issue at a later date after the "fog" has lifted.

Latitude of the Mediator

An arbitrator's role is generally formal and his actions are controlled by the parties' contract language. This can be a handicap in situations where innovative or compromise solutions are needed to fashion an agreement between the parties. The mediator is not subject to the same procedural constraints as an arbitrator and has a great deal more latitude to fashion a workable settlement.

Legal Considerations

While a mediated grievance settlement stands on at least the same footing as a negotiated one, consideration of the NLRB's deferral policy and the union's duty of fair representation is in order. In *T & T Industries, Inc.*,[6] a panel of the Board declined to defer to a mediated grievance settlement in a discharge case.

"We adopt the Administrative Law Judge's conclusion that there is no basis in the instant case for deferring, under *Spielberg Manufacturing Company,* 112 NLRB 1080 (1955), to the agreement between Respondent and the Union concerning Jagodzinski's grievance over his discharge. Although the contract provided for a grievance procedure culminating in binding arbitration, the parties settled the grievance at an earlier stage of the procedure. In these circumstances, we conclude that 'the full range of the mechanism for the determination of the dispute has not been utilized and there is no award that may be examined for its conformity with *Spielberg* requirements.' *Whirlpool Corporation, Evansville Division,* 216 NLRB 183, 186 (1975). Although the agreement was reached at a meeting held before a mediator provided by the Michigan Employment Relations Commission, there was no formal hearing

[6] 235 NLRB 517 (1978), 1978 CCH NLRB ¶ 19,154.

and the record does not establish that the mediator had the authority to make a determinative resolution of the dispute. Accordingly, we conclude that there is no showing that the *Spielberg* requirements have been met. See *Super Value Xenia*, a Division of Super Value Stores, Inc., 228 NLRB 1254 (1977)."

Later cases do not reject the possibility of Board deferral to mediate settlements. And, the dissent of Member Penello in *Roadway Express* suggests a broad deferral to the "parties grievance-arbitration procedure", including informal settlements.[7]

Spielberg Standards

Professor Bowers recommends that grievance mediation follow the procedural standards of *Spielberg* to provide, *inter alia*, for the presence of the grievant, reasonable meetings, and a mediated settlement consonant with the contract and applicable law. "When these conditions are met [*Spielberg*], it is reasonable to suggest that any attempt by the NLRB or any other adjudicatory agency to generalize the ruling in the *T & T Industries, Inc.*, case to all mediation efforts would put that agency in the unsupportable position of stimulating arbitration by discouraging efforts to settle rather than promoting the process."

Given the broad discretion which the NLRB allows to both the procedural and award stages of arbitration, there are no compelling reasons for the parties to refrain from grievance mediation as a step prior to formal arbitration. Considering the number of grievances settled informally, including those involving individual rights, it is doubtful that grievance mediation would increase the number of unfair labor practice or civil rights cases.

Moreover, grievance mediation conducted pursuant to *Spielberg* standards may foreclose further review by the NLRB. Since the deferral doctrine is not applied in civil rights cases, mediated grievance settlements have the same force and effect as informal settlements or arbitration awards.

Since the courts and the NLRB still recognize broad discretion in the collective bargaining representative to settle and adjust grievances, it is not anticipated that mediated grievance settlements should expose either the union or employer to liabilities not already inherent in the grievance procedure. Assuming that the mediated settlement is free from improper motives or fraud, arbitrary conduct, or gross negligence, such settlement would be well within the "wide range or reasonableness allowed a statutory bargaining representative in serving the unit it represents. . . ."[8]

The above considerations are several reasons that could account for the renewed interest in the procedure. Probably most important are those related to the potential time and cost savings the procedure offers as a prearbitration step.

Effectiveness

Another consideration that would certainly have an impact on the use of grievance mediation in the 1980s is its effectiveness in resolving disputes. As was mentioned earlier, this firm prepared a paper on grievance mediation activity in the State of Michigan. The paper reported the results of an informal poll of state and federal media-

[7] *Melones Contractors*, 241 NLRB No. 3 (1979), 1978-79 CCH NLRB ¶ 15,649; *Roadway Express, Inc.*, 246 NLRB No. 28 (1979), 1979-80 CCH NLRB ¶ 16,357.

[8] *Ford v. Hoffman*, (US SCt, 1953), 345 US 330.

tors currently working in the State of Michigan.

In that informal poll, it was indicated that state mediators were successful approximately 83 percent of the time in reaching settlement in the private sector using grievance mediation and 84 percent of the time in the public sector. Federal mediators were successful in the private sector approximately 99 percent of the time in reaching settlement using the procedure (it should be noted that the number of cases handled by the state mediators far exceed the number handled by federal mediators).

Earlier this year, we updated the findings concerning the success rate of mediation indicated by the paper. This update took the form of a sample of grievance mediation cases closed in 1979 and kept on file at the Detroit Michigan Employment Relations Commission (there are also offices located in Grand Rapids and Lansing that keep separate records). Federal mediation of grievances in the state was limited to just 24 cases in 1979,[9] so they were excluded from the sample.

The sample consisted of 60 cases from the public and private sectors. The total number of cases closed in 1979 has not been published, but, in fiscal 1977-78, there were a total of 293[10] grievance cases handled by state mediators.

The following table shows the results of the sample. It confirms the findings of the earlier paper, i.e., that a good percentage of cases submitted to grievance mediation are settled, although the percentages are not so dramatic. As was concluded in the previous paper, the success rate of grievance mediation in settling grievance impasses would probably tend to promote its use.

Disposition of Grievance Mediation Cases Submitted to State Mediators at the Detroit Office Public and Private Sectors

Agreement	58.3%	(35)
Withdrawn by parties or no further need for mediation	18.3	(11)
Arbitration	16.6	(10)
Inactive	6.7	(4)

Source: MERC Detroit office.

Conclusions

This paper has examined grievance mediation and several reasons or considerations that may account for some of the renewed interest in the procedure as we move into the 1980s. Important among those reasons cited were cost- and time-saving advantages that the procedure offered as a prearbitration step. It was also pointed out that, even with its advantages, its ultimate success would probably depend on its effectiveness in resolving grievance impasses. In this regard, it was shown that there is reason to believe that the process is successful based on a sample of cases closed by the Michigan Employment Relations Commission in 1979.

[9] Number provided by the Detroit FMCS office.

[10] "Michigan Employment Relations Commission Annual Report, October 1, 1977, to September 30, 1978," *LABORegister*, Vol. 3, No. 8 (August 1979), p. 226.

Additionally, it was stated that grievance mediation is not a substitute for rights arbitration. Instead, it was implied that the procedure is best utilized as part of a grievance procedure ending in binding arbitration.

Finally, a trend toward greater interest in and use of grievance mediation is an occurrence we view very favorably. This position is generated equally out of a concern for better labor relations and a desire to conserve valuable societal resources as we move into the 1980s and beyond.[11]

[The End]

[11] Additional sources: Morrison Handsaker, "Grievance Arbitration and Mediated Settlements," *Labor Law Journal*, Vol. 17, No. 10 (October 1966), pp. 579-83; *University of Illinois Institute of Labor and Industrial Relations Reprint Series No. 44* (1956); James P. O'Grady, Jr., "Grievance Mediation Activities by State Agencies," *Arbitration Journal*, Vol. 31, No. 1 (March 1976), pp. 125-31; and William E. Simkin, *Mediation and the Dynamics of Collective Bargaining* (Washington, D. C.: BNA, 1971).

WORKSHOP

The Impact of Energy on Industrial Relations

A Time for New Initiatives

By EDWARD H. HYNES

New Jersey Board of Public Utilities

IF INFLATION is the overriding issue in labor-management relations today, and many in labor would argue that it should be, then there can be no single element more important to labor-management relations than energy, because energy is the overriding issue in inflation. Energy costs today account for roughly one-third of the increase of the Consumer Price Index that is now being experienced. While the Index as a whole rose by 13.3 percent last year nationwide, the transportation portion of it, largely determined by energy prices, rose 18.2 percent.

In New Jersey, according to figures compiled by the state department of energy, gasoline prices rose by 63 percent over the year, from mid-January 1979 to mid-January 1980. The price of heating oil, although less expensive than gasoline largely because it is not taxed, rose by *67 percent*. The average residential customer in New Jersey, moreover, was paying 11.3 percent more in December for electricity than he had 12 months earlier and 14.3 percent more for natural gas for heating. Obviously, energy costs must have an important bearing on the manner in which union negotiators in New Jersey approach the bargaining table.

The approach of labor and management to the inflation issue in general, over the years, has been one relying heavily on ingenuity. A time-honored principle in collective bargaining has been "if you snooze, you lose." And the person who first thought of the inclusion of a cost-of-living adjustment clause in a contract was certainly wide awake. COLA clauses, capped and uncapped, are now widespread throughout the collective bargaining sector, defusing inflation as a worrisome issue for many American workers.

COLA clauses reduce an element of uncertainty in the performance of a contract, allowing union leaders to pursue long-term wage goals with some additional protection if the economy goes awry. Management is able to reduce its labor costs below what it otherwise might expect them to be while keeping some money in reserve as a buffer against

an inflation setback. Management, however, is induced to become even more militant in pushing conservative economic policies as a restraint against inflation as a means of protecting this reserve, a result which labor may not always entirely appreciate.

A new type of COLA clause appeared after the gasoline crisis of 1973-74, causing the specific increase in the price of gasoline to trigger increases in the money the company will reimburse employees for the use of their personal car on business. A typical clause has the mileage rate going up half-a-penny a mile for each five-cent increase in the averaged price of gasoline at selected local service stations.

This COLA is not as widespread, because it is of use only in businesses which put their employees out on the road. It is, however, another mechanism serving to bring the tumultuous energy economics of the outside world directly into labor contracts.

Energy, of course, has an impact on life inside the plant in another important way. The traditionally high cost of energy in the Northeast, heavily reliant on nonindigenous sources of oil and gas, has been a factor in inducing the business move to the Sunbelt, with the result of a loss of jobs in New Jersey and many of the other states of the region.

This dependence on out-of-state sources of energy, moreover, can cause sudden disruptions in supply, as in 1977 when producers cut deliveries of natural gas in the interstate markets in spite of a sharp increase in demand brought on by cold weather. The gas crisis of 1977 caused the layoff of 50,000 workers in New Jersey for short periods of time and a loss of about $10 million in wages. The losses, of course, were much higher nationwide.

The Natural Gas Policy Act of 1978, with its extension of federal regulation to intrastate sales coupled with a phaseout of the ceilings on interstate prices, has removed much of the concern about an early recurrence of such a crisis, and New Jersey gas utilities are once again taking on new customers.

LEACs

The latest energy crisis flashed onto the scene in early 1979, with the success of the Iranian Revolution. New Jersey, as did many other states, felt its impact and reimposed the old odd-even license plate rules of 1974 on the sales of gasoline through the summer.

Electricity customers, as it happened, did not suffer as much as they did in 1974, despite the close relationship of electricity prices to the price of oil. The sharp increases in electric rates felt by New Jersey customers in the summer of 1974 were not duplicated last year. Electricity costs generally last summer were only up a few percentage points over the costs of the previous summer, at a time when oil prices were already up about 50 percent. Electricity rates did rise last year, but much of these increases came after the summer peak period.

An important reason for this difference is that since 1974 all the electric utility companies in New Jersey have been put under levelized energy adjustment clauses, which we call LEACs, basing their rates for energy cost recoveries on a prospective 12-month period rather than a short-term period in the immediate past.

The electric utilities now must anticipate their energy costs 12 months in advance and collect on a rate based on their anticipated cost. Overrecoveries under the rate must be paid back to the customers with interest, while un-

derrecoveries, on which no interest is collected, can be spread by our utility board over a period of several years.

The electrical industry in New Jersey is beset with still another happenstance beyond oil inflation: the uncertainty of nuclear power in the aftermath of the March 1979 accident at Three Mile Island. An important New Jersey company, Jersey Central Power & Light, owns 25-percent interest in both Three Mile Island plants and remains on shaky financial grounds. Public Service Electric & Gas, the largest electrical utility in the state, was without its Salem 1 nuclear plant on the Delaware River for nine months following the accident last year, in part to make adjustments ordered by the Nuclear Regulatory Commission in the light of the accident. The Salem 2 plant, which Public Service had hoped to put on line last summer, was just licensed for test operation yesterday and now may go into commercial service later this year.

The delays and losses on nuclear power generation for New Jersey served to reduce the nuclear output in the state to 26 percent of total net generation last year, down from 28 percent the year before. The reduction pushed our utilities even more heavily into reliance on high-priced oil.

A New Mood

Electricity costs in much of New Jersey will be up 15 to 25 percent this summer as a result of actions already taken by the State Board of Public Utility Commissioners, and possible further increases are pending. Public Service has told us that it anticipates that it will be underrecovering $110 million in energy costs under its present LEAC, on top of the $140 million in underrecovery the Board has already allowed it to collect over the next 26 months, by the time the present LEAC period ends on June 30. Atlantic City Electric is seeking an increase of $84 million in base rates, about 27 percent. Jersey Central Power & Light has told us it will be filing for a new rate increase this week.

The public is angry. Letters now flooding in to the Board offices in opposition to further rate hikes exceed anything in my experience. There is a new mood afoot, one which offers further opportunities to labor and management and the American people.

"Once in a generation," Sir Ian Hamilton, the British General for the Gallipoli compaign in 1915, wrote, "a mysterious wish for war passes through the people. Their instinct tells them that there is no other way for progress and of escape from habits that no longer fit them."

The British were beginning their assault on Turkey, a move designed to open the Dardanelles once more to the Russians but linked vaguely to a desire for a military presence in a region which would be a future source of oil. The Turkish Empire then extended over Iraq, Syria, Jordan, and Lebanon. It was the start of the major European military adventure in the Middle East. When it was over, a quarter million of British, French, Australian, and New Zealand troops were dead, but Britain was soon to claim a mandate over Iraqi oil.

A New War

The campaign produced the euphoria of a New Crusade. Rupert Brooke, the young poet-soldier off to the Middle East, wrote: "Now, God be thanked who has matched us with His hour—and caught our youth—and awakened us from sleeping." Brooke died of sunstroke in Greece before reaching a battlefield.

In 1977, President Carter called for a new kind of war, uniquely fitted for the late 20th century 60 years after World War I—a war with sacrifice but not bloodshed, a war on energy waste. The time to launch that war is now. I deplore the disruption, I deplore the hardship which the energy economics of the 1970s has wreaked on business, workers, and the American public. But, with Gen. Hamilton, I can say that there may be no other way of progress, and, with Rupert Brooke, God be thanked.

The new opportunities are those of energy conservation and the switch to alternative sources of energy. Last year, we in New Jersey sponsored a Solar Summit, which produced an agreement by Public Service to go into the solar hot-water business and offered to residents in its service area the chance to have contractors install and maintain solar hot-water units on their homes under the supervision and guarantees of the biggest single company in New Jersey. The program has yet to get under way, chiefly because of the need of federal approval of an exemption for Public Service to allow it to assess customers the fee for this installation and maintenance service in their utility bills.

The Harvard Business School report last year on *Energy Future*, a report hailed for its pragmatic approach to energy problems at a time when much of the business world was still supposed to be enamored of a quick advance in nuclear energy or a big new oil find, had this to say about energy conservation. "Conservation may well be the cheapest, safest, most productive energy alternative readily available in large amounts."

New Jersey already has an active program in ride-sharing: 72 companies using 1,100 vans to transport about 10,000 workers to and from their jobs. Our calculated cost for this is two- to three-cents a mile per rider, versus 25- to 28-cents a mile for a rider travelling alone in his own car.

Unions are also getting directly involved in this. Sports Arena Employees Local 137 operates a van between Cherry Hill in south central New Jersey and the Meadowlands sports complex in northern New Jersey. This is a new source of wage gains which does not have to be reported to the federal government for taxation.

Solar energy and conservation energy, unlike energy in the form of oil, nuclear fission, or electricity, is a small-bore fragmented industry, producing through millions of individual decisions in homes, shops, and plants rather than the boardrooms of large companies. It does not have the advantage of large institutions to assemble materials and skilled workers, find a market, and guarantee quality. This is one of the reasons why we in New Jersey are pushing Public Service to get involved in solar development rather than allow it to wait for the interest and the output capabilities to spring up spontaneously among the small businessmen and the public at large.

The move to these new energy sources, however, necessarily involves some fragmentation of existing institutions and the need to look to other institutions to get involved, to put some of the pieces together again. Labor unions and the companies with which they negotiate can play a role. Labor and company credit unions can certainly help out in encouraging solar and conservation energy investments. Perhaps workshops can be established, in which contractors, financiers, and prospective purchasers are brought together. Group solar and conservation energy service plans can perhaps be formed, following on the path of group health and legal service plans.

Conclusion

At any rate, now is the time to take new initiatives. The public is angry, and the desire to do something is there, even the desire to launch a new Gallipoli campaign against the Middle East. This is the better way.

In the far darker days of World War II, President Franklin Roosevelt saw a way to commit America to the war without necessarily committing its armies and young men, by becoming the "arsenal of democracy." "We will extend to the opponents of force the material resources of this nation," Roosevelt said in June 1940 after Italy had entered the war.

The United States again has an opportunity to show the way in a new war, by developing conservation programs which can demonstrate to Europe and Japan that it is possible to run an industrial nation democratically without undue reliance on costly and tenuous sources of energy. We have the opportunity once again of becoming the "arsenal of democracy."

[The End]

WORKSHOP

Rethinking Bargaining Structures

The Structure of Bargaining: International Comparisons—A Story of Diversity

By FRANCES BAIRSTOW

McGill University

THERE ARE NO MAGIC WANDS which will produce industrial harmony or economic stability. There is no universally acceptable model of collective bargaining organization. One of the most serious problems of collective bargaining is the structure of bargaining, or how the parties conduct their bargaining in the sense of who bargains with whom—which groups of people sit at the bargaining table or are represented at the table and in what organizational form?

There is considerable evidence to show that successful bargaining can take place when there are large groupings of individual units under the aegis of one organization or council. Other evidence may point to the desirability of individual units dealing directly with their own employers.

However, certain conclusions are inescapable in viewing this diversification, i.e., that practices once established become locked in through legislation or tradition. Signatures on documents with the full force of law to back up agreements ensure permanence. Reformation is slow even when the need is recognized. Technological change and economic necessity may not be compelling enough forces against the vested interests of individuals or the institutional imperative to preserve what exists.

A dispassionate observer may conclude that the results of rivalry among competing individual units bargaining in the same industry may lead to unhealthy wage competition, leapfrogging, and costly interarea disputes. However, in democratic societies, the problems of economic Darwinism must be confronted by the parties themselves, unless the public interest asserts itself through demands for imposition of stringent controls.

The underlying theme here, then, is that there can be no one universally applicable approach to the assessment of bargaining structures. They must be assessed in the context of their geography, economic location, culture, traditions, and history.

The objectives of this inquiry into the relationship of the structure of collective bargaining and the outcome of the bargaining process in OECD countries include the exploration of ways in which various

bargaining systems are responsive to the needs of their respective countries' public policies. A further objective is the assessment of changes in the roles which various institutions play vis-à-vis the parties in their respective countries, with an eye toward noting new positive and creative approaches taken.

This writer has had, under OECD auspices, the opportunity of observing firsthand the bargaining process in the United States, Canada, the United Kingdom, and Australia. She has supplemented her basic knowledge of these countries with recent visits (1979) to the United Kingdom, Sweden, and Germany, where leading participants on the union, management, and government scene, industrial relations specialists, and academics were interviewed. Information from Japanese sources has also been used.

The bargaining structures observed can best be described as "diversified." Labels such as "centralized" or "decentralized," while accurate, may be oversimplistic as well as misleading. Various systems have been found to contain mixed approaches, exceptions, and combinations of systems. A fairly general element, however, is a lack of enthusiasm for radical institutional changes, even in countries which are experiencing serious economic difficulties.

Bargaining levels are a reflection of many factors in the evolution of relationships between the parties as well as of the economy or political makeup of any one country. Pure categories such as totally centralized or totally decentralized types of bargaining are rare. Within structures which are based on industrywide bargaining, there may be special bargaining units of single-craft workers, such as carpenters or patternmakers. Bargaining levels in one service, such as hospitals, may be statewide for certain kinds of hospitals and single-unit for other hospitals. This may be because different health services may be financed differently. Others may come under federal legislation, while some may be privately or locally financed.

Bargaining Levels

Some areas of industry contain examples of regionwide bargaining and multiemployer bargaining. One employer may deal with many bargaining units, including both branch and national levels. Airline services are an apt illustration of this patchwork of different bargaining levels: pilots may bargain nationally, and airline clerks in the same airline may belong to different unions in different regions, while machinists may have completely different structures.

The structure of collective bargaining per se can and does influence the overall level of labor costs determined through negotiations and the degree of industrial peace, as well as the overall climate of labor-management relations, which in turn affects manpower efficiency and output at the work place. It should be pointed out that any particular enterprise or industry has limited control and influence over the bargaining structure due to legal requirements (state and federal jurisdictions), certifications, and the union's interest in and ability to influence the structure of bargaining.

If one were to compare the strike records of industries where centralized bargaining prevails, one would find that, in general, the potential number of strikes is reduced as is the actual number of strikes which have taken place. The same observation could be made for the duration of strikes, since larger scale disruptions get the attention of the authorities very quickly.

The mere size of the cost, manpower, and other economic and social im-

plications involved in a centralized industrywide structure of bargaining forces all those who are directly or indirectly involved to be more "responsible" and in a sense more "conservative." The parties are forced to consider the total labor-cost implications for the industry as a whole. The size of the larger groups almost automatically gives their negotiations a political dimension and enhances the overall prestige of the various labor spokesmen.

The Enterprise Level

If one were to select a predominant type of bargaining in the western democratic world, one would invariably choose bargaining at the level of the enterprise or plant as the most widespread form. The reasons for this are manifold, but it is clear that those who participate in this type of bargaining are definite about their reasons for retaining it. They consider it as reflective of their own special and immediate concerns. It involves people with the knowledge and experience of the particular work under discussion. It is adaptable and flexible and has human dimensions in that the needs of the employees and problems of production can be dealt with firsthand. Indeed, American trade union leaders have rejected European forms of worker participation on the grounds that, since collective bargaining at the enterprise level involves the workers so directly, other industrial democracy structures are superfluous.[1]

Also, it must indeed be recognized that institutional imperatives, once an organization is established, constitute a compelling reason for resistance to change. Union officers, long out of the shop, are fearful that consolidations may result in their own displacement and force them to return to manual work. Relinquishing the expense-account perquisites of office is also an unattractive possibility.

Value judgments on which bargaining system is superior rest on the point of view of the observer as well as the objectives sought through bargaining. If one applies as a test the provision of opportunities for full democratic participation, then bargaining at the plant level best meets that test. If one is concerned about the long-range economic implications of uncoordinated bargaining activity in a single industry, then the chances for rational outcomes are limited.

Single-Plant Bargaining

Single-plant bargaining leads to leapfrogging settlements, competition over key employees, the strong units overshadowing the weak in settlements, disparities in wages and working conditions in the same area, and interunion rivalries. With settlements in any industrial or geographic area occurring all through the calendar year, each group entering upon negotiations will have its eyes on the previous group's settlements and will attempt to better them.

Intergroup competition to drive wages up makes it extremely difficult for employers to plan with any clear predictability, as settlements compound, until it is their turn to receive the union demands. Although one might opine that it would be preferable for unions to try to achieve longer-run economic stability by coordinating their efforts with those of other unions with mutual interests, as well as coordinate with government and employers, the possi-

[1] T. Donahue, AFL-CIO, speech to McGill University International Conference on Trends in Industrial and Labour Relations, Montreal, May 26, 1976.

bilities for change in these highly individualistic present systems are remote.

If the views of Canadian management and union leaders are any barometer in ascertaining the prospects in English-speaking countries, this writer had ample opportunity to test this premise.[2] Although recognizing the inherent dangers of fragmentation, union-management leaders in federal transport services and industries were unenthusiastic about accepting notions of change in structures. They expressed reluctance to entrust the welfare of their companies and unions to larger general organizations "which are not concerned with our special needs." Over and over again, I heard the objection, "Our problems are unique. Outsiders never understand."

In interviews with the parties, one heard arguments against coalition or broader-based bargaining ranging from "decisions are based on the needs of the larger companies" or "the poor companies," depending on the respondent, or "the process would be too remote, too impersonal." Other reactions heard were "we're more efficient and they want us reduced to the level of the least productive," "the guys at Company A would just love to get their hands on some of our incentive pay," or, that last unarguable position, "our members will never stand for it."

The point has been made by American union leaders that single-unit or enterprise bargaining obviates any necessity for formal workers' participation structures, since the workers affected are involved in the determination of their working conditions from the formulating of demands to ratifying the settlement. Governments may deplore this negativism so discouraging for long-range economic planning involving all the partners, but, short of legislating, with all the risks encompassed, they can only await the day when the parties themselves realize that there may be advantages to full-scale economic planning partnerships.

Sweden—Centralized Bargaining

Centralization is the predominant tendency in the continental democracies of Western Europe, although the degree of centralization in Germany, for instance, is considerably below that of Sweden. In Sweden, bargaining takes place at the national level with one main body, the Federation of Trade Unions (LO), made up of 25 different unions speaking for the blue-collar workers, one organization (PTK) speaking for the white-collar workers, and separate groups responsible for government employees. Centralization is further intensified by LO and PTK acting together in the preparation of their strategy for negotiations, although they do not negotiate at the same time. They do, however, sit down with the employers' organization, SAF, to discuss broad mutual economic questions.

A key factor in making such centralization possible is that virtually all employed workers in Sweden, at least of the blue-collar type, are union members. Even on the white-collar side, over 70 percent of the nation's employees belong to unions. Sweden's public-service bargaining for over 1,000,000 workers can also be labelled "centralized." And yet, the number of instances of local authorities' determining wages is increasing. The employers' groups would like to see a more decentralized bargaining system with greater stress on industry

[2] *Report of the Inquiry Commission on Wider-Based Collective Bargaining,* F. Bairstow, Chairman (Government of Canada, 1978).

groupings. They are having serious discussions in their respective associations about the possibilities of consolidating efforts on the employer side.

As in the United Kingdom, there is a trend developing in Sweden toward lessening the number of trade unions within the LO. The number has been reduced from 40 to 25 during the last 10 to 15 years, and district unions have been merged into unions covering larger geographic regions. Of course, this development reflects changes in the economy as well as technological changes.

Swedish bargaining groups consist of representatives of a variety of occupations at both the upper and lower levels of the wage scale. Some of the industrial groups are very much in favor of wage-levelling or consolidating, while others are bitterly opposed to this form of egalitarianism. They are mindful of the fact that, not only do they receive less in wage gains, but the net effect is lower due to a steeply progressive income tax. This resistance to further compressing the wage gap is an important factor in the recent expression by the Volvo auto union members of a lack of enthusiasm for centralized bargaining. They feel that, as much-in-demand workers, they could do better if they bargained independently.[3]

Germany—Industrywide Bargaining

In the Federal Republic of Germany, bargaining takes place regionally or nationally through 17 different unions negotiating with their employer counterparts. IG Metall dominates the collective bargaining scene since, with its over two-and-a-half million members, it constitutes the largest union in the democratic world. But, even with Germany's centralized bargaining system, there are indications of informal extensions of bargaining at the level of the enterprise.

The DGB, founded in 1949, is the major German union federation. It represents the trade unions by participating in various groups on organization of the economy as well as in administrative, social insurance, and labor tribunals. It carries on extensive research and education tasks, but it does not engage in negotiations for wage increases or other conditions of work on behalf of its members.

On the employers' side, there are 43 associations. The largest group represents the employers in the metal industry.

The German collective bargaining system cannot properly be characterized as "centralized." "Industrywide bargaining" would be a more accurate appellation. The system includes a variety of arrangements, with bargaining structures differing from industry to industry. Generally, the outcome results in a form of minimum wage, but the more productive firms may provide other advantageous arrangements. Flexibility is still possible, especially where work councils are effective in securing fringe benefits.

There are regional agreements, which are the most common form, and a few individual company agreements, such as that between Volkswagen and IG Metall. Still others are valid in a particular branch of an industry. There are nationwide agreements and special agreements for a whole industry, such as food, glass, or oil. Printing has national agreements for blue-collar workers and regional agreements for the white-collar people.

[3] Interviews with Volvo union members, Goteberg, Sweden, June 1979.

Within the German context, there is a diversification of bargaining arrangements for particular industries, but there is policy coordination at the very top, and these efforts are all voluntary—not government directed. Since the degree of diversity is much higher among the unions than in the tightly knit, powerful structure which characterizes the employer group, labor finds the unified management group a formidable adversary.

Works councils are an important part of the German story. Required by law where more than five workers are employed, the councils have wide responsibilities. They are not bargaining parties, but they do have responsibility for interpreting agreements applying to their enterprise. Difficulties sometimes arise over their desire to enhance their roles through having a stronger voice in matters such as job security and technological change.

This rational system, which has been a key factor in bringing labor-management stability to Germany, was a legacy of the Allied Military Government in 1945, which involved all the major partners in the rebuilding of Germany. That involvement has held to this day because the partners were determined to avoid the fragmentation and chaos of the Third Reich. Although there have been some strains, labor and management have recognized the merits of cooperation when they received a new lease of economic life and in the admirable rebuilding experience that followed.

Japan—Enterprise Unionism

Japan's labor movement consists of more than 70,000 unions containing approximately 12,500,000 members, about 33 percent of the work force. Ninety percent of all the unions are organized within a single establishment and are called "enterprise unions." There are a few industrywide unions, with the Seamen's union as a notable example.

There are industrywide federations which include unions in the same industry, but there is no single labor organization that combines a majority of union members. A distinctive feature of the Japanese labor scene is the four national centers. Sohyo (General Council of Trade Unions of Japan) claims the most members, about four and a half million, two-thirds of which is in the public sector.

The four centers differ ideologically and in organizational philosophy. Sohyo backs the Socialist Party, while two others, Shinsanbetsu and Churitsuroren, have no political affiliation. However, in collective bargaining, they join with Sohyo.

In addition to these centers, another national group of significance is the International Metalworkers Federation-Japan, which acts as a collective bargaining coordinating body, with nearly two million members. It includes the iron and steel, automotive, shipbuilding, electrical products, and metals and machinery federations. Basically, political strategy is the responsibility of the national centers and federations, but it is the enterprise unions that actually hold the power in collective bargaining with employers.

A central body known as Kikkeiren is the chief employer spokesman for 97 industrial and regional employer associations. It includes about 29,000 enterprises which employ more than 10 million workers in both the public and private sectors. It does not actually engage in collective bargaining but does formulate general guidelines for employers, develop positions on legislation, provide employer representation on government bodies, and carry on research and education activities. Other

employer organizations exist but function mainly on policy matters unrelated to labor.

As mentioned previously, enterprise bargaining is the rule, although there are some industrywide or multiple-employer agreements, mainly in shipping, textiles and private railways. There exist more than 51,000 separate collective bargaining agreements covering about nine million workers. This pronounced tendency toward enterprise bargaining stems from the career-mindedness of most workers as well as a strong tradition of welfare within individual companies. For the most part, employers seem to accept the presence of unions and, at the same time, maintain strong welfare programs in their companies.

Unique in its approach to collective bargaining, Japan annually witnesses a phenomenon known as Shunto, or "spring offensive." The objectives of the Shunto are to coordinate and broaden enterprise-level bargaining while at the same time retain enterprise unionism.

Sohyo and Churitsuroren act as leaders in mobilizing as much of organized labor as possible during the period from March to May. An attempt is made to secure a nearly uniform annual increase in wages and benefits for all workers.

The goals of the Shunto are announced weeks in advance. The leadership then sets a schedule of waves of walkouts, industry by industry. Some of them last for a few hours and others for several days while collective bargaining is taking place. Even though a general strike may not occur, it may appear that way as successive stoppages, especially in transportation, proceed. In recent years, there may have been up to 10 million workers participating during one Shunto period. Conclusion of the 1979 spring offensive saw increases gained generally in the five- to six-percent category.

The United States and Canada

Three of the four English-speaking countries—the United States, Canada, and the United Kingdom—operate with collective bargaining systems that can only be characterized as highly fragmented and individualistic. In the United States, approximately 150,000 agreements make up the collective bargaining scene. Of these, about 1,700 cover 50 percent of all of the workers in all negotiating units. The peak labor federation in the United States, the AFL-CIO, to which most of the more than 100 national and international unions (but not the two largest—the Teamsters and the United Auto Workers) belong, does not negotiate collective agreements. The same holds true for the Canadian Labour Congress. Their functions are mainly political, consisting of public policy representations on the national scene as well as carrying out research and education programs. The AFL-CIO does, however, contain various departments, such as the Building Trades and the Maritime Trades Departments, which take an active role in coordinating negotiations for their constituent unions.

Of Canada's bargaining units of 500 or more workers, about 60 percent are of the single-establishment type; multi-establishment units cover about 25 percent of the employees. These units are to be found, for example, in railways, automobiles, communications, broadcasting, and meat packing. Although individual company bargaining is the predominant form for Canada, there are examples of provincial bargaining, such as construction in Quebec and the hospitals in British Columbia and Quebec.

The United Kingdom

In the United Kingdom, a gradual shift has long been discernible from

larger group bargaining to single-employer bargaining at the work place and corporate levels. By 1978, 67 percent of manual workers and 72 percent of nonmanual workers in manufacturing industry bargained in separate units.[4] The forerunner of this trend was the tendency to add on to national formal agreements certain separate understandings on working conditions that were germane to particular locations. Sometimes special wage codicils were included. Interviews with individual British managers indicate that this tendency to make provision for special local conditions not only will continue but will be expanded upon.

There are trouble signs on the British horizon. Resistance is setting in from skilled workers to the trade union leaders' efforts at wage-levelling. The skilled are reacting strongly against their declining relative position, and they are deeply angry that their extra skills, experience, and effort are not suitably rewarded. There are indications that the union leadership has gone about as far as it dares in the direction of egalitarianism without further antagonizing a key membership group.

British Leyland Company is the most prominent instance of industrial unrest caused by conflicts within the unions themselves. Obviously, there is more than egalitarian philosophy involved here. The union leadership knows its arithmetic. The unskilled and semiskilled have more votes in any union election, and it is their political clout that will prevail. The future prospects are dim, if prospective skilled workers are discouraged from entering on protracted training periods by the lack of financial recognition and incentives. It would seem that any coordinated bargaining machinery that does not take account of the dissatisfaction of the skilled groups will have difficulty remaining intact.

Australia—A Unique Experience

The Australian experience is unique. The systems of wage determination "down under" do not lend themselves to bargaining-unit statistical analysis, since wages are decided upon mainly through semiannual arbitrated awards handed down by the Australian Conciliation and Arbitration Commission. In many sectors of industry, such awards are augmented by "over-award" payments, which by the end of the 1960s constituted about half of all earnings increases. Thus, workplace wage bargaining that takes into account productivity justification became increasingly significant in Australia throughout the 1960s. Recently, that situation reversed itself. The Commission bases its decisions mainly on ad hoc indexation justifications policies that have been in effect since 1975.

The Australian Council of Trade Unions (ACTU) plays a far more open public role in wage determination than its counterparts in the United Kingdom, Germany, Canada, and the United States. When the national wage case hearings take place, now twice a year, the ACTU's chief economist presents a vigorous case for advances in the national wage level on the basis of increases in the cost of living, recognition for productivity, and social justice. His arguments are supported by spokesmen for several public-service and white-collar groups such as the Australian Bank Officers Association.

The union positions are then opposed by representatives of the National Metal Employers Association as well as the Building Trades Employers Association and spokesmen for the management side

[4] W. Brown and M. Terry, "The Changing Nature of National Wage Agreements," *Scottish Journal of Political Economy*, Vol. 25, No. 2 (June 1978).

of the public service of Australia. The Department of Employment of the Commonwealth government participates by supplying figures on growth rates, unemployment, inflation, and wages. Full daily press coverage of the proceedings is provided to the Australian public.

From time to time, one or another spokesman of the various groups will suggest that it's time to change the system and go to full collective bargaining procedures, but these expressions do not receive popular support. There is no discernible movement in the offing to depart from the government-dominated determination of the national wage package.

Employer Associations

Analyzing the bargaining structures of various countries' labor organizations underscores the importance of employer structures. Degrees of employer organization power vary among countries and industries within countries. In no other country is the employer presence as unified as it is in Sweden through its highly centralized SAF. Other countries have special industry associations, such as the Metal Employers of Germany or the nonbargaining Confederation of British Industries of the United Kingdom. However, for the most part, employers do not speak with one voice. Employer associations in France can be said to possess great power and to operate efficiently. This is especially true of the metal industry.

Although employer organizations exist in both halves of North America, only rarely are they involved in direct collective bargaining. Significant bargaining on the employers' side does, however, take place through organizations such as regional trucking associations or construction associations or multiemployer combinations of companies in one industry, such as steel or rubber. Generally speaking, this consolidation on the employers' side has stimulated coordination of bargaining on the union side.

In all jurisdictions, the trend toward consolidating of employer bargaining efforts can be noticed. Further acceleration can be anticipated. Employers are realizing that the proliferation of governmental regulation of employee relations, a sophisticated group with adequate financial backing, strength in numbers, and an experienced staff can have a significant lobbying effect on government policymaking.

In this varigated activity known as collective bargaining with its endless diversity of patterns, structures, and approaches, one conclusion emerges. Where socially responsive bargaining exists, in countries such as the Federal Republic of Germany, Switzerland, Sweden, Austria, and Japan, the common denominator is the presence of strong centralized employers' associations.

Highly individualistic union bargaining behavior is often a reflection of the lack of organization on the employer's side. The organization of the railway unions in Canada into one central bargaining group, for example, was a response to coordinated activity on the management side, which wearied of being "picked off," one at a time, by the unions. For those opposing centralization, autonomy is a strong compelling force, but the advantages of autonomy may be outweighed if lack of rational economic planning leads to the death of a company and consequent loss of jobs.

Where there are no central employer federations with major bargaining responsibilities and no union counterparts, the task of arousing economic concern for the greater good of the

public among the thousands of individual union and employer negotiators remains a formidable one. Short-range and close-to-home interests may impede any tendency to cooperate even on an informal basis.

Employer Hostility—A Decentralizing Force

Coordination of bargaining is not likely to occur in any significant degree in countries where the union movement is struggling for its very survival. In the United States and Canada, for example, many employers have not yet accepted the desirability of having their employees represented by labor organizations. Whole management training institutes have sprung up dedicated to the proposition of "How to Avoid a Union in Your Company." Many consultants earn handsome fees proffering such advice. Contrast this with the industrial climate of Germany and Sweden, where unions have long been part of the national economic and social policy fabric. With only 20 percent of the work force unionized in the United States, there are whole sectors of industry that are operating without any of the constraints imposed by permanent relationships with unions. The employers in building construction or southern textile mills would see no advantage in combining with other employers for purposes of bargaining.

Realism also demands that we look coldly at the limited prospects for coordination in countries where the current mood is hostility between the government in power and the organized labor movement. For evidence, one need only look at the ever-present labor turbulence in Australia or at the situation in Canada where there is a trade union movement officially committed to a Socialist party. The Canadian New Democratic party has only a small minority of members in Parliament. In the United States, the federal government is periodically engaged in an effort to restrict collectively bargained settlements of which it does not approve. Compare this fractious climate with that of the Federal Republic of Germany, Sweden, or Austria, where the labor movement is considered to be a respectable partner in formulating public policy and where leading government officials give recognition and public praise to unionists' contributions to economic-political stability.

The Timing of Negotiations

One of the notable advantages of centralized systems is the possibility of limiting the negotiating period to certain times in the year. Furthermore, the scheduling of agreement termination dates can take place. This is illustrated by the German experience, where in the metal industry the wage agreements expire on January 31, forming the pattern for other industries to follow.

As noted previously, in Japan the "spring offensive," or combined sets of negotiations, are conducted generally on an industrywide basis during a compressed period. This process permits the consolidation of wage increases and rational economic planning for industry leaders.

The United Kingdom's Confederation of British Industries is very much concerned with the effects of a permanent state of negotiating. Industrial unrest is constantly present, traceable in large part to leapfrogging settlements under the current system of individual-company bargaining. The CBI is engaged in an intensive effort to persuade its member affiliates to coordinate bargaining dates in an effort to reduce the number of bargaining periods, under the heading of a "Syncopay" policy.

Conclusion—Is There an Ideal Bargaining Structure?

The determination of the "best" structure obviously rests on the perception and experience of the observer. Assuming standards of social responsibility, including relative industrial peace and low inflation rates, this writer has reached certain conclusions.

The advantages of centralized or coordinated bargaining, as practiced in Sweden, Germany, and Austria, outweigh the disadvantages of the systems in the other countries under review. But, in order for the coalition format to work, there has to be a concern for long-range economic planning to overcome the loss of individual organization autonomy.

Even within the council framework, individual crafts can retain a great deal of autonomy and identification within their traditional union: in negotiation of specialized terms, in payment of union dues, and in enjoyment of union membership and job referrals. But the key bargaining decisions are taken within the larger framework—one responsive to the interests and priorities of *all* of the affected workers.

Desirable social goals can best be achieved when both labor and management leaders are involved deeply in the establishment of economic policies to the extent of participating in setting the rules of the game. These parties then have an investment in seeing to it that the rules are followed. It is this writer's opinion that, in countries with more freewheeling approaches, the governments may have to assume some responsibility for guiding the parties into newer, modified, and more coordinated structures.

This is not to suggest that there be greater government control of the bargaining process but that a positive climate should be created with the objective of involving, at a high level of economic policy deliberation, the major labor and management decision-makers.

Governments in Germany, Sweden, Austria, Japan, and even Australia show little reluctance to exert a strong influence in facilitating trade-offs among wages, prices, and employment. This includes both the establishment of structures, staff, and legislation. European unions with strong socialist tendencies more naturally look to government for protection. Sweden is an outstanding example of a country where a labor-oriented government passed favorable legislation. Labor legislation of the welfare-beneficial type tends to be universally applied. Unnatural union rivalary on issues that can be legislated seems pointless.

Legislating restructuring of collective bargaining partners may be a very last resort, but it should not be ruled out. Even that recourse may be preferable to excessive leapfrogging wage competition or the tyranny of the stronger groups to the detriment of the public interest. The mere dispelling of accurate economic data is an impossible objective in the face of inordinate fragmentation.

In the view of this writer, the public deserves assurance that the parties in the bargaining process understand their obligation to the uninvolved. The governments owe their constituencies this degree of leadership. Coordinated bargaining, assisted by government if need be, would be preferable to a ceaseless competitive jockeying among partners.

Collective bargaining does not lend itself to precise rules and regulations. There is no agreement among specialists as to whether it is problem-solving

or problem-creating in the sense of dividing or balancing power between the parties.

Collective bargaining is, at best, a limited-purpose instrument. Its accomplishments are formidable. It has done a magnificent job in helping to raise workers' living standards, bringing a greater degree of security and participation in the work place, and enhancing worker unionists' dignity. But it does not cause inflation by itself or create employment or eliminate poverty.

Collective bargaining is an important enough factor in the economic framework to deserve special concern, because, if the problems caused by a never-ending laissez-faire approach remain unsolved, there can be no hope for the survival of all other interrelated democratic institutions. Certain countries outside of North America have demonstrated the effectiveness of different approaches. Can we not profit from their example? The urgency is no less real in the United States and Canada. **[The End]**

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