INDUSTRIAL RELATIONS RESEARCH ASSOCIATION SERIES

Proceedings of the Twenty-Sixth Annual Winter Meeting

DECEMBER 28-29, 1973
NEW YORK

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PREFACE

The Association's Twenty-Sixth Annual Winter Meeting in New York gave special emphasis to practical problems in the field of industrial relations. There were discussions of economic stabilization policies, of the impact of federal standards, public employee bargaining, current labor law issues, job enrichment, and the growth of unions.

President Douglas Soutar's address was concerned with industrial democracy and the role of management.

The major theoretical discussion was focused on human capital theory and its contribution to labor economics. There also was a session devoted to contributed papers, selected on a competitive basis by a review panel. As in previous meetings, younger members of the Association were thereby given a special opportunity to participate in the meetings.

The IRRA is grateful to Douglas Soutar for his program arrangements, to Eileen Ahern and her New York committee for the smoothly functioning local arrangements, and to the authors of the papers in these *Proceedings* for their participation and for their cooperation in preparing their manuscripts for publication. Once again I am indebted to Betty Gulesserian for her unstinting assistance at all stages of these *Proceedings*.

GERALD G. SOMERS
Editor

Madison, Wisconsin
April 1974

You are invited to be a member of

THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

The Industrial Relations Research Association was founded in 1947 by a group who felt that the growing field of industrial relations required an association in which professionally-minded people from different organizations could meet periodically. It was intended to enable all who were professionally interested in industrial relations to become better acquainted and to keep up to date with the practices and ideas at work in the field. To our knowledge there is no other organization which affords the quadripartite exchange of ideas we have experienced over the years—a unique and invaluable forum. The word "Research" in the name reflects the conviction of the founders that the encouragement, reporting and critical discussion of research is essential if our professional field is to advance.

In our membership of 3,800 you will find representatives of management, unions, government; practitioners in consulting, arbitration and law; and scholars and teachers representing many disciplines in colleges and universities in the United States and Canada, as well as abroad. Among the disciplines represented in this Association are administrative sciences, anthropology, economics, history, law, political science, psychology and sociology. Membership is open to all who are professionally interested and active in the broad field of industrial relations. Libraries and institutions who are interested in the publications of the Association are also invited to become members, and therefore subscribers to the publications.

Membership dues cover publications for the calendar year, January 1 through December 31, and entitle members to the *Proceedings of the Annual Winter Meeting, Proceedings of the Annual Spring Meeting,* a special research volume (*Membership Directory-Handbook* every six years), and quarterly issues of the *Newsletter.* Dues for membership on standing order are:

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Sincerely yours,

Nat Goldfinger

IRRA President 1974
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PRESIDENTIAL ADDRESS

Co-Determination, Industrial Democracy and The Role of Management

DOUGLAS SOUTAR
Vice President Industrial Relations, American Smelting and Refining Company

One of the joys of the Presidency of this organization is the responsibility for programming the Annual Meeting. As the vast spectrum of subject matter slowly narrowed, with the invaluable aid of my program committee, a sinking feeling developed that the choice of topics for a Presidential Address was fast evaporating, and I begrudgingly took my leave of several old and new favorites you are enjoying with us at this year's meeting. Fortunately the subject of this address survived, which can be considered an anomalous state of affairs since on the one hand a trip around the world last August and September convinced me that next to inflation and incomes policy the issues of co-determination and industrial democracy and their various forms were near the top of the popularity list, while on the other hand, our program committee and their collaborators had not pushed it. I suspect that a good part of the explanation lies in semantics for our program does include a session tomorrow afternoon on "Employee Attitudes, Job Enrichment, And The Work Ethic," which undoubtedly will provide some overlap, as will certain of our other sessions. I also note that the subject has been covered at earlier IRRA annual meetings, and at the 1970 meeting of the International Industrial Relations Association. Nevertheless it is an ongoing matter that requires continuing attention. Your President enjoys another aspect of today's assignment, and that is the leeway afforded to generalize and speak somewhat more broadly than the usual participatory paper of an IRRA meeting might otherwise permit. This is a blessing for a management representative who, fortunately, is not held to the high scholarly standards of research and expostulation of those academic associates who generally set the tone of this august Association. And it is conveniently pertinent to my subject in view of the super-abundance of research and writing it has generated to date throughout the in-

dustrialized world. A notable earmark of this Niagara of literature is the lack of treatment by management representatives, who nevertheless usually end up as the heavies in most treatments of the topic.

A variety of terms contribute to the semantics which relate to co-determination and industrial democracy. They include "worker participation," "worker control," "joint consultation," "co-partnership," "profit sharing," "co-ownership," "self-management," "job enrichment," "job design and motivation," "open systems," "socio-technical systems," "goal setting and goal integration," "autonomous groups," "theories X and Y," "systems 1 and 4," "democracy at the work place," "participatory democracy," "humanizing the work place," and most recently by the UAW in its new agreement "improving the quality of work life" (instead of "humanization of the work place" which implies that workers aren't human, according to the UAW's Irving Bluestone).

Semantics aside, "particpation," as I intend to use it, means participation in management decisions and not simple formal or informal interaction and communication. The types of management decisions participated in vary with the country and its type of industrial relations system and related legislation, ranging from entrepreneurial type decisions under "worker control," which is "industrial democracy" in its extreme form, to the impact of personnel-social type management decisions on employees at the work place. The key consideration is participation in management decision-making *before* the decision is made. Any degree of involvement short of this will most assuredly not satisfy the purists who avidly promote worker partipation, and, in their eyes, will reduce the effort to a sham, and nothing more than the worn-out "human relations approach," as they put it.

To many observers the term "industrial democracy" is too broad, and a bit hoary with age, if not a remnant of a bygone industrial relations era, while to others "worker control" is too extreme a term. "Co-determination" of course is currently in high fashion, and exists in varying degree in a number of industrialized countries, while "worker participation" has been on the crest of a legislative wave in most industrialized countries in recent years. "Worker control" exists primarily in Yugoslavia where its impact on decision-making goes well beyond co-determination and worker participation as practiced in West Germany.

The German experience, practice, and legislation bids fair to become—if it is not already—the European Economic Community norm, and thus a potential model on which to base EEC legislation. The portent of this ripple effect on multinational corporations, especially those of U.S. origin, is obvious. Importation into the U.S. of advance

worker participation concepts could be considerably accelerated through this channel. If this is the wave of the future then many of us would prefer that the pace be set by domestic needs and pressures rather than through the forced draft of premature foreign forces.

A rather detailed review of the literature leads me to conclude that worker participation systems abroad have experienced, at best, only a modicum of success from the larger view of industrial relations systems worldwide. The most successful appears to be Norway's, primarily due to the spirit of cooperation between all parties, which is the key element importantly lacking in most other countries where conflicts of interest, even between employees and their plant and enterprise representatives, and their unions, usually produce the gap between rhetoric and performance in participation endeavors. Part of the waning interest in West Germany is reportedly due to union alarm at extreme left-wing manipulation of the worker participation effort as a mechanism to undermine capitalism and organized labor. Some suspect a substantial amount of such ideological thrust is behind much of the propaganda and promotion of industrial democracy throughout the world. Indeed, General DeGaulle viewed his dream of a form of labor-management partnership and participation as a solution to the capitalist-communist dilemma.

Nevertheless it would be unrealistic to discount the extent, sophistication, and support of many of these programs abroad, and particularly to discount the increasing worker and union demand for job enrichment and participation both worldwide and in America. Great Britain and Australia have given increasing attention to co-determination and more formalized worker participation but the proposals are subject to serious debate by labor and management in both countries. Replacement of Britain's shop steward structure alone is a monumental challenge.

In the U.S. industrial democracy can hardly be characterized as an idea whose time has come. Co-determination in the West German sense kindles no more enthusiasm than in Great Britain and Australia, although it has had its share of discussion and research. The historical backgrounds and differences in social, economic, and industrial relations patterns are simply too diverse between individual countries to lend themselves to easy generalizations. Nevertheless, over-simplification and over-generalization abound in current research treatments of this subject and others, such as the so-called multinational corporation problem.

Worker participation systems in several countries, and particularly West Germany and other West European countries, bear a considerable

resemblance, however, to U.S. collective bargaining treatment of plant-level matters. Local unions in the U.S. service their plants in somewhat the same way as works councils and committees, and often more effectively I suspect. Further, the degree of participation appears to be not all that different when one considers the subjects considered bargainable by our NLRB and courts. For example, the *Town & Country* and *Fibreboard* line of decisions, and the so-called Supreme Court 1960 "Trilogy" (American Manufacturing, Warrior & Gulf, Enterprise Wheel & Car) have greatly expanded Labor's ability to sit down and "reason together" on subjects formerly considered management prerogatives and exercised unilaterally. Other NLRB and court decisions, plus a proliferation of Federal legislation like the Fair Labor Standards Act, Davis-Bacon Act, OSHA, Equal Employment Opportunity Act, and proposed legislation covering pensions, workmen's compensation, and national health insurance, coupled with increasing union power on all fronts, have vastly broadened the scope of collective bargaining and the subjects for participation to the point where the importation of a European or Scandinavian model would almost be carrying coals to Newcastle. And the U.S. system relies heavily on the local union, its committees, and its grievance and arbitration procedures, despite the drift to company-wide, industry-wide, and coordinated bargaining.

New levels of sophistication in U.S. collective bargaining relationships in increasing numbers of important instances go well beyond the strict requirements for mandatory bargaining. Thus the parties jointly review and discuss many subjects on a down-to-earth and constructive basis which produces a range of mutual accommodations comparable to anything observable on most foreign scenes. And this is done without the increasing bureaucracy emanating from co-determination, worker participation, and worker control systems abroad, although I'm sure many in the U.S. professions associated with industrial relations would welcome the full employment such changes might bring!

As to the delegation of responsibility down the organizational chain, and the structuring of work to provide opportunities to employees to do their own thing, I suggest we observe the operations of America's largest industry by far—the Construction Industry, larger than Auto and Steel combined. And who is to venture, after observing the American "hard hat" at work, the claim that this industry runs on "outmoded authoritarian and autocratic" organizational lines, as many of our free enterprise critics have alleged! Indeed, these autocratic and authoritarian practices are about as hard to find in U.S. industry generally, in the sense claimed by these critics, as in the

family, church, local school, fire and police systems, or even the Army. All of our institutions have experienced what some might term breakdowns in authority, or at least very substantial changes, yet we are slowly adjusting to these new ideas distasteful as they may be to the established order. America, its citizens, and its institutions—and its government—have great capacity for adaptability and change, and it is my feeling that many of the work place and job enrichment problems so highly touted by the media and many writers will be resolved as a result of these innate capacities, particularly when coupled with our technological ingenuities and resources, which so often have outperformed the social solutions and blueprints. Nor will this change be through revolution as some have suggested. Our communications, commonalities, and checks and balances as a Nation are such that we run relatively little risk of catastrophic change.

Work place boredoms at all levels have received more than their share of print during recent years. One wonders whether some observers and writers have not over-empathized substituting their own standards and interpretation of the facts for the realities of the work place. The misrepresentation of the G.M. Lordstown dispute is a recent example, and no amount of evidence to the contrary from the parties seems convincing to these observers, or disciples of industrial democracy. Similarly overblown representations were to be found in electric and auto bargaining among others. It seems quite doubtful that job dissatisfaction, while good copy, is as virulent and widespread as depicted, and it seems equally unlikely that worker participation and co-determination to the extent of worker control and true industrial democracy are really desired by the great mass of American employees, both white and blue collar. Is it a forgotten fact that opportunity exists in large measure for everyone to progress up the American ladder? It does seem ineluctable, however, that as American workers have progressed in terms of education, health, affluence, and leisure time, and improved quality of life as well as quantity, each new plateau only unveils visions of and desires for new ones for attainment. This restless trait seems to infect all humans—not just Americans, and is an inescapable state of affairs that will neither go away, nor be solved by the proponents of industrial democracy. It is the responsibility of employers and their employees, our industrial system and its counsellors from academia and government, to solve such problems through the normal process of research, experimentation, negotiation, and change. We have done it before and will do it again. An economy capable of the performance of America's should be able to afford gen-

uine and necessary change in the work place for a greater percentage of its workers than can most of our world competition.

While much remains to be accomplished, much has been accomplished. One may validly wonder, however, whether the basic thrust of co-determination is consistent with accomplishment. Its basic thrust is to dilute leadership. But leadership is essential to successful human organization. It's difficult to run a ship by committee.

Collective bargaining has de facto and pragmatically matched most of the claimed accomplishments of the more formal systems discussed here. Non-union employers in certain plants and companies have perhaps done more experimenting than is readily achievable with represented workers, although no practices of widespread application have been generated thereby, e.g., the Scanlon and Rucker Plans, or those of Procter & Gamble, Polaroid, Texas Instruments, and others. And quietly within many organized operations experiments in job enrichment and "improving the quality of life" have been and are being conducted. At the bargaining table too we find current examples, such as the new joint committees on quality of life in Auto. As to worker control, industrial democracy, and co-determination on the enterprise and entrepreneurial level, officers of American Labor at the higher organizational levels have shown little real interest in assuming such onerous burdens. They seem to have enough problems running their own organizations!

Another question which constantly reoccurs to one reviewing the literature on this subject, and particularly the more critical commentaries on the American worker's lot, is the age-old but most pertinent one: "compared to what?" Despite their gripes most people like to work, and make the best of the work available while they dream of more desirable horizons. And in America they have, by general agreement, done as well or better as a whole than any other society in history. Yet we seem to be overrun by apologists.

Until a better system is clearly demonstrated we had best continue to accommodate to the one we have. As noted, we have been adjusting, through our collective bargaining system, and other employer-employee experimentation, to the workers' needs about as fast as practicable and affordable (as a nation), even though imperfectly. These efforts will be greatly enhanced by the continued research and analysis of organizations like IRRA. Hopefully such research will not be premised on the all-too-often observed assumptions that our industrial system and its primary participants are suspect and over-the-hill, but rather to look for the good within the framework of what is still the most successful system for the many. A positive approach to these

problems, if not fashionable in some circles, should at least not be cause for disapprobation.

In sum, my comments add up quite clearly to an endorsement of our own American approach to these problems of participative decision-making and job enrichment, and while I may not entirely agree with I.A.M. vice president William P. Winpisinger's comment that "worker alienation is a myth," the case has been overstated by too many observers. The role of management's representatives in all this parallels that of our labor counterparts, namely to concentrate our energies on improving over-all labor-management relationships, collective bargaining, work place performances, and our management and organizational techniques. In the process employees at all levels should reap the maximum harvest consistent with our individual and national means without requiring the crutch of new forms of industrial democracy.

I. ECONOMIC STABILIZATION POLICIES

The Problem of Setting General Pay Standards: An Historical Review

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SECTION 1. INTRODUCTION

This paper explores certain major aspects of the problems of establishing and administering a general pay standard in a wage control program. This topic must be carefully distinguished from other areas of interest which are closely related. We are not concerned here with whether or not a wage control program should exist, nor what its general characteristics should be. Nor are we engaged in an evaluation of these factors which contribute to the success, or failure, of a wage stablization effort.[1] Rather, the focus of these pages is the more narrow issue of the form and content of a general wage standard in a stablization program. The term general standard is employed here to refer to a single or limited group of rules which apply broadly in the economy to pay adjustments, and which standard is to be distinguished from other rules applied on as more limited basis; one might say an "exceptions" basis. The analysis of a general standard, even so circumscribed as here, is nevertheless a major topic, and can only be approached in these few pages in a summary fashion. Wherever possible, however, comparisons and examples drawn from the historical experience of stabilization programs in the United States are used to illustrate observations. The general purpose of these pages is to direct a few critical comments at the formulation of a general standard, with a view toward highlighting the factors which determine the choice among alternative standards.

SECTION 2. THE FUNCTIONS OF A GENERAL STANDARD

It is a fundamental proposition that wage stabilization policy involves both the exercise of wage restraint and the adjustment of wage

[1] These topics are treated at length in D. Q. Mills, *Wage Stabilization by Public Policy in the United States,* forthcoming, 1974.

relationships.[2] In fact, wage restraint depends upon adjustment of relative wages because a stabilization board cannot, in the long-run, resist the pressures for increases which are the result of distortions in wage structure. Fortunately, wage restraint and the adjustment of wage relationships need not be inconsistent in the short-run. Rather, both objectives are integral parts of a successful stabilization program. We may now add a corollary to the proposition cited above, that each of the administrative elements of a stabilization program, the general standard and exceptions, should be applied to the achievement of each of the two objectives of stabilization, wage restraint and adjustment of the wage structure.

The reader will recall that the so-called "Little Steel formula" (adopted in July 1942 by the National War Labor Board) served as the standard for general wage increases in World War II. It provided for wage increases for groups of employees equal to the rise in the cost-of-living between January 1941 and May 1942. The formula as just described, simple though it seems, was in fact a very sophisticated standard involving at least three elements. First, the formula permitted those wages rates which had lagged behind others in the period since January 1941, to be adjusted to the generally higher level prevailing in May 1942. The adjustment was made by reference to the increased cost-of-living during the 15 month period involved, and permitted increases of up to 15 per cent for workers who had received no increase since January 1941. Second, the formula provided that increases beyond the 15 per cent maximum permitted in the formula were to be approved only on the basis of such criteria as substandards of living and inequalities, as set forth in a message of President Roosevelt (April 27, 1942). No further general wage increases resulting from increases in the cost-of-living, increases in managements' ability to pay, rising productivity or from other factors were to be permitted. Third, the formula was designed in such a manner that a structure of wage rates among industries, occupations and regions, which was appropriate in the view of the Board, was created. Wage structure considerations were especially important in the selection of a base date from which the 15 per cent permitted increase would be measured.

Thus, in the Little Steel formula a single standard was, in part due to the happenstance of the existence of a recent period of stable wages and prices, at once a device to preserve real wages (up to the date of April 1942 only) and one to return to the wage structure to a position of relative stability. In a similar fashion, General Regula-

[2] See, for example, Arnold R. Weber, "Making Wage Controls Work," *The Public Interest*, No. 30 (Winter 1973), pg. 29.

tion #6 of the Korean War period's Wage Stabilization Board permitted increases of up to ten per cent above the level of rates prevailing in January 1950 (the Regulation was adopted in March 1951).

In contrast, in 1971 the Pay Board established a much less sophisticated form of a general pay standard. Abandoning concern for wage structure, the Board agreed to permit increases of at least 5.5 per cent for any group of workers above their base period compensation without provision for the possibility of denying the general standard even in exceptional cases.[3] The base period was defined as the one-to-four week period immediately proceeding the proposed increase, and the base compensation rate as that rate which was in effect just prior to the increase. Thus, the Pay Board accepted, at least insofar as the general standard was involved, the wage structure as it was in the latter part of 1971, including substantial distortions introduced by some six years of inflation in the period of 1965-1971.

Section 3. Criteria for Establishing a General Standard

In this section we explore the considerations put forth as germane to establishing a general standard. The criteria most commonly proposed as the basis for a general standard are increases in cost-of-living or in labor productivity (i.e., output per manhour), or both. Below we will investigate these criteria including the historical experience which has accumulated as to their application to wage stabilization.

Increases in Cost of Living as a Wage Standard

The fundamental importance of cost-of-living increases as a potential wage criterion arises from the impact of rising prices on living standards. Price increases threaten to erode purchasing power, so that earnings must be increased with prices in order to maintain their real purchasing power. In order to limit the hardship imposed by a stabilization program, it is often suggested that wages be permitted to rise in step with consumer prices in order to maintain living standards. Unfortunately, the use of consumer price increases as a wage criterion is not without considerable problems. In part, these problems arise from characteristics of the measurements of consumer prices, or, alternatively, from the often different behavioral patterns of earnings and wage rates. Let us examine several of these problems.

First, comparative levels of consumer prices and their rate of change vary considerably among areas in the United States. It is inevitable,

[3] In the Pay Board's reformulation of its regulations in October 1972, the Board allowed itself the perogative of approving less than 5.5 per cent in uusual cases. Little use was made of this discretion, however.

therefore, that disputes will arise in the application of indices of consumer price increase to proposed wage increases. During the operation of the Korean War stabilization program much attention was devoted to various measures of cost-of-living. Ultimately, the Wage Stabilization Board recognized for wage criteria eight other cost-of-living indices than the national Bureau of Labor Statistics Index ("the" Consumer Price Index). As the reader can imagine, this multiplicity of indices threatened to create substantial confusion in the stabilization program, especially where uniform national wage rates or wage relationships might be affected by varying cost-of-living indices. Second, there always exists a potential range of disputes over the degree of appropriateness of the composition of any price index. For example, some persons may question the items which are included in a consumer price index, and the relative importance of each item. Also, adjustments for quality changes in certain types of products may affect the behavior of the index (indices). Once a price index has been established as a wage standard, its definitional limitations, its degree of subjectivity to manipulation, its degree of alleged bias, and other characteristics become a field upon which issues of wage stabilization may be contested. Unfortunately, consumer price indices are rarely so complete and reliable as to withstand careful attention by contending parties. The result is to force a wage control program relying on price indices to adopt somewhat arbitrary conventions as to their interpretation and application to proposed wage adjustments. The problem of defending the indices is made worse by the tendency of price controls to cause concealment of actual price increases by black market practices, such as creating false new products, multiple wholesaling, and other stratagems. Third, consumer price indices normally include elements which are quite volatile in price. To accept the CPI as a wage standard threatened to base generally irreversible wage adjustments to a degree up on reversible price increases. Fourth, taxes constitute a significant portion of the CPI, and normally contribute to its rise. For example, between December 1965 and December 1970 increases in state and local sales taxes, residential property taxes, auto registration and licensing fees and Federal excise taxes contributed 1.7 percentage points of a total increase nationally in the CPI of 24.8 points. In some years the contribution of tax increases was as much as 0.4 points of a total of 5.5 points.[4] Thus, the use of the CPI as a wage standard tends to a degree to involve government in the anomolous position of permitting wage increases in order

[4] Unpublished *BLS* data.

to offset the impact of rising taxes, and at a time when wage and price restraint is required by a program of direct controls. Fifth, a difficult problem involves whether a price standard should apply to wage rates or to earnings. Earnings may increase more rapidly than wage rates for many reasons, including longer hours of work, additional premium pay, etc. Where earnings are rising more rapidly than wage rates, should the cost-of-standard be applied differently than in cases where wages and earnings rise at the same rate? And if so, how is such a policy to be applied to individual situations?

Since there exist such difficult problems in the application of a wage standard based upon cost-of-living, stablization authorities in the United States have tried to minimize its role as a standard for wage adjustments. Does such minimization prevent wages from keeping pace with cost-of-living? Not necessarily. The actual relationship between increases in earnings and increases in the cost-of-living during a stabilization program is *not* determined by the type of general standard adopted by the wage stabilization authorities. Rather, the relationship between earnings and price increases is determined by the interaction of a number of factors including economic circumstances (e.g., the degree of increase in hours and overtime worked, if any) *and* the overall impact of the application of the administrative standards for wage adjustments, however they might be formulated. In consequence, a stabilization program such as that of World War II which officially eschews a cost-of-living policy for wages, may yet experience rising real earnings levels, just as if a more explicit cost-of-living policy had been pursued.

Productivity Increases as a Standard for Wage Adjustments

Improvements in labor productivity have long been suggested as a standard for wage increases. In some instances the productivity standard proposed is a national average figure applicable to all wage increases; in others, productivity increases in certain firms or industries are proposed as standards for wage adjustments on a selective basis. There is, of course, a certain plausibility to arguments that wage increases should reflect increases in labor productivity, but there are also major limitations to these proposals. Like so many formulas for wage adjustments, the productivity standard is much simpler in the abstract than in its application to actual situations. At one extreme, the productivity standard, when applied generally in the economy, is no different from any other general standard for wage increases. At the other extreme, the standard, when applied on a selective basis, becomes extraordinarily complex to administer and subject to significant potential abuse.

The customary formulation of the productivity guidelines for wages in the United States (and in Western Europe as well) is that wages should rise at the same rate as output per manhour has risen historically. This rate of wage increase is, it is generally said, consistent with general price stability in the economy, and this consistency is often argued to be the economic justification of a productivity-based wages policy. Implicit in this formulation are two implications of great interest to workers and unions: first, that prices should remain stable (or at least reasonably so), and second, that real wages would rise, in consequence, by the same amount as long-run productivity.[5] Even should these points not be explicit commitments of the government, workers might be pardoned, if they, like other citizens, presumed that the rationale offered for a public policy implied its goals; (i.e., that prices should be stabilized) and, that the government was responsible for its success or failure to reach its implied goals. Unfortunately, it is often quite impossible for the government to guarantee price stability to protect rising wages against exactions in the form of increased taxes. The likelihood is therefore, in most (but not all) circumstances, that the implicit pledges of price stability and rising real incomes will not be met. The result of such failure by the government is to develop a situation in which workers and the unions are determined to rectify past injustices through their own actions (e.g., through collective bargaining), at the expense of wage and price stability if need be. Since the government so often is not able to achieve its implicit promises of price stability and rising real incomes, it is best advised not to make them. The failure of the government to ensure that real wages rise in step with productivity may have, as we have seen, very unfortunate political and industrial relations consequences.

The Price-Plus-Productivity Standard

In recent years much attention has been given to a formulation of a general standard for wage increases which includes the influence of increases in both consumer prices and labor productivity. The rationale most often given for such a standard is that real wages should rise in step with productivity, requiring that money wages also be adjusted upward to compensate for changes in the price level. In 1971 a form of this proposed standard was adopted by the Pay Board as the central policy of the wage stabilization program.[6]

There are several significant variants of the prices-plus-produc-

[5] This is not the only possible interpretation of the implicit promises of the productivity guidelines, but is, I believe, the most reasonable.

[6] Neil Jacoby, "After Phase II, What?" *Center Report* (Center for the Study of Democratic Institutions), 5, 4 (October 1972), pp. 10–12.

tivity standard. Three of the more important variations are described here. First, allowable wage increases may be *simultaneously* dependent on price and productivity increases. That is, wages would be permitted to rise by the same amount as prices and productivity combined in the curent year. A second variant is both *prospective* and short-run in character. The wage standard would, in this formulation, be established at a level equal to desired price and productivity increases in the current year. That is, a wage standard would be established consistent with the price and productivity objectives of the government for the current year. A third variant relates the wage standard to the long-term average annual increase in productivity, and to the target for price increases in the current year. In both the second and third variant, unlike the first, it is essential to the function of the standard as an element of price restraint to specify a quantitative figure for the general standard. This figure, which is the standard itself, is determined by a technical process involving both the estimation of the short- or long-term increase in productivity, and the selection of a target price increase for the future year. Unfortunately, these variants have become hopelessly intermingled in public discourse, and there has been little discussion of the problems associated with each.

Let us consider briefly several of the limitations, both practical and logical of each proposed criterion. First, the *simultaneous* standard is largely inoperable because of the difficulty of foreseeing the actual course of price and productivity increase in a given year. Yet many citizens understand the standard to imply they should receive, in wage increases, the sum of price increases and productivity increases, and will either seek to obtain an increase equal to their expectations of the increase in prices and productivity or will believe themselves ill-treated if they receive less. As a practical matter, average compensation per manhour in the economy often moves closely with the increases in productivity and prices, but may sometimes depart from it in either direction.

Second, the *prospective* short-run prices and productivity standard is subject to the difficulty that it will almost certainly work quite differently in different conditions of the economy. The essence of the standard is to establish a rate of increase for compensation per manhour consistent with a desired rate of price increase. It is argued by the proponents of such a standard that the difference between the rate of compensation increase and the rate of productivity increase (which is equal to the rate of increase in unit labor costs) will tend to equal the rate of price increase (since prices are believed to be proportional to unit labor costs). If the rate of productivity increase can be esti-

mated for the coming year, and a target rate of price increase selected, then the appropriate wage standard is their sum. Unfortunately, price adjustments reflect many factors in addition to increases in unit labor costs. When other factors are favorable to price stability, wages may rise less rapidly than a prospective prices-plus-productivity standard implies. When other factors are unfavorable, prices may rise more rapidly than the standard suggests. Furthermore, the actual course of productivity increase during a year may depart from its projected growth, possibly distorting further the ultimate (or *ex post*) relationship of prices-and-productivity and compensation increases. A distortion of the relationship between the implied increase in prices and the actual increase, in either direction, creates problems for a wage control program, especally in establishing policies for a further year of controls. If compensation-per-manhour were not to rise as rapidly as prices-and-productivity, in fact rose, unions and workers would argue for making up the difference in a further year. If compensation were to rise more rapidly than prices-and-productivity, business would argue for lessened compensation standards and/or increased prices in the following year.

Third, the compensation standard based on the long-run productivity and target price increases in the current year is subject to each of the practical problems just described plus a logical inconsistency in its formulation. The inconsistency arises as follows: if prices in the short-run are related to unit-labor-cost increases, then certainly the appropriate productivity component of a wage standard is the short-run increase in productivity, not the long-term rate. In fact, the summation of the long-term rate of increase in productivity with a short-term target price increase is an addition of non-comparable items; unless it is anticipated that the short-term rate of producivity increase will equal the long-term rate (a coincidence which reduces the third type of standard to a special case of the second type). Where it is not expected that the short-term rate of productivity increase will equal the long-term rate, then using the long-term rate to establish a wage criterion can have no intended relationship to short-term price consequences.

The implication of these criticisms of the various prices-plus-productivity standards is that the standards are generally imprecise in formulation, often failing to be related causally to the consequences predicted, and likely to generate future difficulties for the stabilization program by creating unwarranted expectations on the part of labor and business.

The Impact of Collective Bargaining on Inflation in the United States*

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Introduction

Collective bargaining affects inflation, and inflation affects collective bargaining. Can the difficult problems of interpretation created by simultaneous causality be surmounted? Perhaps. Let us explore here the peculiar contributions of collective bargaining to the stabilization or de-stabilization of the economy. Does collective bargaining serve exclusively to increase inflationary pressures, or does it in some ways restrain them? In what sort of economic and institutional environment does collective bargaining operate in a most stabilizing fashion? In which environment is it most destabilizing?

Aspects of Collective Bargaining Unfavorable to Economic Stability

Collective bargaining is a complex and multi-faceted process, so it should not be surprising that it has both favorable and unfavorable aspects for economic stabilization. In the short-run there are four potential consequences of collective bargaining as a wage-setting device which are threatening to wage and price stability.

First, collective bargaining may operate to increase wages generally beyond what is reasonable in terms of adjustment to changing economic conditions (including, for example, rising prices, rising profits, labor shortages, etc.) This is the so-called "cost-push" inflation. Further, cost-push is said to make it doubly difficult to achieve full employment because it raises wages beyond the equilibrium level in various labor markets, thereby causing unemployment. But demonstration that cost-push from collective bargaining is a significant, autonomous, contributor to general inflation is difficult.[1]

Second, collective bargaining tends to respond to a wider range of economic factors than do other wage-setting mechanisms and in some economic circumstances this may be destabilizing. It is well established that *all* methods of determining compensation (including unilateral

* This paper was presented at the Spring Meeting, 1973, but was not included in the *Proceedings* of that meeting.

[1] For an examination of the theoretical basis of the cost-push arguments see William G. Bowen, *The Wage-Price Issue,* Princeton, New Jersey: The Princeton University Press, 1960.

determination by employers) respond rapidly to labor shortages by increasing pay, but collective bargaining may also respond to increasing profits and prices (to cite only two other factors) with an alacrity and to a degree which other wage-setting mechanisms do not.

Third, collective bargaining structures may in some industries and areas contribute to an inflationary spiral by permitting closely interrelated wage rates to become distorted, requiring readjustments in the structure of wage rates, sometimes to the detriment of wage-price stability.[2] Inflationary pressures deriving from such distortions are especially likely in industries with multiple bargaining units, e.g., construction, printing, the public sector, and maritime.

Fourth, collective bargaining tends to put a floor under money wage rates—so that decreases in going rates are exceedingly unlikely except in major depressions (although in isolated instances involving very unfavorable economic circumstances, decreases in wages are sometimes agreed to, whatever the more general economic conditions). This downward rigidity in wages contributes to an upward bias of the general level of wages.[3]

Aspects of Collective Bargaining Favorable to Economic Stability

Against these unfavorable aspects of collective bargaining should be balanced a series of aspects favorable to economic stability. Surprisingly, some of these potential contributions to economic stability are simply the other side of the coin, so-to-speak, of those "unfavorable" aspects just listed.

First, collective bargaining in the United States, normally entails fixed-term contracts, so that wage rates and fringes are established with a degree of certainty for a period of from several months (though, in normal times, rarely less than one year) to several years (though, in normal times, rarely more than three years). In inflationary booms, the practice of fixed-term agreements imparts great initial resistance to a wage-price spiral. It is not likely that any other wage-setting mechanism could be so desirably inflexible in the short-run.[4] (Although, in some instances wage increases which anticipate an inflation could be

[2] See, for example, Arnold H. Packer and Seong H. Park, "Distortions in Relative Wages and Shifts in the Phillips Curve," *Review of Economics and Statistics,* 60, 1 (February, 1973), pp. 16-22.

[3] For a more comprehensive discussion of the destabilizing impact of collective bargaining see Derek Bok and John Dunlop, *Labor and the American Community,* New York: Simon and Schuster, 1970, pp. 281-311.

[4] During 1961–1965, e.g., compensation under collective bargaining lagged behind compensation gains in the total private economy. Marten Estey, "Wages and Wage Policy, 1962–1971," in William Fellner, editor, *Economic Policy and Inflation in the Sixties,* Washington: American Enterprise Institute, 1972, pg. 168.

destabilizing.) In part, this is because American labor organizations are well-disciplined internally, so that the wild-cat strikes and payment of wages above negotiated levels common abroad do not commonly occur in this country.

Second, collective bargaining may in some instances prevent non-economic practices from entering the industrial workplace during business expansions, by directing the careful attention of managers at each negotiation to what high sales volume and ready cash-availability are doing to loosen production standards in their plants. Effective management is, as a result, in a better position to control costs than otherwise.

Third, the process of collective bargaining itself and the grievance machinery of unionized plants permits a comparatively orderly approach to the resolution of production and industrial relations problems which commonly develop in a period of business expansion. Through the grievance procedure, especially, such problems are often resolved at their origin or, in the case of unresolved grievances, by private voluntary binding arbitration during the term of an agreement, thereby reducing greatly the likelihood of work stoppages, strikes or other disruptions. Such disruptions, whatever their cause, are not only expensive themselves—but they may often become the occasion for demands for wage or benefit increases.

The Net Impact of Collective Bargaining on Inflation

But, the reader might object, surely it is possible to conclude more about the *net* impact of collective bargaining on wage inflation than what has been said above. Probably the most sophisticated exposition of this question has been made by Sumner Slichter. Slichter concluded that unions tend to impart a small inflationary bias to the economy, but his most interesting analysis related to the more long-term consequences of the inflationary bias in wages. The tendency of collective bargaining to place sustained upward pressure on wages, Slichter argued, induces considerable technological progress as employers seek less labor-intensive methods of production. It also results in either increasing unemployment or price increases. But unions are, in Slichter's view, a major device for generating additional consumer income and spending, which results in increasing employment, a diminished susceptibility to economic recessions (which contributes to the long-run preservation of capitalism), and a reinforced tendency of prices to rise in booms. Because of the income generation effect of wage increases, Slichter observed, increasing wages do not generally result in increased unemployment (though there might be such effects in certain industries, or areas, on a limited basis). Were the public to

choose to attempt to minimize the income creation effect of collective bargaining in order to eliminate even moderate inflation, concluded Slichter, it would have to sacrifice a rapid rate of industrial growth and accept the increased likelihood of more numerous and more severe recessions.[5] This analysis remains, in the present author's view, the most plausible and complete understanding of the aggregate impact of collective bargaining in our economy.

But increasing wages is not the only method through which collective bargaining may have an impact on inflation. Changes in working rules and working conditions can also have considerable impact on labor costs, and thereby on prices. And condition changes may be negotiated which have either favorable or unfavorable effects—i.e., to decrease or increase unit labor costs. It is unfortunate that we have virtually no data which apply directly to the additional costs or savings from rules and conditions changes. Historical experience suggests that periods of high economic activity generate the growth of non-economic practices in private business, both in the union and non-union sectors. There is even reason to think that this process operated in the public sector as well as in the late 1960's. But we have little evidence of the independent impact of collective bargaining on the growth of non-economic practices in inflationary periods (though recent experience suggests it may be large). In the long-run, the economy may be better served by the negotiation of somewhat higher wage levels than by the creation of increasingly non-economic work practices.

Favors Affecting the Relationship of Collective Bargaining and Economic Stability

Whatever the net impact of collective bargaining on economic stability, it is certain that its impact is not the same in all industries nor in all types of inflationary circumstances. Business expansions are rarely distributed evenly across the economy. In those sectors experiencing rapid growth, collective bargaining may prove to be an additional destabilizing influence. In the decade just passed, growth was, for a period at least, especially strong in contract construction, health services, food retailing and state and local government services. Unfortunately, these were sectors of the economy characterized by highly decentralized collective bargaining, and, in health and government services, relatively recent union organization and consequently nascent collective bargaining. These characteristics caused collective bargain-

[5] Sumner H. Slichter, "Do the Wage-Fixing Arrangements in the American Labor Market Have an Inflationary Bias?" *Proceedings* American Economic Association, May, 1954; and "Economics and Collective Bargaining," in *Economics and the Policy Maker*, Washington: Brookings, 1959.

ing to be not a stabilizing nor even a neutral influence in these sectors, but rather a contributor to the inflationary pressures.

Collective bargaining does not respond alike to different types of inflationary pressures. For example, in the boom occasioned by consumer goods shortages at the end of World War II, collective bargaining, despite serious strikes, offered little or no independent inflationary pressures.[6] Even the decentralized bargaining system in construction operated to adjust wage levels to varying economic circumstances in the country, rather than to distort wage rates and leverage them upward. During the speculative boom of 1950-1951 collective bargaining agreements in major manufacturing reinforced a wage-price spiral, but on which was likely to have occurred anyway. On the positive side, the multiple-year term of some agreements provided a stabilizing influence prior to the application of controls. In the late 1950's, the end of the post World War II period of high production in manufacturing was not reflected by a retardation in wage increases negotiated in collective bargaining, but large settlements continued to be negotiated. These settlements were in part responsible for the moderate inflation of 1956–1959.[7] The role of collective bargaining in the inflation of 1965–1970 has been described above as being dominated by generalized demand pressures and by the undesirable consequences of decentralized bargaining and rapid growth in output in a few sectors of the economy.

We have, therefore, a complex picture of the relationship between collective bargaining and inflation—a picture in which the source of inflationary pressures and their differential impact on various sectors interacts with the varying structures of collective bargaining and timing of agreements. Whether collective bargaining serves as a constraint upon inflationary pressures or acerbates them depends on the factors listed above, and the net effect is often difficult to estimate, even after-the-fact. Public policy should seek to lessen the unfavorable consequences of collective bargaining and to emphasize those which are favorable to economic policy. There would seem to be no justification for an approach to stabilization policy which either by design or unintentionally is generally destructive of collective bargaining. How stabilization policy may be reconciled to collective bargaining and the advantageous consequences of bargaining must be the topic of another paper.

[6] See, for example, Albert Rees, "Wage-Price Relations in the Basic Steel Industry, 1954–1948," *Industrial and Labor Relations Review*, 6, 2 (January, 1953), pp. 195–205.

[7] Derek Bok and John Dunlop list and characterize these periods without describing the role of collective bargaining in each, though they note that it was "not the same in each." (Bok and Dunlop, *op. cit.*, pp. 292–293.)

Controlling Controls

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Government controls necessarily create distortions. That is a part of their purpose. William Walker, General Counsel of the Cost of Living Council is quoted as saying, "Wage and price controls are, by definition, disruptive and uneven in their impact."

He asked Senator Mathias' Subcommittee on Separation of Powers to "bear in mind the fact that controls are deliberately designed to interfere directly with people's economic behavior and that dislocation, distortion and delay are inevitable results of that process."

It seems quite well documented, moreover, that there is a correlation between price controls and capacity shortages.

Perhaps an apt inquiry for a meeting with this group's diverse interests would be to examine controls generally with a view to analyzing the position of government controls in an inflationary age.

Most of such controls are generally accepted. But when we come to "government" controls of wages and prices we are prone to think of this as another matter. Here government controls are likely to be nonproductive or even counter-productive, attended by "black" and "grey" markets, and with a cost much greater, we suppose, than any benefit. They come sharply in time and cut deeply into our usual pattern of day to day living and marketplace adjustments.

In the light of this analysis, is it fair to say that what we really object to is the character of controls—their breadth, their ineptitude as we see them, and perhaps the judgments of those individuals who are chosen to administer controls—rather than controls as such or as a mode of living in a populous society?

While not unanimous, there seems to be a view widely supported in the Executive and Legislative branches—as well as in the public generally—that most current wage and price controls have outlived their usefulness. If so, how best can the controls be ended as promptly as possible?

One method of decontrol, the segmented approach, seems to have valid uses. It was tried when Phase IV began. That experiment with forest products had its good points. Since then the segment of industry decontrol approach has been used to decontrol fertilizer because—and again, reflect on the question of distortion—it seemed to be the

only practical way to meet the product distribution circumstance raised by much higher offshore prices, plus the only way to insure an adequate supply of fertilizer domestically for next year's crops.

More recently many non-ferrous metal products were decontrolled. This was a recognition USA controls had no effect on higher foreign prices and that the foreign prices attracted metals which should have been going to domestic consumers.

The cement industry was also decontrolled under price stabilization agreements. Here low prices prevented expansion because of the low cash flow in the industry generally. The automobile industry was decontrolled for well publicized reasons, also under a form of price stabilization agreement. It would not be surprising if more decontrol actions were taken in the near future.

In total, and depending on how the computation is made, the nation's productive systems seem to be well over half decontrolled.

On the other hand, our energy resources are such that new controls in that field are currently being adopted.

Surprising as it may seem to some of you coming from a former industrialist, especially one subjected to a full measure of formal and informal controls, under some circumstances and in some hands and with varying degrees of severity let me say I am reluctantly ready to recognize that formal government controls for temporary periods can be an acceptable part of the whole legal and custom based network which surrounds our work and our daily lives.

The art in the matter is to know when and where and how much. The approach is not how can industry live half-manacled and half free. Rather, it should be this: Can this segment or that of industry, or any other form of organization in our society better survive and prosper, in the public interest, with the crutch of some degree of controls? Or would controls be a hindrance?

Freedom is conducive to productivity, and corporate freedom is no exception. It is simply an aggregate of personal freedoms collectively and productively employed.

We may not today take the time to discuss the ramifications of trusting to organized groups, operating as freely as possible in an open society, as the best means yet devised by man for achieving an endurable existence. It suffices now to say that on balance it works well.

Rigid government controls, on the other hand, have a penchant for distorting, delaying, and frustrating this method of organizing for productivity. Yet what does an anxious citizenry do through its government in the face of unbearable inflation or shortages?

Others have pointed out in weighing the advisability of controls that wage-push inflation has continued to mount in many nations in spite of controls. If so, why do we resort to formal controls? Why not rely on fiscal and monetary and other measures to do your controlling? I suppose the answer is half political and half in the average American's desire to pass a law when some supposed evil rears its ugly head.

We are, as indicated, witnessing another example of the latter feeling in the energy shortage. This is not to argue that a new law, or, if you prefer, a new set of rules or controls is not needed to cope with the situation. It is to say only that we again witness a wholesale reliance on new control rules to remedy what is essentially an economic matter.

It is also to bespeak for this new set of conduct modifiers the hope for an improvement in the handling by government, corporate, and, in many cases, union managements in order to insure a better result on this occasion.

When, and if, the Stabilization Act ends April 30 next, is it unsafe to rely on the unions and employers to work out a national wage policy on a catch-as-catch-can basis? Given the nature of union rivalry and the pressures from union memberships, are not the risks too great? Therefore, the word we hear is that there is needed a government appointed monitoring group of some sort that will call to task those who transgress too greatly toward inflationary settlements. Such an inquiry leads, of course, to monitoring the price side as well.

Conceptually, inflationary trends in wages and prices are difficult problems to meet and master. On the one hand experience teaches us to expect over-sized demands by some unions—demands which in theory can be moderated by an equalizing countervailing force on the employer side. Unfortunately, on the employer side the counterweight is frequently less than it should be. The prime example of this is construction which has had national attention. If the employer side, for all practical purposes, is more or less impotent, what then will contain the wage side short of government weight?

But the existence of a government monitor does not supply all the answers. If a monitoring group objects to a wage increase, by what standards will their objections be measured? Will we shortly have a new set of guidelines for both wages and prices along with compulsory data filing? Will the monitoring group be given a governmental big stick with which to enforce its edicts? If so, how long will it be before we are deeply immersed in the wage-price control marsh all over again?

A brief review of the alternatives for national wage and price policy invites a look at these types of alternatives.

1. Give the "no wage-price controls" policy another chance to demonstrate that it can function to advantage even in an industrial world surrounded by many nations with specific or informal controls of these matters and, at the moment, with massive evidences of inflation. From an international competitive point of view this means asserting as a United States policy that having a large number of single business and service units acting largely on their own and solving their own problems in the wage and price field is a stronger more resilient better long range "bet" than to place those units under a single government type of control.

It recognizes that the market system will many times have real tough going in competition with such things as what *The New York Times* (December 24, 1973, page 12), referring to oil producing nations, called a "worldwide squeeze by monopolists."

It means some reactions to current control periods which will trend unpleasantly toward more inflation.

It also means that internally the good sense of unions, corporations, political subdivsions, and the USA populace generally will be trusted to hammer out solutions as satisfactory as may be and more satisfactory than those likely to occur under unwanted, frequently unworkable in peace times, and largely unsuccessful controls.

If policy makers reject the "no controls" solution there are other alternatives.

2. Some form of government standby authority similar to the authority Congress gave the Executive in 1970 with the passage of the Stabilization Act of 1970. This would still leave unanswered the all important detailed plan of the exercise of such authority.

3. A third alternative is to establish a formal government group to monitor wage-price happenings in the economy generally and especially in bellwether settlements. One possibility is to give this group the persuasive power of government and public opinion only. This is no mean power but jaw-boning is not as restrictive as, for example, roll-back authority.

4. A fourth possibility is monitoring with the power of government sanctions. This might be accompanied by required reporting, submission of cost data and, before long, the regular exercise of the government "big stick" types of rules and regulations and specific powers of enforcement. The degree of distortions and counter-productive results this will bring will be measured by the restrictiveness

of the controls applied, to say nothing of the difficulties involved in arriving at a single general wage standard.

5. If it is determined that the first preference of at least this individual of no controls is unacceptable on the Hill and if some form of monitoring with final determination is to be made by other than by the negotiating parties themselves, then a new approach to government controls is being talked about.

It is based on the thesis that whatever limits the centralizing of economic power in a few hands tends to preserve the utility of the market system. It also assumes that a competent, interested, public spirited section of the citizenry can also play a useful role in helping to establish economic policy. It goes something like this.

The suggestion[1] involves legalizing an all-government monitoring group which would, in addition to taking the economic pulse of the nation, declare, from time to time, certain negotiations as too important to be permitted to by-pass review. It would refrain, however, from setting any guidelines or standards. I repeat, the monitoring group would not set guidelines.

The parties to the designated negotiations would be referred to a Certified Panel of what might be called "Economic Referees." The members of this Certified Panel would be chosen by the monitors, would be well paid by government for the time spent, and would not be otherwise a government employee or, in any particular case, associated with any of the parties.

When the parties had or were about to conclude a negotiation, their next step would be to choose possibly not less than three nor more than five "Economic Referees" from the Certified Panel, who would review the facts and approve or deny approval of the negotiated settlement as being in or not in the national interest.

The selection of the "Economic Referees" would be by mutual agreement of the parties involved. If this proved to be not feasible, their selection for the case under review would be promptly made by the monitoring group.

Short specified time limits would be provided by the monitoring group for selection of "Economic Referees," for review and final determination.

The determination of the "Economic Referees" in any given case would be final and binding on the parties and on government.

Like other plans which provide for government intervention, this "Economic Review" plan has advantages and shortcomings.

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[1] Whatever the merits or demerits of this new approach, it should not be attributed to my valued associates in The Business Roundtable.

On the advantage side are at least these.

(a) It provides less government intervention and more disinterested citizen determination. While providing restraints on the parties, it is only part way to government economic sanctions and not all the way.

(b) A rigid or any government guideline, which soon becomes a floor, would be avoided, although over a period of time a pattern of approvability would probably emerge. But this pattern would have many variables and no single determination would set a national guideline.

(c) The case by case review method by Economic Referees would permit variations by industries, recognize differences in country areas or occupation wage patterns as well as past practices, inequities, differences in fringe benefits, and a myriad of other negotiating factors along with and primarily the national economic interest.

(d) It would decentralize determinations of what was in the national interest rather than have it decided in one place by only a few finite minds who, if the truth be told, are called upon to manage too much with too little.

(e) It could be tried for a limited time and, if found wanting, could be modified or repealed in favor of another plan.

On the shortcomings side the plan might have these faults among others.

(a) The monitoring group might have difficulty in appointing the members of the Certified Panel of Economic Referees. The Certified Panel would have to be of considerable size, say twenty to thirty or more, and its members knowledgeable and owing allegiance to neither labor nor management.

(b) The Economic Referees' approvals might all move too far in any direction (although this is hardly likely), in which case the plan would have to be reviewed, modified, or ended.

(c) It involves more government authorized procedure and more time than no controls or review. But it probably could well involve more expedition and less red tape than if all cases were to funnel through a single bureaucracy.

(d) It does not permit management of the major wage negotiations from a single government point, which, however many think is an advantage rather than shortcoming as previously indicated. The possibility of a single team of Economic Referees being chosen repeatedly to the exclusion of other Economic Referees because of that team's evident direction in decision-making can be discounted. Some method of producing variety in selection could be made part of the Certified Panel procedure.

(e) The suggestion does call for selection of individuals for the Certified Panel whose decision-making would not be influenced by pressures from either side or by anxieties regarding future relations. But many have been subjected to such strains in the past and have acquitted themselves admirably. Personally, I would have confidence in their intestinal fortitude as they act in behalf of the economic welfare of the nation.[2]

Finally, and returning to the subject of "controlling controls," I suggest in summary the following:

1. The constant adjustments needed in group activities involved in the human condition and the productive processes needed to sustain it adequately are seldom aided, and frequently distorted and hindered by existing types of government wage and price controls.

2. Current wage and price controls should be cleaned out, lock, stock and barrel, by segmented industry or otherwise, and soon. If exceptions are made, such as Congress now seems to be providing in the proposed petroleum products legislation, they should be held to the minimum in number and duration, and held to types of controls which will create the least interference with normal business and labor functioning.

3. However we may dislike and distrust it, in some form the control process is becoming almost indigenous to the business of living with so many other people and providing for their human needs and welfare—but there should not necessarily be a panoply of overly rigid government economic controls.

4. If it is concluded some form of monitoring of wages and prices is needed following the April 30 termination of the Stabilization Act, rather than place the whole answer in government, perhaps some form of procedures could be developed so that government decision-making may be limited to the minimal.

5. Far more research is needed to know what we do when we control, what we benefit and what we harm; and better discovery of the most useful forms of the least restrictive controls is highly in order.

[2] It also is one opinion that whatever the need may be for dispute settling machinery, it would be well to keep disputes away from "Economic Referees." Their prime function would be to pass upon the economic results finally arrived at however that result is reached.

The Adjustment of Collective Bargaining to Controls

PAT GREATHOUSE
United Auto Workers

There are many problems faced by labor unions and companies in adjusting to controls. One of the first questions that come up is, are the controls fair and do they apply equally to both management and labor? Are prices and profits controlled as well as wages and other benefits? What about rents, interest, taxes?

Why are the controls imposed? Is it because of a scarcity of goods or services? Because of special circumstances such as a war? If it is to attempt to control inflation, what is the cause of the inflation? Is it a cost-push inflation or a price-pull inflation?

Workers and unions do not want high inflation even though it may mean that large pay increases may be negotiated. Periods of high inflation tend to further distort the wage and salary structure and widen the gap between organized and unorganized industries.

Controls may be imposed by the Federal Government because of an overall situation or applied piecemeal as a result of specific area or industry problems. Unions generally will agree with controls if there is justification and if they are applied evenly. If controls are put on following a period of high wage increases and moderate inflation, responsible labor leaders will cooperate and use the controls to balance and equalize the increases and wage rates in an industry, such as was done in the construction industry. When controls are introduced following moderate wage increases and high inflation several problems may be created.

This was the situation in 1971. Prices had risen consistently while wages had generally not kept up. This was due to many organized workers being under long term contracts without adequate cost-of-living protection and with unorganized workers not getting increases following the increases of organized workers. The rules adopted by the Pay Board discriminated between workers who received increases prior to the freeze of August 1971, and workers in the same industry or other industries who were due for increases following the introduction of controls.

Regulations adopted by the Pay Board also discriminated against workers in low wage enterprises by limiting their increases on a percentage basis even though they were in the same industry or same com-

pany as higher paid workers. Admittedly, in some depressed industries the guidelines may have been helpful because unions and workers could use the increase allowed by the application of the regulations as minimums as well as maximums. These situations, however, were in the minority. Many more people were involved in new enterprises or unorganized enterprises where management paid low wages and then gave a 5.5 percent increase, and used that as an excuse not to come up to the industry and to oppose organization of employees.

The acceptance of controls also depends on understanding that the controls are being administered evenly to all segments of society. In this regard there was a big difference between the controls of World War II and those of the last two years. Without controls on interest rates or profits it is hard to justify rigid controls on wages, especially in an industry with increased volume and high productivity increases.

The limiting of dividend payments was a sham which only results in greater capital value to the enterprise with less taxes to the government if sold because of the lower capital gains tax.

In adjusting to controls it may be desirable to take advantage of the opportunity to concentrate on improving conditions other than the so-called economic conditions. This can result in an improvement of the surroundings at the work place, better health and safety features, improvement of social benefits and lightening of the work load.

There was a serious problem in the setting up of the Pay Board to administer the controls established in 1971. The main problem was the fact that the public members did not give leadership to the Board. Also there was a serious problem as a result of lack of preparation for administering controls by the Administration. For the first several weeks of the operation of the Pay Board there was no fixed place for the Board to meet, no arrangements had been made for administrative help or secretarial help; the Board members, especially from industry and the public, did not have a relationship with each other, neither did they seem to be prepared to speak for their segment of society. There was also a seeming lack of understanding of administration of controls and, in a number of situations where the labor members were out-voted, they had to go elsewhere to seek relief. This was true as pertains to the retroactivity for adjustments which were due during the freeze period. The majority of the Pay Board refused to grant retroactivity; it was granted by the Congress.

Another was the exemption of people earning minimum amounts of pay. The labor members of the Pay Board attempted to get the exclusion set for those people earning $3.50 per hour or less, then $2.50; finally the majority of the Board set the figure at $1.90 per hour. Congress, in extending the law in 1972, remedied this situation.

A third example of the lack of perspective of the majority of the members of the Board was the refusal of the Board to grant the full increases negotiated in the aerospace agreements. The labor members of the Board opposed the action taken by the majority and the case was then taken to the courts. The courts reversed the action of the industry and public members, ordered that the case be referred back, and the cost of living council has since approved full payment of the amounts negotiated retroactively.

I am convinced that the American people generally, whatever their status, will accept whatever regulations are necessary and adjust to them accordingly, but only if the administration of those regulations demonstrates knowledge and impartiality on the part of those people and agencies administering such controls.

The International Scene and Controls– A Comparative Overview

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I Introduction

In view of the time constraints, we cannot possibly raise all of the relevant aspects of controls or incomes policy. Selection is therefore inevitable. Given my own special interests and the remit, this paper will concentrate on the attitudes of trade unions, the structure and content of bargaining and relationships with governments, because this represents a major area where I believe we can form some overview relevant to the question of comparisons.

While governments might have additional objectives, the reduction of inflationary pressures through wage and price controls is probably a necessary and sometimes a sufficient condition for the introduction of such measures. How employers respond is clearly important but this will not be discussed in similar detail here as trade union reactions which are often the key factor governing the continuation and success of the measures. We should recognise, however, that employers acting independently of trade unions can jeopardize policy objectives if, inter alia, they react to demand pressures by bidding up the price of labour where the policy relies on "guidelines" rather than on statutory controls.

II The 'Philosophy' of Incomes Policy

The first and most obvious distinction between the United States and Europe reflects a deep and fundamental difference in approach. The United States debates "controls" while Europe experiments with "income policies." This difference is important for two main reasons.

(i) "Controls" suggest a preference for the "free" interaction of supply and demand, not only on economic grounds but also for

[1] The views expressed here are my own and do not necessarily reflect those of my colleagues on the Pay Board. Acknowledgements are, however, due to Frank Herron whose comments on an earlier draft are reflected here.

This is a shortened version of the paper prepared for the Conference. Interested readers are referred to "Incomes Policy and Capital Sharing in Europe," Croom Helm, London, 1973, and "Incomes Policy" Ditchley Paper No. 38, 1971, both by the author. These set out the background information in a way consistent with my present approach. For a different comparative approach see "Wage Restraint: A Study of Incomes Policy in Western Europe," L. Ulman & R. J. Flanagan, U. of California Press 1972.

philosophical if not "ideological" reasons. The pejorative connotation of "controls" indicates that the measures are unpleasant, harmfully distorting and introduced only through the threat of something worse. Therefore they should be removed as soon as possible. This paper, however, will avoid the complicated debate on the respective merits of planned and market economies. It is merely observed that the use of the word "controls" can be seen as reflecting a particular set of values and attitudes.

(ii) "Incomes policy" (which here can be regarded as prices *and* incomes policy) in a European context, implies some broader combination of social and economic measures which also reflect particular value judgments concerning social as well as economic questions. While the wage restraints constrain collective bargaining, these are often accompanied by other reforms or measures which the parties to collective bargaining might wish to see implemented. Essentially, therefore, incomes policy frequently appears as a collection of measures, some of which act directly on the rate of change of incomes throughout the economy (controls) and some of which might be seen as providing some compensation to those affected by the constraints on collective bargaining and so persuading them to accept the entire package.

A preliminary definition of incomes policy, therefore, is a set of measures to induce those responsible for prices and incomes decisions to take different decisions from those they would have taken in similar economic circumstances but in the absence of incomes policy. Simplistically, this might be seen as an attempt to shift the Phillips curve (assuming that there is such an ascertainable and usable thing in the short run) by encouraging money wage settlements lower than those which would have been determined in the customary way at the same level of demand. Alternatively, it might alter the content of the wage bargain giving, for example, greater productivity for any given money wage increase. In this case the Phillips curve would not have been shifted but altered; i.e., the increase in productivity might be seen as causing a shift from one Phillips curve to another as the quality of labour improved, or its effort changed, without the rate of increase in money wages which would have been predicted from the previous Phillips curve.[2]

[2] I would indicate that I am agnostic, indeed probably a convinced atheist so far as the existence of an effective short run Phillips curve for policy-making purposes is concerned. I use the concept mainly because it seems to have gained a somewhat wide band of believers and it is perhaps easier for present purposes to use some of the concepts of the new religion if it simplifies and facilitates communication. However, if the religion were to become an established official one then because of my scepticism derived from British data it is more likely that my fate would be excommunication.

It is possible to see incomes policy in such simple disinflationary terms. Incomes policies in Europe, however, have often included additional elements. For example, they might seek to redistribute a total amount of wage increase "kitty" between different members of the same bargaining unit or on a national level between bargaining units so that the restraint of some groups might be accompanied by the higher absolute or relative money wage increases of others. In addition to providing the opportunity for such redistribution to the parties involved in collective bargaining, they also frequently incorporate social and economic policy measures which go far beyond disinflationary objectives.

Thus, while it can be argued that incomes policy should be defined in terms of its disinflationary objectives it can also be argued that to have any hope of acceptance and success it requires a series of additional elements which go beyond incomes or prices measures but without which wage bargaining will not be modified.

III Trade Unions and Incomes Policy

Despite including other elements acceptable to trade unions, the controls are often believed to threaten the very foundation of "free" collective bargaining and thus the traditional role of unions. While some unions might benefit under an incomes policy and be willing to forego temporarily free collective bargaining, trade unions prefer to determine terms and conditions by bargaining. It is not only preferred but an indispensible part of the very nature of trade unionism and seen as a necessary feature of a democracy.

Why therefore have trade unions sometimes agreed to surrender voluntarily some of their freedom to bargain collectively, and why have they on occasion acquiesced in legislation restricting collective bargaining?

There are two main answers, the first political. European unions are usually more "political" than American unions, political here meaning a clear and consistent identification with political parties. This can make them more receptive to policies from "their" party government than from political opponents. Conversely, and perhaps paradoxically, they may accept restraints from "opposition" governments to avoid placing their political allies at an electoral disadvantage through opponents claiming "politically motivated" trade union opposition.

The second reason is "ideological." European trade unions generally have a greater degree of *social* purpose in their background and policies. While the activists might be more motivated than the rank-and-file, it is broadly true that most European trade unionists hold

the political views of the party with which their federation is associated. In the case of single federations as in Germany and Britain, this link is with the Social Democrats or Labour Party. Where the unions are divided on religious or political lines, like France or Italy, party affiliations can still be easily observed. While recognising differences between them, it is probably true that trade unions in Europe are more inclined to pursue social and political objectives directly through government, preferably of "their" party, than in the United States. American trade unionists are not necessarily less interested in social issues but do not, on the whole, expect trade unions to pursue these objectives in quite the same way.

Because of the complexity of their aims and the realisation that they cannot be achieved solely through bi-partite collective bargaining, trade union acquiescence in incomes policies can be seen as a mixture of two elements:

(i) a government, preferably composed of "friendly" parties exerting leverage on money wage increases in support of other policies, and—

(ii) the expectation that government will introduce further measures facilitating trade union progress towards some of *their* objectives.

IV Some European Approaches

(i) *Austria*[3]

The tri-partite consideration of social along with economic issues is best seen in Austria. There, a variety of institutions facilitate discussions between trade unions and employers about wage and price developments, permitting sectional collective bargaining but subject to influence from the central bodies. These were created by the two sides themselves and not by a government seeking additional weapons to combat inflation. But the Wages and Prices Commissions are paralleled by other arrangements allowing both sides to influence the government's social and economic policies. Instead of wage and price policies being seen as excessive government encroachment on collective bargaining they are considered an integral part of a co-ordinated approach to social and economic policies. While unions and employers still have differences of opinion, there is also a broad concensus on certain issues which allows the possibility of agreed approaches to attain certain ends.

While improvements in the position of union members are no less real when achieved through consultations with government and

[3] For a fuller discussion of Austrian experience see "Prices and Incomes Policy: the Austrian Experience," H. Suppanz & D. Robinson, OECD 1972.

employers, trade unions, to survive, still need to demonstrate that the results were obtained by them. Related difficulties are that the benefits are received by non-members as well as members and the government might make political capital by taking credit for the measures.

The Austrian case, however, demonstrates the possibilities created by a prices and wages approach on a voluntary basis provided the two sides can influence other government policies. Its impact is qualitative since it is difficult to judge exactly the effect on wages and prices of the Commissions and the influence of unions on government policies. Nevertheless the parties themselves believe that the system allows influence to be exercised in a continuing and definite way.

(ii) *Holland*

The broadening of incomes policy beyond sterile wage controls is well illustrated by the Dutch Central Agreement for 1973. This was signed in the recognition that government had agreed to implement various measures, including an extension of further education for youths at work, a reduction in the size of classes at infants' schools, a revision of proposals to reduce public expenditure on social security payments, and a commitment to a more active regional policy. In addition, government was expected to ensure that the wage and price restraints would not only apply to the signatories of the agreement but also non-federated parties including the self-employed. The agreement aimed to limit the rise in the cost-of-living index in 1973 to 5.75 percent through containing aggregate price movements by keeping average profit per unit constant. When statutory price control (already in operation) was relaxed it would be replaced by the provisions of the central agreement.

This approach might be seen as a bi-partite agreement which, although depending on supporting governmental measures, nevertheless sought to minimise government intervention via wages and price controls by providing a voluntary alternative. The inter-dependence of all parties, however, was still explicitly recognised and, while partly an attempt to remove statutory regulation of collective bargaining, the agreement also recognised that conventional bi-partite bargaining alone could not meet the requirements of the negotiating parties.

(iii) *Ireland*

Prior to the Irish National Agreement of 1970 which sought to prevent statutory intervention, bargaining, had been decentralised although incorporating "wage rounds" linked by the sequence rather than the amounts of settlements. Two interesting features of the Irish

settlement were an initial flat rate increase of £2 per week and a threshold agreement which, however, did not operate for the first 12 months and later only compensated increases in the Retail Price index above four per cent. Subsequent percentage increases partly offset the flat rate increase but since these were inversely related to earnings some control remained over differentials.

Although not statutory the Irish agreement was enforced by the parties. It did not eliminate inflationary pressure but persuaded the government that the signatories were prepared to impose discipline on wage developments voluntarily.

(iv) *Finland*

The Finnish experience illustrates some of the problems of centralised bargaining. A Stabilisation Agreement (1968), following an economic crisis laid down a flat rate increase which caused internal strains in the trade union federation, eg white collar unions felt they had to maintain or widen differentials in order to grow. As in similar situations, wage drift also increased because, on top of the normal contributory factors, attempts were made to escape the restraints.

Consequently, centralised bargaining seems to require some flexibility concerning how "permitted" increases are allocated, perhaps differentially, within and between sectors. This would be similar to the Swedish system with its subsequent decentralised application of central "framework" decisions. Again the collective bargaining agents in Finland, in response to the constraints, requested compensating changes in social policy.

(v) *Great Britain*

My own country is, in some respects, an exception to the European model. Despite the existence of a trade union movement with both a sense of ideological commitment and a political alliance there has been reluctance to move from bi-partism to tri-partism or to a more centralised system. The replacement in 1966 of a voluntary tri-partite approach by statutory controls under a Labour Government was a source of discouragement. Moreover, governments have not been enthusiastic about attempts to pursue social political objectives outside the parliamentary tradition. The ideological commitment may also have prohibited a consensus approach to many problems.

V Some Implications of the European Experience

The most successful European experiences have been those resulting from tri-partite discussions followed by agreement. This has involved a surrender of some sovereignty in collective bargaining in return

for influence over wider areas of social and economic policy which might be seen as an expansion of collective bargaining into areas determining *real* as well as money wages.

Such developments require both the presence of some social purpose in the trade union movement and the existence of central organisations to formulate and press views on government. Once the process does get under way and some central agreement is reached on social policy, however, there is less need and opportunity to adopt partisan positions when applying the policy.

Sometimes, eg in Britain from November 1972 to March 1973, price and incomes controls might be imposed unilaterally by governments and are explicitly disinflationary, therefore more akin to the American concept of controls, and almost invariably occur in response to a crisis situation. In general, such espisodes are exceptional and incomes policies with longer term objectives must embrace more than mere control of wages and prices. This is the fundamental difference between America and Europe, namely, in the latter considerable support exists for comprehensive incomes policies in their own right. Trade unions in Europe and America, because of their differing ideologies, have different concerns. Because trade unions in Europe put more emphasis on the redistribution of income in the interests of greater social justice, they have to discuss some common policy on wage relationships before presenting policy views to government.

Incomes policy requiring centralised discussions on various issues, including relative wages, creates both opportunities and also sources of potential conflict for the trade union movement. Changing differentials might improve social justice but can also threaten the cohesion of trade union federations. This can be avoided if trade unions ignore redistributional considerations and pursue sectional interests within the prevailing constraints.

VI Conclusions

The inflationary pressures of the past eighteen to twenty four months have been so unusual and have so threatened both conventional demand management and incomes policies that it is questionable whether we can or should attempt a quantitative estimate of their respective merits. In countries employing incomes policies, people have tended to attribute the general inflationary pressures reducing real incomes to the incomes policies. Conversely, some countries have had to impose controls even though orthodox demand management policies themselves may not have caused the economic difficulties.

It is clear, however, that direct controls are now widely seen as

a necessary policy option. Whether these controls develop into an incomes policy depends to a considerable extent upon the political and social practices and objectives of the country concerned and the ideological centre of gravity of government, trade unions and employers. Generally speaking, in Europe incomes policy is not seen purely as a disinflationary strategy although this is always one of the objectives of government. Because of the wider objectives, however, Europe does not place the same degree of emphasis on quantification of results in order to justify incomes policy. Allowing for differences within Europe, Europe will, in comparison with America, emphasise the social and "political" aspects more than the quantifiable ones. There will be less reluctance to interfere with the "free" market system and a greater willingness to accept "distortions" as desirable social objectives.

It will be probably the case therefore that you will refer to controls and we will refer to incomes policy. Perhaps we are both right.

II. THE ROLE AND IMPACT OF FEDERAL STANDARDS IN INDUSTRIAL RELATIONS*

The Role and Impact of Federal Standards: Social Security and Pensions

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MANAGEMENT AND UNION POSITIONS

It comes as no news that unions attempt to use legislation as an adjunct to bargaining, seeking from law what they cannot obtain at the table, trying to improve the bargaining outcome by establishing high statutory criteria (pensions are an exception, as will be seen). To paraphrase, legislation is bargaining carried on by other means. Organized labor also presses for national standards when the states lag, pushes for state law when the opportunity offers, and tries to turn any gain in one sector into a precedent elsewhere. As in bargaining, a gap becomes an inequity which, when closed or narrowed, creates an argument for maintaining historic differentials. Naturally enough, these arguments do not always prevail and "labor" is not always united, to put the matter mildly.

It is even harder to generalize about "management" because it is less organized, less likely to have representatives who can bind employers. Yet in some states, workmen's and unemployment compensation changes depend upon "agreed" bills—the legislative result of private negotiations. This doesn't happen at the national level, except in the railroad industry and perhaps a few other industries in which union and management interests coincide.

By and large, employer interests oppose improved legislated standards, taking the view that neither employees nor unions give them "credit" for statutorily-mandated payments. Such standards, moreover, narrow the area of bargaining and, arguably, raise overall labor costs—a matter of dispute that probably defies proof or disproof. The

* The paper presented in this session by Roger C. Sonneman, American Metal Climax, is not included in the published Proceedings.

market may set a practical upper limit where other products or services may be substituted.

While usually the champions of state jurisdiction, once faced with the credible possibility of federal legislation, large employers prefer that the states be preempted from imposing additional obligations.

The Special Problem of Interstate Competition

John Burton's study of workmen's compensation costs concluded that for comparable employee groups interstate variations were slight ("1.5% of payroll, 1.2% of labor costs, 0.84% of variable operating costs, and 0.271% of total costs") and provided no rational basis for employers to choose to locate in states with "low" workmen's compensation costs.[1] Not surprisingly, his study led him to conclude that more generous benefits constituted a major variable affecting employer costs. (Indeed, an actuarial collaborator suggests that private carriers tend to assign a fixed "mark up" in setting workmen's compensation rates which makes benefit pay out (which depends also upon the stringency or liberality of coverage and other qualifying factors) the variable crucial to costs.) Expressed employer concern over increased mandated costs constitutes a major pressure, it is said, upon legislators to be wary and chary when considering benefit improvements lest some affected employers expire or flee in accordance with "predictions." Consequently, benefit levels tend to cluster, the generosity of the more "progressive" states held in check by the lower rates in potenitally rival states.

We do not really know whether that does happen or only seems to happen. Proponents of more generous benefits—notably labor unions—tend to argue that the "high cost benefits-flee to another state" gambit is a bluff that can be called with impunity and representatives from strong "labor" districts can be observed to vote for not only workmen's comp but unemployment compensation benefits and terms, minimum wages, and other compulsory emoluments undeterred by prophecies and threates of resulting disaster. Representatives with rural and suburban constituencies with higher income levels, with no great affinity for such benefits to begin with, seemingly attach great weight to the impending threats to the relocation of job-, income- and tax-producing enterprise and opt for modest benefits and terms. As plants become obsolete and shifts in markets and resources occur, firms decide whether to refurnish or obtain new quarters, and where. At such times factors of cost and convenience may come into play. "Business cli-

[1] John F. Burton, Jr. "Interstate Variations in Employers' Costs of Workmen's Compensation," (W. E. Upjohn Institute, 1966). These and the remainder of the Burton conclusions can be found in Chapter IV.

mate," which some believe is revealed by legislative generosity or hard-headedness, surely becomes a factor with some.

Perhaps there *are* interest-group adherents in both camps who conscientiously weigh the argument that local industry will be stimulated to move or settle elsewhere initially by liberal benefit requests.

The determinants of actual decisions remain murky and legislative decisions influenced by them turn on estimates of conduct that necessarily vary. It does seem reasonable that in labor intensive enterprises, substantial cost factors and the seeming prospects caused by legislated standards will weigh in the decision. So, also will recreational, climatic and non-cost factors. It may be significant that in an article on "New Factors in Plant Location," Maurice Fulton, president of a company providing location consultation services, did discuss labor costs (primarily in terms of family budgets) and did discuss tax considerations, but in neither connection were statutory benefit costs such as workmen's and unemployment compensation mentioned.[2]

Trends

During the 1930's the fiscal plight of the states provided the opportunity for a national administration with initiative and leadership to launch new programs and greatly expand upon earlier state efforts. But even in the heyday of the New Deal, federal standards did not always dominate—as the employment compensation program demonstrates. But Social Security—the name with which all of us identify the Social Security Act's Title II, which established the retirement and their survivors and dependents program—was an entirely national program with national administration and national standards.

Even with Social Security's enormous success, its later additions—the Disability Insurance and Medicare programs (appended elsewhere in the Act)—contain very large elements of local participation (about which more in a moment).

And more recently, the grant-in-aid programs—that for decades constituted the principle engines of federal non-defense expenditure, yoking federal funds and some federal standards with state and/or local administration, partial financing and some standards—has been displaced to a degree with two major programs looking in opposite directions. The SSI (Supplementary Security Income) program has to a considerable degree taken over from the grant-in-aid categorical assistance programs (other than AFDC). Revenue Sharing (with larger elements of state autonomy) have displaced other grant-in-aid

[2] 49 HARVARD BUSINESS REVIEW 4 (May–June 1971).

programs, but without the carte blanche to the states and localities that was to have been the program's hallmark. Instead, Congress attached numerous conditions to the funds.

Our pluralistic society keeps coming up with new complex and relatively undogmatic mechanisms that reflect quite divergent views. Some might say that we simply cannot make up our mind.

In my judgment, we make choices that turn primarily upon the perceived weaknesses or strengths of particular programs. Private pensions and Social Security provide examples.

Social Security

At its inception in 1935, Social Security provided only retirement benefits patterned largely on a private annuity model. Even before any benefits became payable, dependent and survivor benefits were added and the social element replaced the private insurance design. Numerous charges and expansions have occurred in coverage and benefits (in real terms). Benefits are based upon a career average of pay credited for Social Security purposes. In 1950, a "new start" for computing that average was instituted so that claimants could use only years after 1950 and drop out 5 years of the lowest credited earnings, thereby reducing the drag of early years of low pay and low limits upon creditable earnings. Congress changed the benefit formula applied to the resultant average many times. But replacement of a higher percentage of low average pay than high average pay has been a firm feature of the benefit formula. This weighting, however, is less than it often appears because high average pay recipients receive the same percentage replacement for *that* portion of their former pay, family maxima are proportionally more generous at the higher end of average pay, and a substantial portion of low pay recipients are women heading families who will not receive spouse's benefits, a very valuable part of the Social Security benefit package. The lesser life-expectancy of non-whites, who constitute a disproportionate sector of the low wage group, mean a shorter period of retiree benefits, another partial cancellation of the advantages of the weighted benefit formula.

"Contributions," consisting of payroll taxes levied equally upon employer and employee, have always been at a uniform rate, which (with Medicare and Disability Insurance) now take almost one-quarter of gross pay up to $10,600 this year and $12,600 in 1974; thereafter the taxable base will rise roughly in concert with the Consumer Price Index.

The uniform tax rate meets the problem of undesirable interstate competition, albeit with a regressive rate whose burden has begun

to be felt by low and middle income earners. (The self-employed bear only ¾'s of the combined rate—one of those rough, pragmatic compromises that one finds throughout Social Security.)

The earnings-related Social Security benefit formula arguably adjusts benefits to local economic conditions. So, the benefits of a low wage retiree in Gadsden, Alabama reflect the economic conditions of that area while those of a Milwaukee, Wisconsin retiree are geared to those in his work area. Moreover, the weighted formula provides low wage workers all over the country with a proportionally larger earnings replacement than that accorded higher wage workers. But, to the extent that the lower average derives from the prevailing wage rates of a particular area, one might object that the disproportion is inappropriate. But such an objection implies a preciseness of adjustment that no mass system can achieve.

An employee who migrates from a low wage to a higher wage area also will suffer under Social Security from the drag of those low pay years which becomes greater and greater as the 1950 "new start" becomes more and more remote and hence less and less efficacious. The "career average" suffers from that drag effect which tends to lessen the degree of income substitute provided for earnings immediately preceding retirement—which would seem to be the most practical yardstick of need in retirement.

The weighted formula means not only income redistribution from middle income currently employed to formerly lower pay retirees, but it also means some redistribution from higher pay regions to lower pay regions where weighted low benefit retirees are more concentrated. "National and Regional Variations in Earnings under Social Security, 1968" Office of Research and Statistics, Note No. 17–1973 (DHEW Pub No. (SSA) 74–11701).

Trends—State and National Elements

Two major — and contrasting — Congressional actions provide potent evidence that the public and elected officials favor the brand of national program provided by Social Security.

When in 1956 Congress enacted the Disability Insurance element of Social Security, it engrafted for the first time major elements of state influence. Initial determinations of individual disability must be made by a state agency and the state vocational rehabilitation agency must be consulted. Although the statute provides for automatic review of the initial state agency determination by the Social Security Administration, the latter may, at that stage, overturn only a grant of benefits not a denial. (In practice, Social Security often "suggests"

reconsideration of denials and in a very high percentage of cases the state agency reconsiders and changes the denial to a grant.) But the point is that Congress in 1956 showed great distrust of the Social Security bureaucracy.

Again in 1965, the pattern of Medicare demonstrated, in part, distrust of the Social Security Administration, although many of the features—notably the use of intermediaries—won support for Medicare from the ailing non-profit health insurers and the leadership of the American Hospital Association. Rate making and qualification were deliberately left to local forces and bodies, decisions that have turned out to be quite expensive and may be modified.

By the 1970s, however, Social Security's prestige had grown so that it was the favored instrumentality to administer the Family Assistance Plan. (It's hard to believe that the Administration seriously supported a program which it sent into the world with an acronym like FAP — or perhaps they never read Smoky Stover.) After that miscarried, the Administration and Congress both chose the Social Security Administration to administer SSI — Supplemental Security Income, the national standards program that takes over the categorical assistance plans other than AFDC.

The decision seems to mean that when Congress desires to improve efficiency and promote humane administration for a "deserving" population, it turns to Social Security; but when it wishes to deal ungenerously with a suspect population, it selects state administration (as with DI and AFDC).

Meanwhile, throughout the 1960s, Congress repeatedly improved Social Security cash benefits. Automatic cost-of-living increases in benefits and the taxable base begin in 1975. It is hard to believe that Congress will forego its annual or bi-annual rites of sweetening benefits beyond these automatic improvements. It may even nerve itself to a general revenue supplement to lessen the regressive tax formula. Social Security seems *the* outstanding success of national standards with national administration—at least with Congress, organized labor's leadership and the electorate at large — rather influential groups.

Private Pensions

Private pensions, in contrast, are in trouble with the populace and the media. Whereas Social Security covers almost the entire private work force, private pensions — at the Treasury's last count — covered 23 million employees, a considerable cry from the advertised 30 to 35 million. Worse yet, the Senate Labor Subcommittee's study of plans covering 6.9 million for a period of almost 20 years indicates

that only 4 percent of the participants achieved benefits while the overwhelming bulk of formerly pension-covered job losers had no pension claims to show for the experience. Even Better Homes and Gardens (in a September 1973 editorial) howled, "Hoax."

What had gone wrong with the tens of thousands of plans that together constitute something like $160 billion in reserves and add another $16 annually according to the SEC? Nothing had "gone" wrong — they were misdesigned to begin with: benefits were always reserved for static workers in an economy of great mobility, especially in pension-covered sectors like defense manufacturing.

Contrary to claims that no law governs pension funds, a vast web of state law governing insurance companies and trusts applies to pension plans. But they are simply inadequate to the special needs of this special set of devices. State laws do not address themselves to the crucial issue of how eligibility is attained. Nor are the doctrines designed to protect the interests of spinster daughters in funds placed in trust for them by their successful and solicitous fathers adequate to trusts established by employers whose out-of-pocket costs may rise when large groups of employees achieve eligibility. Only a minority are covered by plans administered by unions or jointly by unions and employers. Again, the institutional parties frequently have interests at odds with those of employees, especially ex-employees who also usually are ex-members, the class most benefitted by liberal vesting. As experience demonstrates, attempts to recapture funds improperly used take time and money and then may fail completely or partially.

The mid-1950s experienced a furore over misapplied welfare funds—such as kickbacks, profiteering on insurance by union officials or their relatives. Pension plan funds were not directly implicated, but were swept into the legislation because they sounded as if they were subject to the same abuses. No one condoned such abuses. But then, no one was eager for strict controls either. So, the liberal friends of organized labor's leadership diverted the demand for reform into the Welfare and Pension Plan Disclosure Act. Borrowing from the Securities Acts, its device was "disclosure" to enable a vigilant press and inquiring membership to ferret out misdeeds. A dubious device to protect securities purchasers, the Disclosure Act was weaker — lacking an SEC to ride herd. Even more importantly, the technical intricacy of reports defied analysis, especially in light of the fact that the experts hire out to employers and, to a lesser extent, unions. Reform was defanged. About the only gain was a source of data for a handful of studies about pension plans. But only a handful of people were in-

terested in *that.* A handful of state disclosure acts elicited no more—usually less.

Fifteen years after enactment of the Disclosure Act, Congress seems seriously at work on pension plan vesting, funding and fiduciary standards. The Senate has passed a bill — 93–0, which is some kind of record. Just consider how toothless a measure must be to muster unanimous support.

The House Labor Committee has reported out a bill. The Ways and Means Committee worked on a measure in October and November but abandoned its attempt to report out a measure for House action in December.

Two things seem certain — if enacted, the measure will pre-empt state action on plans covered and the standards imposed will affect practice very little.

The reasons are not far to seek. No interest group supports real reform — i.e., change in the conditions that gave rise to public demands for reform. Employer groups, insurance companies and banks want legislation that will appear to effect reform but will not disturb their accustomed ways. Nor do unions want reform. In all plans, the presently provided benefit formulae depend upon difficulty in achieving eligibility. Were larger groups to make the winner's circle, plan costs would go up, at the expense of present pay and other fringes. And for whom? Ex-employees who are ex-members. Hardly a proposition to muster union fervor.

Is no one supporting reform? It would seem that a handful of elected members of Congress and a handful of staff. But they must depend for clout upon a few unions — notably the UAW, Machinists and Steelworkers—who want legislation for a federal government-operated pension reinsurance program to guarantee the payment of benefits when plans terminate with insufficient funds — problems that those unions face in their industries. They don't care about vesting, because they already enjoy 10 year vesting, the best in common use; and they are not about to force the rest of organized labor into opposing their reinsurance plan by pressing for more liberal vesting. They do not care about rapid funding — because reinsurance would take up most of the slack left by inadequate funding.

So, the Senate-passed bill permits plan participation to be delayed until age 30 — and no group of substance protests. The Senate-passed bill mandates 25% vesting after 5 years credited service (which for one who starts work at 18 can mean 12 years of service) growing by 5% annual increments to 50% after 10 years' service and then by 10 year increments to 100% vesting after 15 years. But even that schedule

would be phased in, starting with 50% of the schedule in 1976—or 12½% vesting for 5 years' service under the Ways and Means version. As applied to a moderately good blue collar plan paying $6 a month per year of service, the Ways and Means bill would net a benefit of $3.75 a month or $45 a year payable many years hence to a person separated in 1976 from a pension-covered job with 5 years' service. Most benefits will be on this order—paltry—because the great bulk of job losers have less than 10 years' service.

But that's not all — as the books ads say. The House Labor Committee bill would offer a choice — primarily to employers, but to unions also — to choose among three vesting formulae. As the choice would be made by those with the most illiberal current provisions, it stands to reason that the choice would fall upon the least corrective provision. Conceivably, vesting provisions could be made even less protective than they already are by an employer installing a Congressionally-approved vesting formula. Who would tell the employees that they had been had?

Such is the impending shape of national pension standards.

Private pensions look less promising all the time. Should we experience large permanent layoffs in pension-covered sectors of the economy, their performance will be less impressive still.

That's one major reason that Social Security will continue to expand and improve.

The Role and Impact of Federal Standards Workmen's Compensation and Unemployment Compensation

J. ELDRED HILL, JR.
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It is not easy to say something new about either unemployment compensation or workmen's compensation. About the only way to say something *new* is to say something *good.* For many years, the unemployment compensation system has been a favorite target of critics—ranging from the professor's chair to the barroom stool. And, more recently, it has become open season on workmen's compensation.

The complaints about these two social insurance programs are essentially the same. The benefits are too low; the coverage too limited; the administration spotty; the incidence of costs inequitable; there are too many abuses. The recommended remedy most often prescribed is increased federal involvement, usually the imposition of mandatory federal standards. Major legislative proposals to extend federal controls in both U.C. and W.C. are likely to receive serious Congressional attention next year.

Although I am tempted to respond to some of the criticisms documenting the enormous good accomplished through these two unique programs, I will forego that in favor of examining the suggested cure—and some of its side-effects. Do we really want to shift the basic determinations affecting unemployment and workmen's compensation from the State Capitols to Washington? How great is the healing power of federal standards?

Two or three general statements about the objectives of the U.C. and W.C. programs are essential to a beginning. These are just broad premises about what the systems are designed to do—*not* how well they do it.

(1) The systems were each designed to protect the individual against specific industrial hazards, namely unemployment and accidental injury and/or work-connected disease.

(2) The *unemployment,* in the purest sense, was to be involuntary—or, as frequently stated, through no fault of the unemployed. The *injury*—or disease—in the purest sense was to arise out of, and in the course of, the worker's employment.

(3) The protection was to assume several forms. In the case of the unemployed, the public employment service—established and maintained out of unemployment taxes—was to locate and refer the individual to other suitable work. In the case of the injured employee, the system was to furnish medical and rehabilitation services designed to restore the individual to optimum physical capacity and return him to work. But, in reality, the feature that has consistently overshadowed these restorative objectives is the provision of direct *income maintenance.* How many dollars does the adversely affected individual get per week—and how many weeks can he get it? These have become pivotal questions. Assessment of program adequacy has evolved into this tragic over-simplification: how much and for how long? The ability of the U.C. or the W.C. program to deal effectively with a given circumstance—whether it properly defines its beneficiaries, whether it equitably apportions its costs, whether it alleviates the problem or unwittingly prolongs it—all of these are the real gut questions upon which value judgments ought to rest; but they don't. For most of the U.C.-W.C. critics—be they liberal or conservative, management or labor, college professor or bureaucrat—the benchmark is *dollars*—how much and for how long?

With that preface, let's look at the "role and impact" of federal standards.

The two reasons most frequently advanced for federal standards are:

(1) to achieve uniformity among state laws, and
(2) to produce "adequate" benefits.

Uniformity is concerned with cost differentials and the impact of inter-state competitive relationships. Benefit adequacy includes coverage and duration, as well as the weekly benefit amount.

Let's examine the desirability of uniformity.

Proponents argue that minimum federal standards would make benefit costs more uniform, thus substantially eliminating the competitive burden on business in high costs states. The argument proceeds to the conclusion that improved program components will result once this competitive differential is dissolved. The assumptions upon which the argument is based should be tested against actual experience.

The high costs states (or industries) are not necessarily those with the most generous benefit formulas. Instead, the cost differences seem to be due primarily to the incidence and the severity of the occurrence of the hazard insured against. For those states with a high incidence rate but a conservative benefit formula, a federal standard

would force a bigger increase in costs than prevails in other states already meeting the higher benefit at a lower cost. The point can be illustrated.

Based on the most recent comparable figures available (1972), the maximum benefit for unemployment compensation replaced 59% of the average weekly wage in both Colorado and New Hampshire—but the cost rate (benefits as a percent of total wages) was .31 in Colorado and .61 in New Hampshire although the average weekly wage was higher in Colorado: $149 vs. $131. Why? Because of the incidence of the risk covered hazard. Insured unemployment in Colorado was only 1.2%, while in New Hampshire it was almost twice as high at 2.3%. Idaho replaces 55% of its average weekly wage of $130 as its top U.C. benefit, while Maine replaces only 52% of their $124. Yet, the cost rate in Maine is higher—because Idaho has a slightly lower insured unemployment rate.

Moreover, the kind of federal benefit standards currently before the Congress in both unemployment and workmen's compensation are, in fact, based upon the differences in the prevailing wage levels. This kind of standard will magnify rather than eliminate the cost differentials among the states.

For example: The 66⅔% of average weekly wage concept used in both programs can be met in a "low cost" state like Arkansas—with an average weekly wage of $117—by a benefit of $78. But, that same formula applied to a "high cost" state like New Jersey means a benefit of $112—based on its average weekly wage of $168.

Whether cost differentials—the so-called "competitive factor"—have any significant influence upon program development is highly questionable. But, even if one concedes the point, the imposition of federal standards aggravates the problem.

The other reason frequently advanced in support of federal standards—i.e., to produce adequate benefits—is predicated upon the assumption that benefits are, in fact, too low. This poses the question "What are adequate benefits?". The answer—whether the subject is unemployment compensation or workmen's compensation—is answered differently by two well-defined camps. One consists of those who argue at all times that benefits are too low; the other complains of abuses, free-loaders and stoutly maintains that increased benefits would be catastrophic. "Adequacy" probably lies somewhere in between. Once the matter of exactly where is resolved, the imposition of federal standards would produce that level—swifter than any other method. But some undesirable side effects would accompany the federal mandate. For one thing, the crucial question of who should decide what is the

appropriate levels of indemnity for these social insurance programs would be resolved. The national government would assume this responsibility which has traditionally been a state-by-state determination. The difficulties inherent in setting a single, natonal, standard on benefits which will be both adequate and equitable is demonstrated in President Nixon's 1969 Congressional Message urging the states to improve their maximum unemployment compensation benefit levels. In that statement, the President recommended that benefit maximums be set at a level that would insure that at least 80% of the insured workers receives 50% of their wages. He then translated that goal into a potential federal standard by announcing that a maximum of two-thirds of the average weekly wage in a state would produce this result. Actual experience has proven the inaccuracy of this presumption. In many states, a maximum benefit of less than 66⅔% of the average weekly wage would result in over 80% of the claimants receiving one-half their regular wages. This illustrates the highly uneven impact a federal standard would have on the various states.

Assuming some kind of equitable, national benefit formula could be devised for unemployment and workmen's compensation, the Congress would still have to adjust that formula periodically to reflect economic changes. Except in the social security field—which I do not consider comparable—the Congress has turned in an extremely poor track record in this area. A review of the erratic and infrequent adjustments Congress has made in the U.C. program for the District of Columbia, the Longshoremen and Harbour Workers Act and the other income maintenance programs it has traditionally controlled will corroborate the point. When the Congress has acted it has been exceedingly liberal but, having acted, there is a history of long delays before adjustments are again considered. In some instances, these programs have experienced no change for a period of eight to ten years. No State Legislature (with possibly one exception) has allowed either U.C. or W.C. to experience that kind of time lapse without review and change. It took Congress from 1935 to 1972 to extend U.C. coverage from firms of eight or more employees to those having one or more. Half the states had arrived there long before. Many students of the program are convinced the existence of federal standards actually retarded further expansion in some states. Their convictions have been reinforced by recent attempts to extend coverage to agricultural workers in California. For the last three years, Governor Reagan has vetoed farm coverage bills due to the fact there has been (and still is) federal legislation pending on this subject.

A similar example, but involving the extension of U.C. coverage to

non-profit institutions, occurred a few years ago in New York State. Because of their interpretation of a federal standard relating to experience rating, the Department of Labor declared a New York law covering non-profit organizations out of conformity and the legislation was scrapped. Several years later (1970) the Congress enacted a standard for coverage of non-profit organizations out of conformity and the legislation was scrapped. Several years later (1970) the Congress enacted a standard for coverage of non-profit firms on virtually this same basis.

Thus, rule by federal standards is not only slow, because of the demands upon Congressional time but it appears to have a negative effect upon state initiative.

Another unfortunate side-effect of federal standards is their growth potential. Most of those advocating federal mandates in workmen's compensation and additional standards in unemployment compensation, profess opposition to "federalization" of either program. Their object is merely to twist the arms of the states to achieve some change they believe desirable. But this arm-twisting may end up breaking the back of the state programs. Federal standards breed federal standards. If there is a rationale for dictating to the states how much they must pay as a weekly cash indemnity against the hazard of work-caused injury or involuntary unemployment, then there is an equally strong rationale for dictating to whom those payments must be made in terms of the qualifying conditions. If the advocates of federal standards are correct in their contention that benefit amounts have been too greatly restricted because of employer opposition induced by competitive factors, then it seems logical to assume that this same employer pressure would force offsetting adjustments to compensate for federal standards limited to benefit amounts. So, if a state now pays a top benefit of $80 a week to the individual earning $150 or more per week and the Congress says the top benefit must go up to $110 or $120 a week, what is to stop a state from raising the earnings requirement to $200 or $250 a week? The answer, of course, is another federal standard. Or what is to stop a state from reducing the number of weeks or imposing some new limitation on the benefit conditions? More federal standards. This point was underscored in a public response to H.R. 8600 by the AFL-CIO. This is the Administration's bill proposing a federal standard on U.C. benefits. Speaking to the state U.C. administrators, the Labor spokesman said the proposed benefit standard was meaningless unless other standards on duration and eligibility provisions are included. In workmen's compensation, the Williams-Javits bill, S. 2008, is far more encompassing. It contains

federal mandates on virtually every aspect of the state systems. It sets the amounts to be paid and it carefully details the conditions that are to produce those payments. Although the authors of S. 2008 deny it federalizes workmen's compensation, they have dealt forthrightly with the problem of how much to standardize by devising a standard for everything that could be standardized. The questions of how much, to whom and for how long are answered. But the essential objectives of workmen's compensation—the business of steering the individual to proper medical care, rehabilitating him and returning him as soon as possible, to work at his highest skill—are not included in S. 2008. As the National Commission on State Workmen's Compensation Laws pointed out in its Report issued in June of 1972, there are some essential features of workmen's compensation that simply are not responsive to the cudgel of federal edict. And the fact is that many of these "unresponsive" areas are the basic ingredients of a successful system. The imposition of federal standards, therefore, produces a hybrid program at best. First the standards, if limited, pursue their "manifest destiny" by expanding to every vulnerable program feature. Then the residue is resigned to a paper contest between attempts at federal bureaucratic supervision and the fierce independence of state execution. And somewhere in the midst of this struggle is where the unemployment and workmen's comp systems will really touch the lives of the individuals they seek to help.

Exactly thirty-nine years ago today—on December 28, 1934—Elizabeth Brandeis of the University of Wisconsin, one of the movers and shakers in the development of unemployment compensation in this country, said this in a speech at Chicago, Illinois:

> "Social insurance should, if possible, exert its pecuniary pressure in the socially desirable direction. Then the self-interests of the business man tends to coincide with the public interest."

There can be no doubt that experience rating of U.C. taxes and of W.C. premiums have embraced this principle. Unemployment is an economic waste. The unemployed worker does not produce and he tends to lose the desire and ability to produce if his unemployment is prolonged. Consequently, it is in the public interest to have our workmen's and unemployment compensation laws operate in such a way as to discourage those factors which increase the risk being covered. The laws should encourage employers to provide safe, steady, full-time work and discourage employees from becoming or remaining unemployed by choice. The federal standards proposed over the last two decades, including those currently before Congress, have not been

concerned with these objectives. Their role has been to get higher payments to more people for longer periods and, if these kinds of standards are enacted, the real objectives of the two programs will become further subordinated as the programs evolve into a money distribution system.

Role and Impact of Federal Standards in Industrial Relations Safety Legislation—OSHA

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The discussions of this panel are directed at the role and impact of federal standards in industrial relations. I might suggest that as far as safety legislation is concerned, the thrust of the theme might well be the need for, and the thwarting of, the presence of *federal compliance* in the workplace.

I have elected in this paper to discuss this more limited aspect of federal occupational safety involvement in industrial relationship—namely, whether the federal relationship should be shared with the state governments or whether the state programs should be completely preempted.

Three years ago a very unenthusiastic Administration signed the Occupational Safety and Health Act, the contents of which it vigorously opposed in Congress by the means of a substitute bill of its own. The need for the legislation arose out of the demonstrated failure of state regulatory agencies either to have the capacity or to have the will to enforce strict occupational safety and health standards.

With regard to the broader issue of the use of federal standards, safety or otherwise, applicable to industrial relations, I do of course opt for a public sector involvement. With regard to occupational safety, I do so on the basis that OSHA, which does perhaps establish a primary emphasis upon the compliance-oriented activity of inspection of the workplace with subsequent citation and penalty-issuing powers, does not interfere with the relationship between management and union. It does represent an infringement on management's right to manage. That, however, I cannot look upon with alarm; collective bargaining represents a similar intrusion into managerial prerogatives.

Collective bargaining, though, is not and has not been the appropriate mechanism for regulatory control in the field of occupational safety and health. That type of control involves a regulatory power which is not amenable to definition and creation at a bargaining table. The safety of workers should not be traded off in terms of wage costs. Safety is an *issue of public policy* and the cost of doing business, and *not the cost of dealing with the unions.* While collective bargaining can and

does supplement public sector regulation, it cannot substitute for it.

During the passage of the Act there was a great deal of discussion that the bill would interfere with industrial relationship and that the question of what constitutes a safe and healthful workplace should be left to the private parties—or I might say managerial party—to determine without creating an undue burden upon production schedules. That philosophy of self regulation we rejected.

Because of our beliefs that safety regulation does not hinder labor/management relations and that self regulation could not work, and given the history of failure on the part of the states to regulate, the labor movement appealed to the federal Congress to establish a federal responsibility for workers' safety. It certainly was not inconsistent for Congress to respond to that plea since it had previously developed a body of law regarding the ambient environment. If air pullution affecting the health of the community living outside stationary sources necessitated congressional action, how much more did conditions inside plants require a similar response for the workers?

The question, however, was never whether workers should be provided a safe and healthful workplace. It was, rather, whether the Congress should establish a national responsibility or leave the obligation with the state and/or collective bargaining mechanism. The Congress answered in favor of national responsibility in 1970.

Yet, since that time there has been an inordinate drive to denude the federal establishment of any *effective* exercising of that responsibility. Defederalization of OSHA has become a primary method for Administration officials to achieve that objective. Every effort has been made to encourage or induce states to submit state plans, the approval of which signals the return of occupational safety and health jurisdiction to the states.

Temporary Orders

An ambitious program, embodying the Administration's political concept of New Federalism, was launched by OSHA officials in 1972 as the *Year of the States.* It ended, after a successful AFL-CIO/Steelworkers suit against the Secretary of Labor, in an attempt to extend illegally state jurisdiction even where no state plan was approved.

That incident clearly illustrates the Administration's guiding philosophy with regard to OSHA. Section 18 (h) of the Act empowered the Secretary of Labor to enter into agreements with the states to permit them to continue enforcement of their old programs for up to two years after the enactment of OSHA, even without an approved state plan. The intent of this section was to give the federal program two years

for gearing up without creating a void in enforcement activity during that time. Congress felt that two years would be needed by the federal government for such administrative activities as hiring and training an inspection force, promulgation of federal standards, development of an inspection manual, publication of rules and regulations, etc., which would be required for a complete federal program.

The Administration, on the other hand, attempted to use Section 18 (h) for an entirely different purpose. Since the Administration never intended to have a full federal program, it used the two-year period, instead, to encourage and speed up the states in the planning and submission of their programs rather than to develop its own program as was contemplated by the Act.

For a number of reasons, though, including labor's opposition to state jurisdiction, the state plans were not submitted and approved as rapidly as the Administration hoped. At the end of the two years (December 28, 1972) only three state plans were approved. Therefore, at the end of the two-year period, the federal administrators faced a dilemma of policy *vs* reality—neither the federal government nor the states were equipped to implement OSHA. The solution, as far as labor was concerned, was simple; policy emphasis and budget allocations should have been shifted immediately from state to federal programs, with a massive upgrading of enforcement capabilities. In other words, the Administration should have begun doing what they should have been doing from the outset.

The Administration, though, was not about to give up its game plan despite the realities. In utter defiance of the Act, the Department of Labor devised a plan to issue "temporary orders" which would have extended by six months the time period during which states could continue enforcing their old programs without having *approved* OSHA plans, provided they had simply *submitted* a plan. It was this "temporary orders" action which we were able to block in court by enjoining the Labor Department.

The Administration's rationale for this temporary orders mechanism was that it did not want to establish a large federal program since it was determined to dismantle it as soon as the approval machinery could be set in motion. Therefore, they reasoned, it would be much simpler to just extend the transition period.

Other than its obvious illegality, the temporary orders scheme would have had grave administrative implications. The Labor Department might have felt itself to be under great pressure to rush through decisions on the plans which had been submitted. It told the court that six months was sufficient time to do so. The subsequent rate of ap-

provals proved that this was not the case since even a year later there are still no decisions of some plans which were submitted prior to December 28, 1972. Hence, inadequate or perhaps capricious review of the plans might have resulted if the temporary orders had been granted.

Moreover, approval of the temporary orders procedure, on the grounds that the Administration did not have adequate time to review the state plans and did not have its own inspection force, could have established a precedent for repeated extension of state jurisdiction. The conditions which prompted the initial temporary orders would be recurring—there would be some states without approved plans, and the Administration would not want to perform its mandated obligation to preempt the states.

The point to be emphasized is that Section 18(h) was designed solely to present the federal government with adequate time to enhance its own capacity to operate. It had no relationship or relevance to the rapidity of movement in the submission and/or approval of state plans. Yet, the Administration twisted the provision's intent to conform to its own political policy decision—namely, to strip itself of responsibility. In this it was of course consistent with the already stated Administration position incorporated in the New Federalism concept.

Federal Preemption

I think there is a great deal of misunderstanding about the preemption issue under this legislation. The OSH Act does *automatically* preempt all state enforcement activity with regard to safety situations for which there are federally promulgated standards. The states must take positive action (by submitting a state plan) in order to recapture jurisdiction. Unlike other federal-state systems (for example, unemployment compensation) the federal government does not simply establish federal standards for state implementation. On the contrary, the Congress has initially preempted the states, although there was the two-year hiatus period, discussed above, during which the states enforced their laws while the federal government was developing its own capacity to operate. Almost within ninety (90) days after the effective date of the Act, OSHA had established part of that capacity by promulgating standards far exceeding the standards of most states. Even during the hiatus period as the federal capacity grew, there was direct federal enforcement authority being exercised in the workplace.

The point to be emphasized is that direct federal implementation was *not* dependent upon the failure of the states to exercise their jurisdiction under the new Act and then a subsequent decision to preempt. As a matter of fact, it is entirely optional as to whether the states should

submit a state plan. Section 18 of the Act states: "Any state which, at any time, desires to assume responsibility . . . shall submit a . . . plan." Whether the states do so is left to the discretion of the states. If, however, a state does submit an approvable plan, the federal enforcement authority can be relinquished after three years. I refer here to the authority to inspect a workplace with citation powers and not the authority to monitor state enforcement authority which is never relinquished.

It is this type of federal presence in the workplace—namely, inspection by federal OSHA compliance officers—in which the AFL-CIO has the greatest of interests. The labor movement is most firm on this matter. It is opposed to defederalization of OSHA. We are amazed at the reaction and, in some cases, the blandishments of state officials when we opt for federal enforcement. Workers are the ones most affected by the way safety programs are implemented. Hence, it is quite proper that we should have very definite views—reinforced by much experience—about what level of government responds best to workers' interests when a regulatory function is involved.

Yet the Act is quite clear that the decision to submit a plan resides within the state and by inference within the state's political process. Because workers are affected by the determinations of that process, the labor movement has been attempting to influence the outcome of those decisions in the states. We have urged state governors not to submit state plans, or, if they have submitted them, to withdraw them. Where that effort fails, we are going to the state legislatures in opposition to the enabling legislation. We are taking this action under the firm conviction that fragmenting the OSHA program into 50 state jurisdictions will hasten a return to conditions prevalent before the passage of OSHA.

While labor is opposed to the concept of state plans under even the best of circumstances, it must also be pointed out that the circumstances leave much to be desired. Few people realize that states can regain jurisdiction by meeting only very flimsy criteria, one of which is the "developmental" plan concept.

Developmental Plans

As the concept of developmental state plans has evolved, the states need give only "assurances" that their occupational safety programs will become as effective as the federal program at some future time. They are not, therefore, complete plans at the time of approval. Despite that fact, OSHA has rationalized its determination to grant approval to such plans, and thus initiate the ceding of federal jurisdiction, on

the claim that the Act calls for the approval of developmental plans.

The Act does contain language which indicates that there should be future growth in the effectiveness of state programs. For instance, Section 18 (c) states:

> "The Secretary shall approve the plan submitted by a state . . . if such plan in his judgment—
>
> (2) provides for the development and enforcement of safety and health standards . . . which standards (and the enforcement of which standards) *are or will be* at least as effective [as in the federal program], . . .
>
> (4) contains satisfactory assurances that [the state enforcement] agency or agencies *have or will have* the legal authority and qualified personnel necessary for the enforcement of such standards."

The Administration has used this language as a license for approving the developmental plans.

A more reasonable interpretation of the language would be that it was meant to place an obligation upon approved state programs to evolve in effectiveness consonant with *future* growth in the federal program. In other words, a state program could not become fixed after approval but would have to increase its effectiveness as the federal yardstick increased in its effectiveness.

However, instead of being prospective in outlook, the rules and regulations issued by OSHA on the developmental plan issue were retrospective in that they permitted a gradual growth to the current requirements. Retrospective developmentalism accepted the past level of state competency as the starting point for growth. Had they been prospective, they would have mandated immediate operation at the current levels of federal competency with an additional condition for growth parallel with the federal capacity. The OSHA approval of state plans was not to be conditioned upon the *current* capacity of the state safety program to match or be as effective as the *current* capacity of the federal program. The problem we have experienced so far has not been so much with regard to the states' future growth to a yet *unknown* measurement but their *present inability* to respond to a *current* and *known* set of criteria.

Furthermore, each time a state fails to reach a prescribed level in its plan to bring it closer to the federal criteria, the plan needs only to be amended with another "assurance."

While labor recognized that many states could not present *complete* plans bringing their safety programs into immediate compliance, we

could not understand or accept the need for the federal government to grant immediate approval to such incomplete or developmental plans.

Federal Presence After Approval

Perhaps because of our intense criticism of the developmental plan concept, we were assured by OSHA that since these plans were admittedly incomplete, the approval of them would not signal the withdrawal of federal enforcement powers. For the last two years we were told that the federal inspectors would be withdrawn *only* on a gradual basis—that is, federal presence would decrease only as state enforcement capacity increased.

One source of those assurances can be found in OSHA's state plan approval notices published in the *Federal Register*. For instance, the approval notice for the State of South Carolna states:

> "The present level of Federal enforcement in South Carolina will not be diminished . . .
>
> "Within 9 months following this approval, an evaluation of the State plan, as implemented, will be made to assess the appropriate level of Federal enforcement activity."

In other words, the federal inspectors would continue their compliance activities until the state proved its own enforcement abilities. South Carolina was the first state to have its plan approved, but substantially equivalent language was included in all the approval notices until September 1973. At that time, beginning with the approval of the Colorado plan, reference to an evaluation as the key to the degree of federal enforcement was deleted.

Then on December 6, 1973, the OSHA Administrator announced to the National Advisory Committee on Occupational Safety and Health (NACOSH) that the policy on maintaining federal presence had been rescinded by policy determinations not yet made public. Federal enforcement presence would be withdrawn whether or not the state program had demonstrated its capacity to perform and even if the program was admittedly incomplete. OSHA compliance officers would be turned into monitors of the state program and powers to inspect the workplace would not be exercised in states with "approved" plans. Such was, perhaps, the logical conclusion to the recognition of the developmental plan concept in the first place. It was another aspect of the procedure whereby the states are first handed back the responsibility and only later made to demonstrate the capability to handle that responsibility.

As can be imagined, labor's reaction was one of incredulity. Not only labor was astounded, though. A subcommittee of NACOSH has recommended a return to the previous policy of no withdrawal of the

federal enforcement presence, at least until examinations of the state performance show that such withdrawal is warranted.

"As Effective As" Rule

Another aspect of the state plan controversy to which I should like to make a brief reference is the method of evaluation. Under the Administration's interpretation of what is known as the "at least as effective as" rule, the precise statutory mandates in the federal program, many of which pertain to workers' rights, need not be implemented by the states. For instance, workers need not be granted the right to accompany state inspectors (the "walk-around" right). On-site consultation visits by state inspectors without authority to cite for violations and without walk-around rights for workers are already acceptable in state plans although not permitted in the federal program.

Even the first instance sanctions for non-consultative inspections (i.e., the obligation to issue a citation whenever a violation is seen rather than merely warning the employer) may go by the boards. The Bureau of National Affairs *Safety Reporter* records:

> "It could be difficult to prove in court that a state plan without first instance sanction is not as effective as the federal law, says Barry White, acting director, Office of Federal and State Operations.
>
> "Although this has not happened yet, the possibility exists that a state could take the OSHA to court regarding the issues of 'as effective as' and first instance sanctions."

In addition, the various states would be able to issue their own versions of variances from nationally promulgated safety and health standards. This power, coupled with the erosion to be anticipated under the "as effective as" rule, may doom the current national focus on workers' safety to a certain death.

State Role

You may understand then the intensity of labor's objection of defederalization of OSHA. We are encouraging the states to accept preemption *as far as compliance activity is concerned.* It is important to emphasize that labor is advocating a different form of federal-state relationship than that being promoted by the Labor Department.

While we insist that the regulatory function—the police power, if you wish—of inspection and citation remain with the federal government, we do encourage another role for the states. That role is based upon the recognition that while a complicance-oriented activity may help produce a safe workplace, it leaves untouched the so-called unsafe

act. Under this concept I place the whole notion of safety education for both workers and managers, motivational and behavioral factors relating to occupational safety, employer consultation programs, training of inplant joint safety committees, and the whole gambit issues connected with the so-called voluntary safety movement.

In addition, there is the issue of state and local governmental employees. They are not covered by the federal law; they can be covered only by the states, and a state does not need to have a full, general industry OSHA program to do so. We are urging the states to go ahead with development of their public sector program while accepting preemption in the other enforcement areas.

The Safety and Health Act lists 13 items in its declaration of purpose, the eleventh of which is "the encouraging of the states to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws. . ." The OSHA administrators have read this eleventh purpose in the Act *only* in terms of relinquishing federal compliance authority to the states. It has done nothing to assist the states which may elect preemption so that they can maintain a viable, necessary and complementary state safety program.

We in labor are challenging OSHA to initiate a new *Year of the States* wherein it would utilize federal resources to provide innovative alternatives for the states rather than devise new interpretations to accelerate the demise of federal responsibilty for the occupational safety and health of workers.

III. PUBLIC EMPLOYEE COLLECTIVE BARGAINING IN FERMENT

The Structural Dilemma in Public Sector Bargaining at State and Local Levels: A Preliminary Analysis

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RESEARCH HYPOTHESIS

Our research hypothesis is that public sector bargaining at state and local levels will serve as a catalyst in causing combination and consolidation of conventional governmental structures for labor relations purposes. We assume that collective bargaining will raise the cost of government because about 80 percent of the cost of government involves labor costs. We assume further that the expansion of public sector bargaining will continue at a time when many governmental units are likely to be hard-pressed for revenues.

We anticipate that if and when a crunch develops between the needs of employees represented by unions or associations and the functional capacities of governmental units to serve, the true owners of the business, i.e., the taxpayers, will favor consolidation of governmental units rather than dipping more deeply into their pocketbooks. To be blunt, if it comes to pocketbook versus home rule, the taxpayers will favor their pocketbooks.

Our basic research hypothesis has yet to be tested empirically. Enough work has been done, however, to present some preliminary findings of a mixed nature.

* The writer is indebted to numerous individuals for both ideas and research assistance in connection with the preparation of this paper. In particular, I wish to thank Dr. Randyl D. Elkin of West Virginia University; my graduate research assistants, Steve Hetzel, Van Owens, Phil Ryan and Susan Taylor; an excellent interviewing team from the University's College of Education; my friend and colleague, John M. Whitmer, Jr., who did most of the Iowa interviewing in the noneducation area; and last but not least, the many correspondents around the country who were kind enough to respond in depth to a searching letter from the writer.

A brief description of our research methodology will be now be presented.

Research Methodology

The code name for our methodology is *scavenger research.* First, we conducted the conventional search of the literature. To be candid, we found little of value on the structural problem area other than helpful articles by Quester,[1] Seidman,[2] Zack,[3] and Stutz.[4] We also found the Aaron Advisory Committee Report in California (March, 1973) of considerable value.[5] The most recent report of OCB was of value since it summarized the progress that OCB has made in "accretion" in recent years.[6]

Taken as a whole, however, the continuing niagara of articles and books on the public sector provides little insight on the structural problem with which we are concerned. Everybody and his brother (or sister) writes about impasse procedures, scope of bargaining, management rights, and so on. Only a handful comment on the structural dilemma.

Following the literature survey, we began the correspondence and interviews. We concentrated first on Iowa for interviews since Iowa is a "threshold state." At this writing (December 1973), Iowa has no public sector law—good, bad, or indifferent. We have conducted approximately 100 interviews in Iowa—fifty in public education on both sides of the bargaining table, and fifty in the state and municipal area.

Many Iowa interviewees, understandably enough, wished to give their views on the possible 1974 public sector law. A bill passed the Iowa Senate in 1973 and will be debated in the Iowa House on February 20, 1974. It is possible that Iowa in 1974 will join the growing list of states with comprehensive laws. How good the law turns out to be will depend on the amendment process. The Iowa law will probably not be a model law, nor will it be one of the worst either.

All interviewees were required to discuss the structural problem.

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[1] George H. Quester, *The Politics of Public-Sector Labor Relations: Some Predictions,* Institute of Public Employment Monograph No. 1, 1973, New York State School of Industrial and Labor Relations, Cornell University, Ithaca, New York, *passim.*

[2] Joel Seidman, *The Hawaii Law on Collective Bargaining in Public Employment,* Industrial Relations Center, University of Hawaii, 1973.

[3] Arnold Zack, "Can We Afford the Rising Cost of Public Sector Settlements?," 25th Industrial Relations Research Association, *Proceedings,* 43-49, Madison, Wisconsin, 1973.

[4] Robert L. Stutz, paper before the Southwestern Legal Foundation, 1973.

[5] Assembly Advisory Council on Public Employee Relations (Benjamin Aaron, Chairman), *Final Report,* March 15, 1973.

[6] Office of Collective Bargaining, *Annual Report,* 1973.

Some had difficulty understanding the nature of the problem. Others were adamantly opposed to any bargaining other than the conventional, i.e., School Board X versus Association Y. Others saw some merit in the idea of consolidation and combination of governmental agencies for labor relations purposes. In short, the Iowa interviews could be characterized as a "mixed bag."

Iowa as a "threshold state" makes sense methodologically. There is always the chance that a state without a law can learn from the traumatic experiences of other states that have had laws for some time and have found it necessary to amend their laws on occasion. It should be possible to benefit from the mistakes of others.

We describe now the scavenger part of the research. This involved writing many letters to knowledgeable persons around the country—principally at the municipal level—asking their help in terms of their own experience (or those of others) on such problem areas as bargaining units, accretion, structural agency combination for labor relations purposes and the like. The response has been gratifying—in fact, overwhelming. In addition to writing to practitioners on both sides of the bargaining table, I wrote also to a considerable number of knowledgeable professional neutrals whom I had reason to believe had done a considerable amount of work in the public sector. Last but not least, I imposed on SPIDR (Society of Professionals in Dispute Resolution) by asking them to write me of their experiences when they returned home from SPIDR's inaugural meeting in Reston, Virginia in October, 1973. The response from SPIDR correspondents was not overwhelming, but those who did write offered some valuable insights.

We turn briefly to some excerpts from our scavenger findings. These have been difficult to organize in logical fashion since they cover the waterfront. I have selected a few examples that support the research hypothesis and some that clearly do not.

I prefer to reserve judgment until my interviewing is done in March and April, 1974. By the time I do my interviewing, I shall have had the opportunity to absorb fully the results of the Iowa interviewing and also the full range of the scavenger correspondence. This should make my interviews more pointed and productive.

Some Preliminary Findings

On the affirmative side of our hypothesis we can note, *inter alia,*

1) Twin City Regional bargaining with the Operating Engineers—an operation that has been successful for some years.

2) State-wide mandated bargaining units in Hawaii—admittedly a special case.

3) Substantial progress in recent years by OCB in New York City in reducing the number of bargaining units and in furthering the process of accretion.

4) In several states in the larger cities there has been a development toward professionalism in collective bargaining, with a city labor negotiator, denominated as such, who has full responsibility for negotiations with unions and associations.

5) The many branches of the State University of New York have operated for some time under one master contract (and, presumably, one bargaining unit).

6) Philadelphia ever since 1939 has negotiated one city-wide contract with AFSCME for those employees whom AFSCME represents.

7) Newer state laws in the public sector generally contain a section on bargaining units that urges the state agency in question to avoid fragmentation of bargaining units wherever possible. The Aaron Advisory Council to the California General Assembly (March, 1973) urged the desirability of selecting the largest reasonable appropriate unit. The State of Washington, for example, has recently amended its rules with reported success to resist fragmentation of bargaining units. Furthermore, at the municipal level, Seattle bargains a master contract with a Joint Crafts Council of 18 members. This is an enormous time (and money) saver since otherwise the City could conceivably be bargaining with as many as 31 labor groups.

8) Another correspondent from an Eastern city of some size writes in a similar vein that fragmentation should be prevented if a municipality is not to be burdened with the cost and time it takes to negotiate with many unions. He suggests the possibility that police and firemen negotiate on an area-wide or county-wide basis.

9) Rhode Island, according to one of my correspondents, has now one Board of Regents for *all* public education. This will entail proposals for a single state-wide salary structure, which will involve state-wide bargaining by the Regents and consolidation of some 40 teacher bargaining units into one (both AFT and NEA). This new plan will entail considerable changes in present Rhode Island law, but it is clearly in line with our research hypothesis.

On the negative side of our hypothesis we can note, *inter alia*, the following:

1) Continuing strength of the home rule or local community control syndrome which militates against any public multi-employer approach to collective bargaining. This is especially true in many sectors

of the country in public education. School boards generally prefer to negotiate on a district by district basis, no matter how expensive it may turn out to be. There seems to be a tendency to ignore the fact that NEA has organized on a UNISERV (regional) basis and is thus likely to develop more trained negotiators faster than are the individual school boards.

2) Craft unions as a general rule (e.g., policemen, firemen, and the like) appear to exhibit a strong preference for avoiding any form of multi-governmental bargaining, although some examples can be found of regionalized bargaining by such groups.

3) Some statutes preclude the kind of structural reform discussed in this paper and, on the contrary, give strong preference to conventional local bargaining, whether on a municipal or county basis. As noted earlier, however, the newer statutes place strong emphasis on selection of large bargaining units and avoiding fragmentation so far as possible.

4) Structural reform of the type contemplated herein is still regarded by one of my correspondents as "unploughed virgin territory" with "still too many unknowns." I am afraid he is correct, judging by the Iowa interviews. This same correspondent, however, can see clearly the wave of the future. He notes, for example, that the more the fragmentation of units, the greater the number of persons involved and, further, the larger percentage of unionized employees the more acute become the budgetary demands.

5) Another negative thought concerning our hypothesis is that if and when governmental re-structuring for labor relations purposes takes place, this in turn will increase the "clout" of the unions with whom the bargaining occurs. This *is* a possibility. However, I do not regard it as nearly as awesome as the whipsawing and end runs that now take place under essentially fragmented bargaining structures.

6) In contrast to many other large cities, Detroit managed to wind up with 100 to 150 bargaining units. My correspondent reports that the whipsaw effect and the "me-too" effect of such a situation are disastrous. Detroit must at this point be counted on the negative side of our hypothesis.

7) Also on the negative side is the most recent available BLS survey (Spring, 1973) which shows very few collective agreements that cover more than one government jurisdiction.[7]

8) A correspondent from New Jersey reports that he has been anticipating consolidation for some years, but it has not yet material-

[7] Bureau of Labor Statistics, *State, County, and Municipal Collective Bargaining Agreements on File with the Bureau of Labor Statistics,* Spring 1973.

ized. He reports that the only tendency toward consolidation of any kind is among county welfare boards. New Jersey still has, for example, over 600 school districts.

9) A knowledgeable New York state correspondent reports that he finds it difficult to cite a single instance of a restructuring of government for collective bargaining purposes as such.

Alternative Patterns of Structural Change

We assume that most conventional government units are not well-suited for purposes of collective bargaining. We therefore note briefly some alternative structural patterns (models). One or more of these patterns might help to accommodate the functional requirements of governmental agencies while at the same time meeting the needs of public sector employees in collective bargaining.

The patterns or models are not listed in any necessary order of utility or importance.

1) A multi-government agency structure for labor relations purposes.

2) A state-wide unisector model that would have the advantage of vertical mobility for all government classifications common to most states—e.g., policemen, firemen, sanitation workers, teachers, welfare workers, etc.

3) A functional economic area model, henceforth known as FEA, originally designed for another purpose in terms of a central city-labor market orientation, but which we believe has some potential for labor relation purposes. As applied in Iowa, for example, the FEA model, devised by Karl A. Fox, would carve Iowa up into approximately 14 FEA's instead of the conventional 99 counties. In our judgment, a FEA model might not be particularly feasible at this time. It does have future potential, however, in terms of coordinated programming at the local level.

4) Regional or statewide collective bargaining arrangements, supplemented where necessary by local agreements. We have at least one outstanding example of a statewide unit, namely, the State University of New York, (SUNY), referred to earlier.

Most of the structural proposals for change have not yet been implemented. The principal obstacle to structural change continues to be the home rule or local community syndrome. However, it is our belief that when the crunch comes and the taxpayer is forced to choose between his pocketbook and his love for home rule or local autonomy, he is going to vote in favor of his pocketbook. This day may not be too far in the future.

There is no particular reason why public sector employees should oppose consolidated structures of the type indicated in this section because it is unlikely that unemployment will result. All available evidence indicates that the demand for employees at the state and local level will continue to expand in the predictable future. The reader is referred in this connection to an excellent article by Ehrenberg in the June, 1973 issue of *The American Economic Review*.[8]

Our hope in the development of new structural areas is the achievement of certain economies that will derive from the joint bargaining itself and also some possibility of increase in labor productivity on a sector by sector basis. There is a growing interest in public sector productivity. However, it is clear that one of the most difficult areas in which to increase or measure productivity gains is the services field which comprises most of the state and local governments.

[8] R. C. Ehrenberg, "The Demand for the State and Local Government Employees," *American Economic Review*, (June, 1973), Vol. LXIII, No. 3, pp. 366–379.

The Theory of Management Reserved Rights—Revisited

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The purpose of this paper is first and foremost to define and to distinguish clearly between the doctrine of management reserved rights which is a theoretical framework for understanding collective bargaining from the so-called management prerogative clause which has an entirely different objective.

In its simplest form, the reserved rights doctrine may be expressed in five words: *management acts, the union reacts.* Management establishes a status quo (defined by Webster as being "the existing state of affairs at the time in question"), a set of conditions, with or without the union's consent. The union, as the moving party, attempts to alter these conditions. In establishing a status quo, it makes no difference whether the employer is an individual, a corporation, a government, a university, or a union. Although this statement is somewhat oversimplified, it goes to the heart of the matter.

It is not often realized that the concept of management reserved rights is used in two entirely different senses, which results in more than a little confusion in discussions on the subject.

EXCLUSIVE RESERVED RIGHTS

Now, as to the first sense in which the management reserved rights concept is used: within the context of a specific collective bargaining relationship and/or a given agreement, certain areas of managerial decision making are not shared with the union. These areas are sealed off completely from bilateral consideration; they are reserved exclusively for management determination.

The areas sealed off from negotiations will vary from industry to industry and from place to place. There is no sharp line which divides those areas subject to bargaining from those areas sealed off from bilateral consideration. There is ample evidence to show that in some place and at some time virtually every so-called inherent management right has been successfully challenged by an employee organization. The ultimate determinant of what may or may not be sealed off from negotiations will depend essentially on the relative bargaining powers of the parties and the complex nature of their relationship.

Years ago when he was legal counsel for the Steelworkers Union,

Arthur Goldberg acknowledged that management's authority for certain basic functions was unarguably supreme and exclusive. He discussed and gave examples of unshared functions in the steel industry. It is important to note that at the opening and at the close of the following extract, Goldberg's enumeration and reiteration of specific areas sealed off from bilateral negotiations are directed to the steel industry; in some other industries, building and construction, for example, any one of these areas could be and has been a focus of bilateral consideration:

> Management determines the product, the machine to be used, the manufacturing method, the price, the plant layout, the plant organization, and innumerable other questions. *These are reserved rights, inherent rights, exclusive rights which are not diminished or modified by collective bargaining as it exists in industries such as steel.* It is of great importance that this be generally understood and accepted by all parties. Mature, cooperative bargaining relationships require reliance on acceptance of the rights of each party by the other. A company has the right to know it can develop a product and get it turned out; develop a machine and have it manned and operated; devise a way to improve a product and have that improvement made effective; establish prices, build plants, create supervisory forces and not thereby become embroiled in a labor dispute. . . .[1] (Emphasis added)

The foregoing is the first sense in which the reserved rights concept is used.

Non-Exclusionary Reserved Rights

Goldberg then went on to discuss the second sense in which management reserved rights is used—that is, those rights which are shared with the union and which usually are at the very core of the collective bargaining relationship:

> Not only does management have the general right to manage the business, but many agreements provide [in the so-called management prerogative clause] that management has the exclusive right to direct working forces and usually to lay off, recall, discharge, hire, etc.
>
> *The right to direct, where it involves wages, hours, or working conditions, is a procedural right.* It does not imply some right over and above labor's right. It is a recognition of the fact that somebody must be boss; somebody has to run the

[1] Arthur J. Goldberg, "Management's Reserved Rights: A Labor View," in *Proceedings of the Ninth Annual Meeting, National Academy of Arbitrators,* Jean T. McKelvey, ed. (Washington, D.C.: Bureau of National Affairs, Inc., 1956), p. 123.

> plant. People can't be wandering around at loose ends, each deciding what to do next. Management decides what the employee is to do. . . . *To assure order, there is a clear procedural line drawn: the company directs and the union grieves when it objects.*[2] (Emphasis added)

It should be stressed that Goldberg's reference to management's procedural right to direct is but another way of stating that management at all times retains the "administrative initiative" to operate the enterprise.

Management rights in the second sense then refer to the *functional* role of management, its procedural right to direct the work force. Procedural, as distinguished from substantive, relates to the form or method by which management directs the work force. Normally, management does not deliberate with the union as a *de facto* partner in the organization to decide jointly how the mission of the organization will be effectuated. Procedurally, management gives orders and employees are expected to comply with these orders reserving their protests for the grievance procedure after the orders have been carried out. Exceptions to this procedure involve orders that could endanger employee safety, health, or morals.

As noted, the key to management's role in the relationship is discerned in the term "administrative initiative." At the expense of being repetitious, it cannot be overstressed that management initiates the action; it directs the work force. On its part the union functions as the advocate of the employees' interest, representing their short-term and their long-range goals. The rights of both parties in the bargaining relationship are of *equal stature* but, as Goldberg observed, "To assure order, there is a clear procedural line drawn" for the obvious reason that:

> The union cannot direct its members to their work stations or work assignments. The union does not tell people to go home because there is no work. The union does not notify people who are discharged to stay put. The union does not tell employees to report for work after a layoff (except perhaps as an agent for transmitting information in behalf of management). The union does not start or stop operations unless perhaps some urgent safety matter is involved and there is some contractual or other basis for such action.[3]

The thought expressed by Goldberg was presented even more forcefully in a much broader context in the following excerpt from an

[2] *Ibid.*, pp. 120–121.
[3] *Ibid.*, p. 124.

arbitration opinion by the late Dean Harry Shulman, then Umpire for Ford Motor Company and the United Auto Workers (UAW):

> Any enterprise—whether it be a privately owned plant, a governmentally operated unit, a consumer's cooperative, a social club, or a trade union—any enterprise in a capitalist or a socialist economy, requires persons with authority and responsibility to keep the enterprise running. In any such enterprise there is need for equality of treatment, regularity of procedure, and adjustment of conflicting claims of individuals. In any industrial plant, whatever may be the form of the political or economic organization in which it exists, problems are bound to arise as to the method of making promotions, the assignment of tasks to individuals, the choice of shifts, the maintenance of discipline, the rates of production and remuneration, and the various other matters which are handled through the grievance procedure.
>
> These are not incidents peculiar to private enterprise. They are incidents of human organization in any form of society.
>
> . . . [A]n industrial plant is not a debating society. Its object is production. When a controversy arises, production cannot wait for exhaustion of the grievance procedure. While that procedure is being pursued, production must go on. And someone must have the authority to direct the manner in which it is to go on until the controversy is settled. That authority is vested in Supervision. It must be vested there because the responsibility for production is also vested there; and responsibility must be accompanied by authority. It is fairly vested there because the grievance procedure is capable of adequately recompensing employees for abuse of authority by Supervision.[4]

Distinction Between Reserved Rights Doctrine and Management Prerogative Clauses

As stressed at the outset, the management reserved rights doctrine is not to be confused with the usual management prerogative clauses written into private sector collective bargaining agreements and public sector executive orders or statutes. They are two separate and distinct entities.

To illustrate their difference, let us examine a not untypical management prerogative clause:

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[4] Opinion A-116, Harry Shulman, Ford Motor Co. and the UAW, June 30, 1944, 3LA 779, 781, BNA, Inc.

> The management of the plant and the direction of the working forces including the right to direct, plan and control plant operations, the right to hire, promote, demote, suspend or discharge employees for cause, or to relieve employees because of lack of work or for other legitimate reasons, or the right to introduce new and improved methods or facilities, or to change existing production methods or facilities and to manage the properties in the traditional manner is vested exclusively in the Company.

This provision in its essential respects is characteristic of the management prerogative clauses found in a majority of collective bargaining agreements. When we note the functions set forth as management rights, only a few of them are unshared functions placed outside the scope of negotiations. For example, "the right to hire, promote, demote, suspend, discharge, relieve employees because of lack of work, etc.," are not usually matters sealed off from negotiations. Quite the contrary, they are core working conditions, which are what collective bargaining is all about. Management does not look to the agreement, to the management prerogative clause, for its authority to exercise its administrative initiative in these areas. It possessed them as a part of its reserved powers long before a union appeared on the scene.

Since the matters referred to in the management prerogative clause are legal and accepted areas of collective bargaining, what it is that management is attempting to exclude, to reserve to itself, when it lists these shared functions in the written instrument? What is there about an item which is unquestionably within the scope of bargaining that impels management to include it in the management prerogative clause? Why then, union leaders ask management, do you stir up ideological reverberations by listing in the management prerogative clause matters which clearly are part of the collective bargaining process?

Management replies, in essence, that it is done for educational, for psychological reasons, to remind union officers, shop stewards, employees—and arbitrators too—that management never relinquishes its administrative initiative, its right to establish the status quo. The management prerogative clause reaffirms that the procedural relationship between the parties remains unaltered; it underscores that its right of administrative initiative is unimpaired by the collective bargaining relationship. The clause reflects management's concern that unions will, by accretion, encroach upon enumerated areas, such as those that Goldberg has so trenchantly acknowledged as being sealed off from bilateral consideration.

What, we may ask, does the union fear when it so often resists the

inclusion of even a moderately worded management prerogative clause?

Essentially, the union is concerned that the clause will be used to argue for a simplistic interpretation and application of the agreement. It fears that the clause will be used to exclude all employee benefits on which the agreement is silent. Management might refuse to arbitrate, or an arbitrator might deny an employee benefit that is not expressly covered by the language of the agreement. The union insists that such a narrow construction of the arbitrator's authority would reduce his role and function to that of a "super-dictionary" or a "super-semanticist," limited to interpreting the express language of the written instrument without reference to the possible meaning of silence in that document. Professor Killingsworth has pointed out that such an approach:

> . . . presents an unrealistic picture of the bargaining process and, therefore, offers a seriously misleading guide to the interpretation of the collective bargaining agreement; by concluding that silence in the agreement can have only one meaning, the doctrine greatly oversimplifies.[5]

If the reserved rights doctrine were applied as narrowly and inflexibly as demanded by its more ardent advocates, it would soon become obsolete. Few unions possessing minimal strength would sign an agreement restricting arbitration to issues which are covered solely by express language in the written instrument.

As the noted legal scholar, Archibald Cox, explained:

> . . . [T]he "interpretation and application" of a collective bargaining agreement through grievance arbitration is not limited to documentary construction of language. The failure to recognize this truth probably explains much of the conflict between arbitral and judicial thinking. Paradoxically, no jurist would suggest that a promissory note, a trust, or indeed any simple contract contained all the rules required to do justice in actions to enforce the contract or recover damages for its breach. A contract is executed in the context of common law and legislation which governs the rights and duties of the parties under the contract. Usually the law simply fills in the background and interstices, but occasionally it imposes obligations inconsistent with the very words of the agreement. The line between interpreting a commercial contract and applying the principles of contract law is rarely

[5] Charles C. Killingsworth, "The Presidential Address: Management Rights Revisited," in *Proceedings of the Twenty-Second Annual Meeting, National Academy of Arbitrators*, Gerald G. Somers, ed. (Washington, D.C.: Bureau of National Affairs, Inc., 1970), pp. 11–12.

> significant. The court performs both functions. They blend almost imperceptibly in borderline cases. Sometimes we use the terms "interpretation" or "construction" to denominate the process of gathering the meaning of particular words and rely on "the law of contracts" for the rights, duties, and remedies requisite to the implementation of the contract. On other occasions the law pretends that it is engaged only in "interpretation," using the term very loosely to supply "implied" covenants and conditions which fairness dictates should go with the bargain but which the parties did not consciously contemplate and the words do not suggest.[6]

Management Non-Exclusive (Shared) Reserved Rights: Doctrine and Restrictions

The attention of the reader is directed in the above heading to the term "non-exclusive shared reserved rights," which are to be distinguished from reserved rights that are not shared. All too often reserved rights are commonly regarded by definition as unshared. It cannot be overemphasized that *all of management's rights are reserved,* but some of them in a specific collective bargaining setting are sealed off from negotiations while other reserved rights are the subject of bilateral consideration. Those reserved rights which are unshared and sealed off from negotiations, we term *exclusive reserved rights;* and those which are shared functions, we term *non-exclusive reserved rights.*

We are now in a position to advance a more theoretically complete description of the basis upon which management exercises its administrative initiative. The following three basic limitations delineate the fundamental frame of reference for interpreting the bargain produced by the parties.

The collective bargaining process and the execution of a collective agreement affect the exercise of management's rights by introducing not one (the written instrument), but *three* sets of restrictions:

1. *Written Instruments:* Principally collective bargaining agreements and memoranda of understanding. Also, often included as restrictions on management's reserved rights in the public sector are written governmental policies that have been unilaterally promulgated.

2. *Implied Employer Obligations:* Employee benefits of long standing neither mentioned in the written agreement nor discussed in negotiations. Those benefits not rescinded in negotiations are held to be binding practices, and the employer is, therefore, deemed to have

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[6] Archibald Cox, "Reflections upon Labor Arbitration," *Harvard Law Review,* vol. 72, 1959, pp. 1498–1499.

an *implied* obligation to maintain them for the duration of the agreement. These are past practices not incorporated in the written agreement. Excluded from implied obligations are gratuities and employee benefits incidental to a basic management function. (A treatment of these two areas would require a lengthier discussion than is allotted for this paper.)

3. *Rule of Reasonableness:* Restrictions on managerial direction of the work force, by application of the *rule of reasonableness* in matters either mentioned not at all in the written agreement or covered by language too general for practical interpretations. Management action in such cases is not reviewed as to its wisdom, but as to its reasonableness. The area of discipline and discharge for cause is a good example. Management action is subjected to the test of whether it was arbitrary, capricious, or discriminatory.

Most discussions of the reserved rights doctrine not only fail to include "implied obligations" and the "rule of reasonableness" as part of the doctrine, but discuss them as *outside* the doctrine and even in *opposition* to it. Most earlier versions were limited to what Charles Killingsworth called the "pristine reserved rights concept,"[7] which he correctly diagnosed as deficient in several respects.

In summary, management does not look to the collective agreement to ascertain its rights; it looks to the agreement to find out which and how many of its rights and powers it has conceded outright or agreed to share with the union. In the words of Judge Lumbard, U.S. Court of Appeals, Second Circuit, ". . . labor contracts generally state affirmatively what conditions the parties agree to, more specifically, what restraints the parties will place on management's freedom of action. . . ."[8]

To repeat, then, *all of management's rights are reserved rights,* in that none of them is derived from the collective agreement which provides for mutually agreed upon restrictions on those reserved rights. The study of collective bargaining is the study of these restrictions.

The Reserved Rights Doctrine and the Public Sector

So far we have been discussing the reserved rights doctrine primarily as it applies to the private sector. To what extent may the doctrine also constitute a useful frame of reference for understanding collective bargaining in the public sector? To answer this question, it is first necessary to consider two very significant differences between the two areas.

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[7] Killingsworth, *op. cit.,* p. 3.

[8] *Torrington Co. v. Metal Products Workers Union, Local 1645,* U.S. Court of Appeals, Second Circuit (New York) 62 L.R.R.M. 2495, 2499 (1966), BNA, Inc.

One major difference between public and private sector bargaining centers on legal restrictions and other inhibitions involving use of the strike weapon. Our current national labor policy legalizes virtually every strike in the private sector. In contrast, however, strikes by government employees are prohibited or limited in the vast majority of public jurisdictions, even though since 1970 several states have adopted laws permitting certain public employees to engage in strikes that do not endanger the health, safety, or welfare of the public.

These public sector inhibitions and restrictions on use of the strike weapon impinge on the heart of the bargain concept in labor-management relations. The term "bargain," as with any bargain, implies an exchange of consideration of value. The principle affirmed by the Supreme Court in *Lincoln Mills* and reaffirmed in the *Steelworkers Trilogy* of 1960 enunciates the fundamental bargain struck by the parties, namely, the union *signs away its right to strike* (its members withholding their services) for a fixed period of time *in exchange for a contract* guaranteeing acceptable minimum rates of pay and working conditions and grievance/arbitration machinery. There is a clear exchange of consideration for the bargain. On this fundamental bargain, on this rock, an enormous superstructure of labor relations precedents, principles, and practices has been erected over the past four decades. Much, if not most, of this superstructure undeniably applies to the public sector. However, the foundation of the bargain in the public sector is considerably obscured in that the right to strike is at best ambiguous, if not expressly prohibited.

The parties in the private sector can afford the luxury of disagreement in contract negotiations. The weapon of a threatened or an actual strike contest is readily at hand for determined negotiators to strive for a settlement on their own minimum terms. However, does this same condition prevail in the public sector? Experienced observers think it does.

University of Michigan Professor Russell Smith commented on this subject recently in a discussion before the National Academy of Arbitrators. He said:

> It seems to me the evidence, up to this point, is that public sector unions will use the strike weapon either in its outright form or some variant, whatever the state of the law, in support of bargaining demands unless they are provided with an acceptable alternative. If this is so, what we have is a *de facto* recognition, or at least public tolerance, of strike action, within limits. This means that unions are in a position, a a practical matter, to offer public employers a *de facto,* if not Willistonian, consideration to support the agreement reached

> in bargaining. This is *their own* promise not to strike during the term of the agreement, and I suggest that while this may not be a legal consideration, it is nevertheless a valuable one in that it consists of a pledge willingly assumed by the contracting party, not imposed from without, and hence is a commitment more likely to be observed. In other words, I suggest that the public as well as the private sector employer, through genuine collective bargaining, can and does buy labor peace.[9]

Professor Smith makes the valid point that although public sector strikes can be greatly reduced by all kinds of legal restrictions, the strike still emerges as the ultimate weapon of the employee organization. The potential of the employee organization to impose economic sanctions is a *de facto force* which drives the parties toward ultimate agreement, a force which tends to obliterate practical distinctions between public and private sector negotiations. The bargain concept of employee rights is, therefore, just as applicable to government employment as to private industry.

The Public Sector: Additional Functional Constraints on Collective Bargaining

The second major difference between private and governmental labor-management relations is that there are additional constraints to collective bargaining which are *unique* to the public sector. The traditional management reserved rights doctrine is the source of the principal constraints to collective bargaining in the private sector. Although this doctrine is clearly applicable to the public sector, there are other constraints on collective bargaining, notably:

1. The role and function of *civil service systems* as parallel and usually competing processes to collective bargaining;
2. the impact of *prevailing rate systems* as a conditioning influence on the parties in public sector bargaining;
3. *salary ordinances and other legislative enactments* of this type that often operate as important constraints to scope of bargaining in public employment.

Further study of these alternative constraints on collective bargaining in the public sector is needed to broaden our perspective and

[9] Russell A. Smith, "Comment on Paper Delivered by Howard S. Block on 'Criteria in Public Sector Interest Disputes,'" in *Proceedings of the Twenty-Fourth Annual Meeting, National Academy of Arbitrators,* Gerald G. Somers and Barbara D. Dennis, eds. (Washington, D.C.: Bureau of National Affairs, Inc., 1971), p. 181.

deepen our understanding of the role of the reserved rights doctrine in the public sector.[10]

[10] For a perceptive article on alternative constraints on collective bargaining in the public sector, see: Don Vial, "The Scope of Bargaining Controversy: Substantive Issues vs. Procedural Hangups," in *California Public Employee Relations*, CPER Series No. 15, November 1972. (Berkeley, California: Institute of Industrial Relations), pp. 2–26. For another important contribution to the literature on this subject, see Irving H. Sabghir, *The Scope of Bargaining in Public Sector Collective Bargaining*, a report sponsored by the New York State Public Employment Relations Board, Albany, New York, October 1970.

Enhancing and Measuring the Productivity of Public Employees

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Government productivity: what is it? How do you tell when you have it, and then what do you do with it? But, whatever it is, just like motherhood everybody should be for it.

Public sector productivity means different things to different people. Technically, productivity has generally been defined as output per man-hour or, more broadly, as a comparison of the amount of resources used compared with the volume of products or services produced. But in many cases it means a cost-cutting procedure, or a speed-up, or the introduction of a new technology, or just a new name for management efficiency or planning. Or as it was called a decade ago, management by objectives, or cost-benefit analysis, or PPBS.

Many Presidents have counseled public sector productivity. President Kennedy issued a memorandum on October 11, 1962 calling on all agency heads to improve manpower utilization in order that essential programs of Government be carried out with the minimum numbers of employees. President Johnson spoke of the "objective of a dollar's worth for a dollar spent." President Nixon in establishing the Productivity Commission intended it to increase the "real value . . . produced by an hour of work."

But to most workers productivity is nothing to cheer about. Seventy percent of the general public believes that productivity gains benefit stockholders "a lot," but only 20-percent believe it benefits employees, according to a Louis Harris poll conducted for the National Commission of Productivity. Nearly 60-percent believe that for productivity to increase, machines must replace people and workers must lose their jobs.[1] Rather than being something considered beneficial to the worker, the concept of productivity is, instead, a cause of distrust and concern. For many, it is just another name for speed-ups, layoffs, or a general reduction in worker security.

Frequently, management tends to reinforce these notions by blaming workers for so-called "low productivity." Often, management's first proposal is to cut the workforce. They decry the civil service rules

[1] The complete analysis appears in the *Second Annual Report of the National Commission on Productivity,* (Washington: U.S. Government Printing Office, March 1973), pp. 95 to 103.

and regulations dealing with job retention and job placement. They accuse unions of a sorry litany of sins that supposedly hinder "productivity gains."

But is this really what productivity is all about? Are the programs of the U.S. Civil Service Commission and of the Productivity Commission nothing more than an attempt to undercut workers? Bascially, productivity in the public service should be an attempt to turn out more and better public services at a minimum of cost. Productivity in the public service will sometimes be similar to that in private industry—it will be concerned with measurable material products produced per man-hour of work. But more often public sector productivity will be related to certain quality of life factors dealing with housing, law enforcement, defense, education, health, race relations, and environment—ecological, cultural, and political—all of which are difficult to measure and evaluate.

But how do all these lofty goals become translated into meaningful realities? The Productivity Commission recommends six "targets of opportunity."

The first target is productivity bargaining which calls for specific discussion of productivity in the collective bargaining process.

The second target is strengthening the manpower adjustment policies to meet the human costs of change. This includes avoiding worker displacement, mitigating financial loss to individual workers, and assisting workers to find alternative employment.

The third target involves the stimulation of education and research and development.

The fourth target is improvement of productivity in government. The Commission stated that efforts should be made to identify emerging ideas to improve local government productivity, as well as to apply productivity bargaining in the public sector.

The fifth target is the urgent need to assess the extent to which business, government, and other institutions will have access to an adequate supply of capital funds.

The last target is the timely identification of industries with lagging productivity growth and practical means for improvement. This involves more adequate productivity measurement of such major sectors of the economy as construction, services, and government.[2]

But the public service is generally unready to adopt these targets. Many governmental jurisdictions are not prepared to enter into full collective bargaining with their employees concerning wages and con-

[2] See Appendix B, *First Annual Report of the National Commission on Productivity*, (Washington: U.S. Government Printing Office, March 1972), pp. 22 to 26.

ditions of employment—and without such bargaining, how can there be productivity bargaining.

The second target dealing with manpower adjustments is complicated by notions of work, and a growing belief that government must somehow function as the "employer of last resort." Even without this additional concern, many managers and management consultants are blase about the manpower impact of change. They do not believe that this is a major concern for their planning; rather, they are concerned solely in "efficiency and savings."

Research and development are not mainstays of public service, and identification and measurement of public goals complicate the problem.

In approaching the issues of productivity and productivity bargaining, two labor concerns emerge: the overall acceptance of collective bargaining as a viable, feasible instrument of dealing with employer-employee relations, and the determination of what achievements have been made in improved productivity.

First, as to collective bargaining, I believe that true, full and effective collective bargaining is a prerequisite to any discussion of productvity bargaining. Without collective bargaining, there is little more than the management manipulations of the 1920's in regard to the "productivity councils" and the general exhortations of that era. It is only through full collective bargaining that workers feel they have a voice in the determination of the goals, achievements, and awards of productivity gains. Only through full collective bargaining do they believe they can protect themselves from any short-term adverse effects of so-called productivity changes.

In the federal service, for example, productivity bargaining can not take place, since there is no full collective bargaining currently in effect. The scope of federal bargaining excludes wages and most regulations of the Civil Service Commission. The mechanism of the Federal Pay Council or of the Federal Prevailing Wage Advisory Committee have not been utilized as effective instruments for collective bargaining. Meanwhile, the Postal Service and the postal unions show that collective bargaining with the federal service is both possible and viable.

A mixed pattern of collective bargaining also exists in state and local governments. In some areas, a long standing collective bargaining relationship has developed. In other areas, the very notion of collective bargaining continues to be rejected.

Many cities with mature collective bargaining relationships have undertaken certain experiments with productivity bargaining. New

York City has, during the last few years, heavily emphasized improving productivity through reorganizing departments, computerization, procurement of new and improved equipment, scheduling changes, project management and budget reform. The changes affect a broad range of government services from street and sanitation work to social work and fire services. Altogether 16 agencies and 175,000 workers are affected in the City's productivity program.[3] However, changes are made following negotiations between the City and the respective labor unions representing the workers affected.

In Detroit, two unions have negotiated a specific productivity sharing arrangement for gains made in the collection and disposal of refuse. These sanitation workers share equally with the city in improvements made by the improved productivity of the sanitation division. The productivity formula as it is calculated is a weighted combination of three factors designed to measure quantitatively, work performed this year and its labor costs as compared to corresponding periods in the past years. These factors are:

1. The savings in per-man-hours per-ton of refuse collected.
2. The savings in total hours of overtime.
3. The percentage of runs completed on schedule.

A fourth factor is being sought to measure the quality of the work as to its thoroughness, neatness, and cleanliness. In the Detroit experiment each of these factors is given a weight with the first factor 50 percent and the second and third factors having weights of 20 percent. Quality, if it can ever be measured, will be given a weight of 10 percent. The savings are calculated quarterly and divided equally between city and workers.[4]

Other projects are being undertaken in a number of large city and state governments. The Productivity Commission is sponsoring special projects in Nassau County, N.Y., St. Petersburg, Fla., and Nashville, Tenn.

A review of the Detroit situation indicates that one of the central issues of productivity bargaining is ascertaining whether improvements in productivity have occurred. The National Commission on Productivity has commissioned a number of studies to attempt to measure productivity in state and local government. The Urban In-

[3] Edward K. Hamilton, "Productivity: The New York City Approach," *Public Administration Review*, Vol. 32 No. 6 (November 1972), pp. 784 to 795.

[4] Jim Neubacher, *Detroit Sanitation Productivity—Everyone Wins*, (Washington: Labor-Management Relations Service of the National League of Cities, 1973), pp. 2 to 8.

stitute prepared a number of detailed reports[5] dealing with the measurement and evaluation of local government productivity. They emphasize three major measurement problems: one is the difficulty of determining what is to be measured, especially quality aspects. Another is that measurement itself can have perverse effects. And a third is the tug-of-war between simplicity of measurements (to achieve understandability and reduce measurement costs) and complexity (to place the proper perspective on usually very complex issues).[6] In distinction to productivity sharing arrangements in private industry such as the Steel Workers' agreement with Kaiser Steel, most government services do not produce simple physical products, but generally deal with public services where quality tends to loom larger than quantity. As a result, in the public sector the measurement problem involving the appropriateness and measurability of the factors frequently becomes one of the matters to be resolved through the bargaining process.

Measurement must be understood by the workers involved in the operation so that they know how they are being judged. Again, this emphasizes the importance of making this an issue of collective bargaining.

Another important element is that most measurement plans do not completely describe the service that is being appraised. For this reason more and more parties are looking toward multi-factors so that they can more thoroughly describe the operation involved.

A too simple measurement system that locks on to a sole indicator of productivity may provide a distorted and possibly unfair picture. A measurement system that attempts to cover all facets of a service may become so complex that it cannot be comprehended by officials or others. The aim should be to seek a middle ground between these extremes.

In New York City, some 289 separate indicators of productivity have been developed. These are designed to provide numerous measures for the various city agencies.

A study of solid waste collection costs made within a large metropolitan area indicated great variation (over 100 percent) in the costs per household per month. This variation existed even when

[5] Reports prepared for the National Commission on Productivity by the Urban Institute and The International City Management Association, Part I *Improving Local Government Productivity Measurement and Evaluation,* Part II *Measuring Solid Waste Collective Productivity,* Part III *Measuring Police Crime Control Productivity,* and Part IV *Procedures for Identifying and Evaluating Innovations—Six Case Studies,* (Washington: mimeograph editions, 1972).

[6] *Ibid.,* Part I, p. 485.

standardized for frequency of service and point of pick-up.[7] Further analysis might point out, however, that certain salient cost factors other than frequency of service or point of service are the basis for the cost differentials. In addition, this comparison is oblivious to the basic issue of cleanliness that the waste collection procedure is to produce. Involving the union in the question may lead to improved techniques, routing, or equipment changes that will bring good results to both labor and management.

In the federal sector, a joint effort was undertaken by the General Accounting Office, the Office of Management and Budget and the Civil Service Commission to produce a measure of overall productivity. They developed a yardstick covering some 56 percent of the civilian work force. Their study for the years 1967 to 1971 indicated an average annual rate of productivity growth for the federal sector of 1.9 percent as compared to an average annual rate for the total private economy during the period of 1.5 percent.[8] In 1972, the federal productivity yardstick was broadened to cover 60 percent of federal civilian employment. However, no bargaining has taken place between these agencies and the federal unions concerning the appropriateness of this measure, or on how these gains are to be shared.

The possible perverse impact of measurement instruments can be explained by illustration. If policemen are rated solely according to the number of arrests per employee, this may lead to excessive pressures to make arrests, even in instances where justice and order are better served by avoiding arrests. Or if housing programs are evaluated largely by the number of new units constructed, this may encourage the neglect of older units.

Public employee collective bargaining has generally been built upon private industry experience; we, too, should look towards private industry for the hallmarks of productivity bargaining. Two elements stand out in private labor-management productivity enhancement programs. These elements are 1) sharing the gains of the increased productivity, and 2) ensuring job and salary protection for the current job holders. Reviews of the longshore agreements, the railroad contracts, the steel settlements, the meat packing agreements, and more

[7] National Commission on Productivity, *Report of the Solid Waste Management Advisory Group on Opportunities for Improving Productivity in Residential Solid Waste Collection,* (Washington: mimeographed edition, 1973).

[8] United States Congress, Joint Economic Committee, *Measuring and Enhancing Productivity in the Federal Sector,* A Study Prepared by Representatives of the Civil Service Commission, General Accounting Office, and Office of Management and Budget, 92nd Congress, 2nd Session, (Washington: U.S. Government Printing Office, August, 1972).

recently the construction industry provisions, all point to these two elements—sharing the gains and protecting the jobs.

If productivity bargaining is to be accepted in public sector collective bargaining it must provide the quid pro quo for bringing about change. Change is basically disruptive, and so one must expect to pay the price for gaining the full acceptance of proposed changes. One price is to share the gains betwen the taxpayers and the workers. Another price is to gradualize, rather than radicalize, the change. Many unions have negotiated agreements sanctioning changes, provided the current workers' jobs are protected. Reductions in force in such agreements generally take place by attrition. Such a program would have a tremendous impact in the public sector—the additional employment forecast for the next decade in state and local government amounts to four million new jobs. In addition, the turnover from retirements and quits most likely will be more than double that number.

What does management gain from productivity bargaining? It achieves better attainment of its goals, usually at a reduced cost or at reduced incremental costs. But to be effective it must have the wholehearted support of the workers who are to carry out these changes, and in many cases management benefits through their workers' active suggestions and recommendations for improvements and change. These benefits will redound to management for years to come as the fruits of the new procedures or technology provide improved services.

Productivity improvement is a recurrent theme of the International City Management Association, the American Socity for Public Administration, the Municipal Finance Officer's Association, The National League of Cities and the U.S. Conference of Mayors, the National Association of Counties, the International Association of Chiefs of Police, and many other public management groups. All of these themes involve the cry for improved productivity. Some recognize the need to "plan with people when introducing technological change so workers are not thrown on the human scrap heap tomorrow," and they consider "ways to share the savings" yielded by greater productivity.[9]

Yet most of these organizations are still unwilling to endorse productivity bargaining. As a matter of fact, many public officials are still unwilling to even accept the principle of bargaining with their own

[9] Sig Gissler, "Productivity in the Public Sector: A Summary of a Wingspread Symposium," *Public Administration Review*, Vol. 32, No. 6 (November 1972), pp. 840 to 850.

employees, much less give those employees a voice in the questions related to productivity improvement.

Some public managements and management consultants are advocating nothing more than a revised "Taylorism." Just recently, I received a promotional letter describing "How to reduce staff 20 percent and increase productivity." Certainly such a program is not going to get the wholehearted support of many workers. In other situations, the proposals are thinly disguised "speed-ups." Some are actually developing a "new management science" around the development of productivity standards. Is this really very different than the "scientific standards" developed by Taylor at the beginning of this century?[10] Such systems and such managerial manipulation will just alienate workers and their representatives. Such attitudes will not improve productivity; rather, they will impede it.

Unions generally have not taken formal positions on productivity bargaining. This is true both in the private sector as well as in the public sector. However, at its 1972 convention, the American Federation of State, County and Municipal Employees resolved to support productivity measures which promise to improve the quality of public service. Their concomitant demand was that changes be bargained and gains resulting from new methods be shared with the workers.[11] The Teacher's Union frequently has bargained on issues dealing with classroom size and other matters related to quality education. The Service Employees have also negotiated productivity provisions: social worker case loads and duties in California and auto and truck repair methods in New York City, for example. Clyde Webber, the president of the American Federation of Government Employees has pointed out that "employees' acceptance of changes in production methods hinges primarily on their job security and pay."[12]

Productivity improvement must be a joint labor-management undertaking. Management must want to involve the workers and make them participants in the program through full productivity bargaining with the workers' representatives. Some short-term successes have already been achieved, but the long-term fruits must still grow and develop.

Productivity improvement must not become an end in itself; rather, this concern with productivity must take into account the quality of service, its effectiveness in serving the community, and the impact upon the workers. Only by joint labor-management actions can real gains be made for both workers and taxpayers.

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[10] Frederick C. Thayer, "Productivity: Taylorism Revisited (Round Three)," *Public Administration Review*, Vol. 32, No. 6 (November 1972), pp. 833 to 840.

[11] *The Public Employee*, Vol. 38, No. 7 (July 1973), p. 2.

[12] *The Government Standard*, (May 1973), p. 1.

The Federal Experience

PAUL YAGER

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Regretably, W. J. Usery, Director of the Federal Mediation and Conciliation Service, cannot be here this afternoon because he is required at a meeting of top-level officials in Washington, in which he is to discuss the impact of the energy crisis on collective bargaining during the next 6 to 12 months and the impact of potential labor-management disputes on the energy supply for the same period. Therefore, I am privileged to substitute for him.

Obviously, I do not speak for the FMCS under these circumstances. I can only offer personal reactions to my own experience and the conclusion I draw from them and those of my staff and colleagues with whom I have discussed public sector collective bargaining and particularly, the collective bargaining within the Federal establishment.

We can discern differences in the nature of collective bargaining among the various elements of the public sector. State and local governments and the organizations representing their employees can and do negotiate the full range of issues, including wages and other economic benefits with which we have become familiar in the private sector. Although there still remains some legal and customary inhibitions on the use of strikes and other ultimate economic weapons in state and local collective bargaining, we have seen the use of the strike growing in that sector. I believe that today, we must acknowledge that, legal or not, the strike is a feature of the local and state bargaining scene. Therefore, the climate of those negotiations are more like the private sector.

On the Federal front, we see a very limited scope for bargaining, since wages and other economic benefits are entirely the subject of Congressional action and the other terms of employment which are subject to bargaining are limited by the terms of Executive Order #11491 under which the process takes place. There have been a few examples of strikes in the Federal sector and of some wide ranging and very effective bargaining. Notable among these have been the Post Office situation (which now operates under a Congressional Mandate—not E. O. #11491) and the Professional Air Traffic Controllers with the Federal Aviation Administration. However, the vast majority of the negotiations in the Federal Government are best described as shadows of the experience in the private sector and local and state government units.

We who have been dealing with negotiations under E. O.'s #10988 & #11491 for more than twelve years, have many horror stories to tell. There is no need here to recount many of them. However, by way of example, the following is a description of part of an experience as told by W. J. Usery in October 1973 before a group at the Industrial College of the Armed Forces.

> "Here is a not-unusual sequence of events that has occurred simply to begin negotiations for a first contract:
> —The parties meet to establish ground rules.
> —They disagree.
> —A Federal mediator is called in.
> —The union requests the Federal Services Impasses Panel.
> —The Agency says the issues are non-negotiable.
> —The Federal Labor Relations Council determines the issues are negotiable.
> —The Impasses Panel takes jurisdiction and recommends a solution.
>
> Then a settlement is reached. Not on a contract, mind you, but just on the ground rules for negotiations.
>
> I recently received letters from the Commanding Officer of a large Air Force Base in the west, and the President of an AFGE Local representing the employees. Both were lavish in their praise for one of our Commissioners who helped them iron out an inital agreement.
>
> The contract came seven years,—that's seven years,—after the AFGE was certified to represent the workers. And it came after 18 months—a year and a half—of negotiations."

There is no mystery as to the reason for this sorry performance. The process is burdened with the weight of the U.S. Civil Service Commission regulations and many regulations of each agency, which under the terms of E. O. #11491 are not negotiable. There also exists a dreadfully complex bureaucratic maze by which the parties can seek adjudication of conflicts regarding unit determination, unfair labor practices and issues of negotiability. Part of the game is to devise strategy and tactics which maximize the player's advantage through resort to a series of appeals bodies: the Assistant Secretary of Labor, The Federal Labor Relations Council, the Impasses Panel. A determined player can "win" by frustrating the entire process with time consuming and human energy wasting "procedural" maneuvering almost indefinitely. Not all agencies resort to such policies. Enough do, however, to make the entire process notorious.

It is management which usually manipulates the system to maximize delay in order to gain negotiating advantages by limiting the scope of

bargaining. On the other hand, the employee organizations do not have effective bargaining cadres. Their organizations must fight on two fronts. They must lobby for economic benefits with the Congress which requires one type of personality and they must be advocates at the bargaining table which requires another type of personality. In addition to which the rank and file negotiators are usually not trained or prepared psychologically to meet the agency negotiators on equal terms. The employee organizations have been preoccupied with winning certification and have generally not provided their negotiating team with useful bargaining objectives and the strategy to achieve them. Therefore, we have seen the "laundry list" phenomena repeated time after time by employee negotiators and we seldom find them ready to establish priorities among the issues or any significant skill in managing trade-offs.

Another factor in the weakness of collective bargaining in the Federal sector is that the management of some agencies are not aware of the usefulness of collective bargaining as a problem-solving tool. These are the same managers who resort to guerilla warfare as indicated earlier. We have found in the private sector that one of the values to management for giving up some of its prerogatives in collective bargaining is that it has in exchange a forum which identifies emerging problems with the work force and provides a mechanism for dealing with these problems. On the Federal sector, so many managers are still fighting the rear guard action, protecting their prerogatives, that they do not get the advantage of the problem-solving element of the collective bargaining process.

As a digression, I can describe a brighter picture in one agency. I recently attended a regional conference of the Local Union Presidents of the Professional Air Traffic Controllers. At that meeting, the union participants and top regional operating managers (not industrial relations staffers) discussed the agreement, clause by clause. They identified areas in which they could anticipate problems of interpretation and thus each side was alerted to proceed cautiously in those areas. In other areas, they achieved clarification of meanings and policies which will serve to minimize strife in the future. This discussion was a demonstration of mature collective bargaining rarely seen even in the more experienced private sector. It is notable as an exception in the Federal sector.

Yet another factor which burdens the Federal sector collective bargaining is the structure of the decision-making process by management. Frequently the negotiating team has no authoriety to conclude anything. They report through a chain of command on what took place

in the negotiations and wait further instruction from on high. The final decision as to what can or cannot be agreed to by management is made in an executive suite which is free from the heat of negotiating table discussions and the educational value of such exchanges. What seems best at the rarified heights of bureaucracy does not solve the problems of the negotiators. I cannot forego to tell you of a horrible example I am familiar with. I know a group of management negotiators who lived in fear of reporting to the Director of a V.A. hospital because they could not report performance of the script as he had instructed them to do. The union representatives had the unfortunate habit of not subscribing to the Director's script. Obviously, no meaningful bargaining goes on under such circumstances. The "ghost" at the table is a phenomenum we meet much too often in Federal collective bargaining.

Because the scope of bargaining is so limited, we sometimes find that consciously or unconsciously, the negotiators on both sides spend a great deal of energy giving the appearance of bargaining without the substance of bargaining. The result is that there is no basis for a conclusion and they continue to spin out the fantasy indefinitely.

In one negotiation, a union committeeman actually stated that he believed the negotiators' duty was to negotiate. He was not aware of the need to reach settlement. This reawakens visions of the ultimate definition of Walter Reuther's "living document" theory.

Since the nature of the Federal bureaucracy is so ponderous, a great deal of time is spent in moving questions to the decision-making center and waiting to get the answers back. The unions operate with little central guidance or influence. They have little or no financial resources to mount effective bargaining strategies. In spite of wide-spread membership, it appears that rank and file enthusiasm for Federal unionism is lacking and therefore, the union spokesmen do not feel well supported even when they do have a meaningful program.

I have listed some of the reasons I believe collective bargaining on the Federal sector has not progressed as well as some of its proponents had hoped because I want to raise a question which might interest thoughtful members of the IRRA.

Perhaps we should not use the term or concept "collective bargaining" when considering the nature of the relations between organized employees and Federal management. Union spokesmen may raise an eyebrow at this notion and management spokesmen who have sat through interminable hours of negotiations may smile. But I suggest that since the nature and climate of what actually happens—what can happen under existing laws and regulations—is so different from the

private and state and local bargaining experience that we are in danger of deluding ourselves that the normal goals and objectives of collective bargaining are available simply because we use that phrase or concept. In the Federal sector, situations in which it works in spite of the limitations, my caveat does not apply. In the large number of situations which seem to depict the failure of collective bargaining, we ought to take a hard look at the way we think about the process.

In the Federal sector, wages and fringes are not negotiated, stability of employment is much higher than in the private sector, and Civil Service and agency personnel procedures provide much similar protection to employees as do many private sector agreements, including appeals systems. Yet, in the Federal sector, we do need a means for employee participation in the decisions affecting his working environment. Should we not be exploring alternatives, means of meeting this need? By this question, I am not suggesting that there is no role for employee organizations, unions if you will, on the contrary, I am suggesting a more meaningful role for them. What I am suggesting is that we might be able to find a more effective means of advancing employee interests and management objectives without the trappings of traditional collective bargaining concepts.

We might be able to eliminate excruciating delays, the ponderous super-structure of FLRC and Impasses Panel and we might even improve the effectiveness of conducting the public business. I raise this question somewhat hesitantly and indeed tentatively because I am not yet sure that traditional collective bargaining will not work in the Federal sector. I do believe, however, that it is now timely to face up to the weaknesses and consider alternatives.

For instance, employee organizations may serve their members by policing and providing enforcement support to individuals under agencies and Civil Service regulations, much as the community legal services and consumer advocates do. Perhaps rigorous performance of such services will convince management that a regularized collective bargaining agreement is a better choice.

Another area of interest to IRRA members might be research, as to the difference in working conditions and other job environment factors between units with agreements and units without agreements.

In conclusion, I must restate that these remarks are entirely personal and reflect the limits of my own experience and discussions and do not in any way reflect the position of Director Usery or the FMCS.

(In the discussion following an oral summary of this paper, Professor Charles Rehmus raised the possibility that the prolonged negotiations which take place in some Federal sector units might well be an unconsciously chosen alternative to "collective bargaining." In effect, he is suggesting that the parties may not need to complete a formal agreement but that they are accomplishing the purposes of the Executive Order by conducting more or less continuous negotiations. I accept this suggestion.)

IV. A NON-LEGAL DISCUSSION OF CURRENT LABOR LAW ISSUES

Consequences of NLRB Decisions Upon Bargaining, Unions, Employers and Public

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Logic dictates that, if we are to discuss the consequences of NLRB decisions upon bargaining, unions, employees and the public, we must first set out those decisions. Time does not permit such an exercise and, in any event, a non-legal discussion of current labor law issues is better served by a brief outline of areas where significant changes in Board policy appear to be developing. Consequently, no attempt will be made in these remarks to include a comprehensive survey of current Board decisions.

In my view, the most significant new Board policy is the *Collyer* doctrine.[1] In *Collyer* the Board first announced that, where employer conduct is alleged to be both a violation of the Act and a breach of the collective bargaining agreement, it would defer to the grievance and arbitration procedure set out in the parties' collective bargaining agreement rather than process an unfair labor practice charge. This shifted the forum for resolving many labor-management disputes from the NLRB to contractual machinery adopted by the parties.

Collyer seems fully consistent with the principle—firmly established both by statute and judicial precedent—that mutually agreed-upon grievance and arbitration procedures are the cornerstone of our Federal labor policy.[2] Moreover, the decision represents a natural evolution in the interpretation of the Act. For many years the Board has followed the rule that, where an arbitrator has ruled upon a mat-

[1] *Collyer Insulated Wire Co.*, 192 NLRB No. 150.

[2] See, e.g., *Textile Workers Union v. Lincoln Mills*, 353 U.S. 448 (1957); *United Steelworkers v. Warrior & Gulf Navigation Co.* 363 U.S. 574 (1960); *The Boys Markets, Inc. v. Retail Clerks Union*, 398 U.S. 235 (1970); and see Section 203 (d) of the Labor Management Relations Act, 29 U.S.C. Sec. 173 (d), which provides that:

"Final adjustment by a method agreed upon by the parties is hereby declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agrement."

ter, it will limit its inquiry into whether the procedures used in the arbitration were fair and the results not repugnant to the Act. *Spielberg Mfg. Co.,* 112 NLRB 1080. In *Collyer,* unlike *Spielberg,* the grievance and arbitration machinery was available but had not been used. The Board considered that the dispute betwen the parties, which arose out of a unilateral change in job rates by the employer, actually involved a question of contract interpretation even though alleged to be an unlawful refusal to bargain. The contract provided a method for resolving such disputes and an effective remedy. The Board reasoned that, because of our national policy favoring arbitration, the contract method of settlement should therefore prevail. The Board did not dismiss the case, however, but retained jurisdiction until such time as the dispute was actually resolved in order to assure that *Spielberg* standards were followed.

The Board has issued a number of decisions following the *Collyer* case,[3] but the issue has not yet been broadly tested in the courts. Those that have ruled have upheld the Board's view and it seems likely that others will follow. (See *Nabisco, Inc, v. N.L.R.B.,* 479 F.2d 770 (2nd Cir., 1973). If so, the *Collyer* doctrine can be expected to do much to strengthen the collective bargaining process as well as to ease some of the pressures of the Board's ever-increasing caseload.

Another significant area of Board policy deserves attention even though its present viability is in doubt.[4] The issue involved is the right of an employee to have a union representative present at a meeting called by the employer to discuss matters relating to the employee's conduct. In *Quality Manufacturing Co.,* 195 NLRB No. 42, the Board found that an employer engaged in unlawful interference by disciplining an employee who demanded such representation during an "investigatory" interview of her alleged misconduct. In another case the Board found a similar violation when two employees were denied union representation during the employer's investigatory meetings concerning certain stolen property. *Mobil Oil Corp.,* 196 NLRB No. 144.

Although limited to "investigatory" interviews, the cases contained the seeds of a broad requirement that the bargaining agent be permitted to intervene much more deeply in routine daily employer-employee relationships than before. Fortunately for both unions and

[3] For an overview of different varieties of cases in which the Board has applied its deferral policy, see, e.g., *Houston Chronicle Publishing Co.,* 194 NLRB No. 193; *National Biscuit Co.,* 198 NLRB No. 4; *National Radio Co., Inc.,* 198 NLRB No. 1; and compare *Joseph T. Ryerson & Sons, Inc.,* 199 NLRB No. 44; *Chase Mfg., Inc.,* 200 NLRB No. 128; *Jacobs Transfer, Inc.,* 201 NLRB No. 34; *Combustion Engineering,* 195 NLRB No. 128. Also, see generally, General Counsel's Revised Memorandum on Processing of Deferral to Arbitration Cases, 83 LRR 42 (May 14, 1973).

[4] See *New York Telephone Co.,* 203 NLRB No. 180.

employers, in my view, the Board has now been reversed by both the Fourth Circuit, in *Quality Manufacturing,* 481 F.2d 1018, and the Seventh Circuit, in *Mobil Oil,* ____ F.2d ____, 83 LRRM 2823. Following Member Kennedy, who had dissented in both cases, the courts ruled that the statutory right of employees to be represented by their union does not extend to all dealings with their employer which might ultimately lead to disciplinary action, and that any such right must be based on contract. The probable consequence of these decisions, if followed by the Board, will be to free both employer and union representatives from unrealistically formal or rigid procedural requirements for every routine disciplinary action.

The Board's role in eliminating discrimination in employment is another area where the potential impact on bargaining, unions and employees is substantial. The Board has withstood better than most agencies the temptation to provide a forum for litigating issues of race and sex discrimination. Thus in the *Emporium* case, 192 NLRB No. 19, the Board refused to find unlawful an employer's discharge of two black union members who, unwilling to wait for the grievance procedure to operate, picketed their employer to protest allegedly racially discriminatory employment policies. (Mr. Charone will comment in more detail on this case.)

While the implications of the Court's reversal of the Board's decision in *Emporium*[5] are very broad, another case, *N.L.R.B. v. Mansion House Management Center,* 473 F.2d 471 (8th Cir., 1973) may have more direct impact. Here again a court of appeals is attempting to force the Board more deeply into the equal employment area.

In *Mansion House,* an employer had engaged in extensive unfair labor practices during an organizing drive. The Board's remedial order included a requirement that the employer bargain with a local of the Painters Union. As a part of its defense, the employer tried to introduce evidence that the union was not a labor organization within the meaning of the Act because it discriminated against blacks by refusing them membership. The Trial Examiner rejected this evidence and the Board approved. When the employer again raised the issue before the Court of Appeals, the Court held that the evidence should have been admitted, that questions of discrimination are a relevant area of inquiry before the Board on a company refusal to bargain, and that remedial machinery of the Act is not available to a union that engages in racial discrimination. Significantly, the Court's opinion was based on Constitutional grounds.

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[5] *Western Addition Community Org. v. N.L.R.B.,* — F.2d —, 83 LRRM 2738 (D. C. Cir., 1973).

The *Mansion House* decision has caused the Board great concern for it strikes at the heart of the Board's representation function. If a union's racial discrimination policies must be scrutinized before a bargaining order can issue, or perhaps even a certificaton following an election, the Board will be faced with enormous practical problems in determining these issues. Union lawyers are obviously concerned about the increased opportunities for delaying bargaining. In addition, because it would appear that the *Mansion House* theory could be raised by "any persons,"[6] the possibility of extensive litigation that neither the union nor the employer want could be forced into routine representation matters. Many management lawyers also recognize that a non-discrimination test for union charging parties is likely to soon support a theory for adopting a similar test for employer charging parties.

There are a number of other areas where recent developments in the Act will have important consequences for unions, employers and the public. Among these are the question of the right of an employer to lock out. Currently the most serious issue is whether an employer can introduce temporary replacements for locked-out employees. In *Ottawa Silica,* 197 NLRB No. 53, enf. 482 F.2d 945 (6th Cir.) temporary replacements were permitted.[7]

The extent to which a successor must not only bargain with the union representing the predecessor's employees but must also honor the wages, hours and working conditions established by the predecessor remains ambiguous despite the decision of the Supreme Court in *N.L.R.B. v. Burns International Security Service, Inc.,* 406 U.S. 272. The most serious problem is the determination of whether the new employer plans to retain all of the employees in the unit, in which event, the Board says he must not change any wages, hours or working conditions without first consulting with the bargaining representative. See, e.g., *Bachrodt Chevrolet Co.,* 205 NLRB No. 122, and the *Denham Company,* 206 NLRB No. 75. Rules applicable to coalition bargaining are by no means clear. See, e.g., *AFL-CIO Joint Negotiating Committee v. N.L.R.B. (Phelps Dodge Corp.),* _____ F.2d _____, (3rd Cir., 1972), 79 LRRM 2939, cert. denied _____ U.S. _____ (1972), 81 LRRM 2893.

Surprisingly, in a very recent case the Board found a violation of

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[6] Cf. Sec. 102.9 of the Board's Rules and Regulations, which provides that "a charge that any person has engaged or is engaging in any unfair labor practice affecting commerce may be made by any person."

[7] Also, see *Hess Oil Virgin Islands Corp.,* 205 NLRB No. 3, and *Inter-Collegiate Press,* 199 NLRB No. 135.

Section 8 (b) (6) of the Act, the featherbedding provision, which makes it an unfair labor practice for a union or its agents to require an employer to pay for services which were not performed. *Metallic Lathers Union of New York and Vicinity, Local 46 (Expanded Metal Engineering Co.),* 207 NLRB No. 111. This section has been rarely used after the U.S. Supreme Court decision in 1953 in *American Newspaper Publishers v. N.L.R.B.,* 345 U.S. 100, which involved the setting of "bogus type." There the Court held that if employees performed work the law was not violated even though the work was unnecessary and unwanted by the employer.

Of great significance in the use of prefabricated and factory assembled products on construction sites will be the final outcome of court tests of the Board's "right-of-control" doctrine. This concept is used to support a finding of an unlawful secondary boycott when there is a division between two employers as to control over the selection of a product to be installed and the employees actually doing the installation work. *Local Union No. 438, United Association (George Koch Sons, Inc.),* 201 NLRB No. 7. The Board has strongly upheld the doctrine despite vigorous opposition from the Court of Appeals for the District of Columbia. The *Koch* case has been argued in the Fourth Circuit and a decision should be forthcoming soon.

The decisions in the areas of featherbedding and product boycotts may have particularly important consequences for the public in light of the pressures of the current energy crisis, for it now appears more essential than ever to the health of our economy that employers in construction and other key industries be free to utilize the most efficient methods available.

Perhaps one of the most important consequences of NLRB decisions stems from what the Board did not do in cases such as *Ex-Cell-O Corporation,* 185 NLRB No. 20 and *Tiidee Products,* 194 NLRB No. 198 and 196 NLRB No. 27, where the Board, again despite considerable pressure from the Court of Appeals for the District of Columbia, declined to adopt a remedy in a refusal to bargain case that would have required the Board in such cases to determine what the settlement would have been had bargaining commenced at the time of the employer's refusal rather than after a bargaining order. To make such a determination the Board would have been forced to decide at least the wage and benefit portion of an agreement between the parties and, to that extent, would have indirectly determined contractual provisions. This would have injected the Board into the bargaining process

to a much greater extent than heretofore.[8]

The Board has likewise exercised restraint in extending the rule of *Fiberboard Paper Products Corp. v. N.L.R.B.*, 397 U.S. 203 (1964), which held that an employer was obligated to bargain with the union before making the decision to subcontract work which would otherwise have been performed by employees represented by the union. Nevertheless the scope of the bargaining obligation generally continues to cause the Board problems. Chairman Miller, in fact, characterizes the "surface bargaining" cases as the "most difficult" which reach the Board.[9]

In assessing the impact of NLRB decisions upon bargaining, unions, employees and the public, the possibility must be recognized that the pressures of the Board's caseload may lead to important changes in the Board's structure, its decisional policy, or both. Chairman Miller has vigorously advocated the need to meet the caseload problem, particularly through structural changes. His pressure on the American Bar Association's NLRB Practice and Procedure Committee has stirred joint union-management consideration of the problem but practical solutions will not be easily reached. Major changes require legislation, and there is little interest politically in amendments to the Act at this time. Without legislative action the Board may be forced, if the caseload continues to grow, to develop internal policies and procedures which will provide some relief. Fortunately, in the first quarter of fiscal 1974 the number of unfair labor practice charges filed did not increase although representation petitions were up. This does not relieve a situation that approaches the intolerable—it merely means it did not get worse.

In closing let me acknowledge that those of us who practice before the NLRB on a day-to-day basis have learned one lesson in recent years. Few of us would encourage revising the Board's policies, procedures or structure to fit the mold of agencies such as EEOC, OFCC or OSHA. Our criticism of the Board is unlikely to abate but these agencies have taught us that things could be worse.

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[8] Despite contrary rulings by the District of Columbia Circuit, the Board has adhered to the position that it lacks the power to award so-called "compensatory damages" for loss of collective-bargaining benefits. See, e.g., *J. P. Stevens & Co.*, 205 NLRB No. 169. No court other than the D. C. Circuit has yet ruled against the Board on this issue. See *Lipman Motors, Inc. v. N.L.R.B.*, 451 F.2d 823–829 (2nd Cir., 1971); *Culinary Alliance & Bartenders Union, Local 703 v. N.L.R.B.*, — F.2d —, (9th Cir., No. 72-2155, Nov. 30, 1973).

[9] Remarks of Edward B. Miller, Chairman, at the Annual Southeastern Conference on Current Trends in Collective Bargaining, University of Tennessee, November 15, 1973. This speech sets out concisely and clearly the Board's role in collective bargaining and some of the problem areas.

The Right of Minorities to By-Pass the Grievance Procedure, Disregard the No-Strike Restriction and to Engage in Strikes During the Life of a Collective Bargaining Agreement

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In determining whether a particular grievance should be taken to arbitration, a union considers its duty to fairly represent its members as set forth in *Vaca v Sipes,* 386 U.S. 171 (1967), its obligation to comply with its contractual obligation such as the no-strike prohibition, as well as its responsibility under Title VII of the Civil Rights Act of 1964.

Driving such a troika requires great dexterity. Take the situation where a member wishes to bypass the grievance procedure, ignore the no-strike provision, and picket to protest the employer's racial policy. Two recent cases illustrate the hazards. In *Moore v Sunbeam Corporation and Local 1129, Dist. No. 8, Int. Association of Machinists,* 459 F.2d 811 (7th Cir. 1972), the union filed a grievance over an employee's suspension for handing out leaflets requesting employees to stop buying company products and to picket. The union's recommendation that Moore stay with the grievance procedure and not picket was ignored. When the employee continued handbilling and demonstrating, he was discharged. The union's refusal to submit his discharge to arbitration resulted in unfair labor practice, Title VII and §301 litigation. The charges against the union for failing to fairly represent were dismissed while the charges involving the discharge were ultimately litigated and the complaint against the company dismissed. Motions by the union and company for summary judgment were granted by the district court.

In a unique setting, the appeal from the NLRB dismissal, as well as the summary judgment order, were consolidated before the Court of Appeals for the Seventh Circuit. It was the Court's view that in light of the no-strike clause, the union's decision not to invoke arbitration was an "acceptable reason" in conformity with its obligation of fair representation.[1] Even dissenting Member Jenkins went out of

[1] Ibid, at p. 20, f.n. 20.

his way to comment that there was "no showing that Moore was not fairly or adequately represented by the union in processing his grievance." 184 NLRB No. 117.

The union after all in advising its members to honor the contract was only repeating the catechism which it had been taught. The cardinal commandment as enunciated by the Court was "thou shall not by-pass the grievance procedure." All honor is paid to preserving the elevated status of arbitration and arbitrators are the new high priests whose wisdom is unmatched throughout the land.[2]

Moore wasn't impressed with the old religion and like early heretics he paid the price of his non-conformity. The Seventh Circuit affirmed the Board's dismissal on the basis that Moore's conduct was "unprotected."[3]

Heretics like ideas are difficult to suppress and in 1973 two black employees of the Emporium Department Store in San Francisco filed grievances alleging that the Company was discriminating against minorities in violation of the collective bargaining agreement. The union investigated their grievances, agreed that their contention was correct, and took steps to invoke arbitration. The union acknowledged that while arbitration unfortunately was a time-consuming procedure, believed that the arbitration award would produce a "long lasting effect" which would benefit not only the employees having immediate interest in the problem, but all employees. Arbitration was, of course, the only method which the parties had agreed upon to settle disputes.

The grievants were dissatisfied with the slowness of the arbitra-

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[2] In return for the employer's promise to arbitrate, the union on behalf of all the employees agrees not to strike during the life of the contract and the employer agrees not to lock out. In substance, the parties have substituted the rule of law for labor strife. The Supreme Court has emphasized that it is the national policy to encourage use of the grievance procedure and such policy "can be effectuated only if the means chosen by the parties for the settlement of their differences . . . is given full play." *United Steelworkers v American Manufacturing Co.*, 363 U.S. 564,566 (1960). In a later case, the court stressed that the national labor policy is to promote labor peace. *Drake Bakeries v Local 50, American Bakery & Confectionary Workers Int. AFL-CIO*, 370 U.S. 254,266 (1962).

[3] The courts have consistently held that all employees irrespective of their race are bound by the grievance procedure since the national labor policy ". . . extinguishes the individual employee's power to order his own relations with his employer and creates a power vested in the chosen representive to act in the interest of all employees." *NLRB v Allis-Chalmers Mfg. Co.*, 388 U.S. 178,180 (1960).

Employees who attempt to by-pass the grievance procedure are subject to discharge since "there can be no effective bargaining if small groups of employees are at liberty to ignore the bargaining agency thus set up, take particular matters into their own hands." *Sunbeam Lighting Co.*, 318 F.2d 661 (1963). Thus, the rule of law requires *all* employees to comply with the grievance procedure since "no surer way could be found to bring collective bargaining into general disrepute than to hold that 'wild cat' strikes are protected by the collective bargaining statute." *NLRB v Draper Corp.*, 145 F.2d 199,203 (4th Cir. 1970).

tion process and after calling a radio and press conference, began picketing calling on the public:

> "to take their money out of this racist store until black people have full employment and are promoted justly."

The employer warned the pickets that their conduct violated the contract and that unless they ceased such activities, they would be discharged and when the picketing continued, they were discharged. Unfair labor practice charges were filed with the Board concluding that the employees' conduct in light of the no-strike restriction, was unprotected and subjected them to discharge.

The Court of Appeals for the District of Columbia disagreed, holding that since the employees' "protest involved racially discriminatory employment practice," their picketing was protected and their discharges were improper. *Western Addition Community Organization v NLRB,* ____ F.2d ____, (D.C. Cir. 1973), 83 LRRM 2738. It was the court's judgment that unless the union "was actually remedying the discrimination to the fullest extent possible, by the most expedient and efficacious means," employees have the right to by-pass arbitration and to picket.[4]

A number of significant questions arise. If black employees can by-pass the grievance procedure, do other minorities such as "females," other racial groups such as Mexican Americans and American Indians have a similar right?

What effect will this decision have on white workers who are required to comply with the grievance procedure? Will white workers be satisfied in submitting their grievances to arbitration when they see minority employees ignoring the grievance procedure?

Consideration must be given to what unions will do if the *Emporium* case becomes the law of the land. Will a union when faced with racial grievances simply decide that the best political course would be to join the grievants and call a strike? If a member who pickets despite a no-strike provision is engaged in "protected" activity,

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[4] If the union indirectly supported the protest, it would have been liable for damages. Judge Teitlebaum, in finding the international and local unions liable for breach of the no-strike provision, characterized sending of telegrams as well as personal efforts of officers to persuade employees to return to work as "veritably negligent." *Eazor Express, Inc. v International Brotherhood of Teamsters, Local Union No. 249, et al.,* — F.S. —, (W. Dist. Penn — 1973), 71 LC ¶13,631. According to the court the unions should have taken such affirmative action as placing the local in trusteeship or imposing fines, suspension or expulsion.

In view of this decision, it is difficult to understand what more the union could have done which would have satisfied "remedying the discrimination . . . by the most expedient and efficacious means." Can arbitration be the exclusive method of resolving disputes but still not be an "expedient and efficacious means"?

will the union in order to satisfy its fair representation duty take the grievance to arbitration?

Of course, unions do not operate in a vacuum; officers have to be elected and members satisfied. The scope of the duty of fair representation is indeed hard to define. Under Section 9(a) of the NLRA, a union has an obligation to represent all employees in the bargaining unit and a fiduciary duty under Title V, Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. §501, et. seq., to spend "money solely for the benefit of the organization." If a union takes a racial picketing case to arbitration or if it joins the picketing, it can be subject to a 301(b) suit as well as a damage action for breach of the no-strike clause.[5]

Unfortunately, the risks keep multiplying. The Eighth Circuit in *NLRB v Mansion House Center Management Corp.,* 473 F.2d 471 (1973), refused to enforce a bargaining order because the union had engaged in racial discrimination even though the company had engaged in widespread campaign of unfair labor practices which culminated in discharging employees to destroy the union's majority status. As an afterthought, the company argued that a bargaining order was improper because the local had engaged in racial discrimination. The court reasoned that ". . . the remedial machinery of the NLRA cannot be available to a union which is unwilling to correct past practices of racial discrimination." The fact that the union was trying to organize black employees, as well as the fact that black employees were deprived of being represented by the union of their own choice was ignored by the court.[6]

As a result of *Mansion House,* the Board has engaged in a serious study to determine whether challenges should be permitted to certification of unions which allegedly engage in racial discrimination.[7]

In conclusion, it is suggested that permitting employees protesting racial policies to ignore the grievance procedure will weaken stability of labor relations. Experience has shown that disregard of the law is indeed catching. If agreements can be ignored by one part of society, it will follow that all of society will adopt a similar attitude, and the grievance-arbitration procedure will cease to be effective.

[5] 301(b) subjects union officers to suits for breach of their fiduciary duties.

[6] A better remedy would have been to enforce the bargaining order with a caveat that the Board retain jurisdiction to determine that the union corrects its racial discriminatory practice. Thus, the employees would not be deprived of their Section 9 rights, the employer could not escape from his unfair labor practice, and the intent of the Civil Rights Act of 1964 would be satisfied. Instead, the Court adopted a maxim that two wrongs make a third wrong.

[7] The adoption of such a rule by the Board would be an impetus for unions to join employees protesting racial discrimination or be subject to a decertification petition.

The Scope of "Good Faith Bargaining" and Adequacy of Remedies

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I have been asked to speak briefly on a topic to which several hours could appropriately be directed. For that reason, I will limit my talk largely to a discussion of an area of great concern to the labor movement, namely, the inadequacy of NLRB remedies in cases where employers refuse to engage in meaningful collective bargaining with the bargaining representative of their employees' choice. But first a word about the scope of good faith bargaining under the National Labor Relations Act.

Scope of Good Faith Bargaining

Section 8 (a) (5) of the Act provides that it shall be an unfair labor practice for an employer "to refuse to bargain collectively with the representatives of his employees."[1] Section 8 (d) of the Act defines what is meant by the obligation to "bargain collectively." That Section provides, in relevant part, as follows:

> "(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession."[2]

An employer commits a refusal to bargain violation where he either refuses to bargain altogether; or he purportedly engages in bargaining but does so by adamantly insisting on his own terms and conditions, i.e., a take it or leave it offer (Boulwarism); or he purports to bargain but merely goes through the motions without in good faith attempting to reach agreement (surface bargaining). This is the type of unfair labor practice involved in our later discussion of remedies.

[1] 29 U.S.C. § 158 (a) (5).
[2] 29 U.S.C. § 158 (d).

Certain topics are mandatory subjects of bargaining (i.e., those which come within the statutory terms of wages, hours and other terms and conditions of employment). Either party may bargain to the point of impasse by insisting in good faith upon his position on a mandatory subject. As to nonmandatory or permissive subjects of bargaining, a party commits an unlawful refusal to bargain if he insists to the point of impasse on his position.[3] Conversely, it is an unfair labor practice to refuse to bargain concerning a mandatory subject, whereas a party may refuse to bargain about a non-mandatory subject without committing an unfair labor practice.

Recently, there have been relatively few serious legal developments concerning the issue of what is and is not a mandatory subject of bargaining. The most important exception is the Supreme Court's decision in *Pittsburgh Plate Glass.*[4] There, much to labor's dismay, the Court held that retirees are not employees within the meaning of the Act, and thus it is not mandatory that an employer bargain concerning such persons. The importance and unreality of this decision is evident when one realizes that many of the benefits negotiated for an active employee vitally affect him after retirement, such as pensions, insurance and the like.[5]

Consider, for example, that pensions are usually negotiated as a fixed-dollar monthly payment. To protect retirees against continuing rises in the cost of living, unions commonly have negotiated periodic increases in pensions for retirees. Furthermore, negotiated rights require protection after retirement. Unions traditionally represent retirees who claim that the employer has failed to provide pension or insurance benefits provided in the agreement. In addition, retirees have a keen interest in the adequate funding of pension plans, so that monies will be available to pay pension benefits. To this end, it is essential that the union periodically review the financial health of the pension fund. Obviously, it is important for retirees as well as present employees to have someone they can look to in enforcing their rights and assuring that they realize in retirement that which was bargained for them as active employees.

The fact is that most employers—the responsible ones—continue to bargain concerning retirees because they too realize the importance

[3] *NLRB v. Borg-Warner Corp.*, 356 U.S. 342 (1958).

[4] *Allied Chemical Workers v. Pittsburgh Plate Glass*, 404 U.S. 157 (1971).

[5] Fortunately, there are certain limitations on the application of this decision. As NLRB Chairman Edward Miller has stated, "the Supreme Court decision is limited and should not be read too broadly by anyone." "Pensions, Profit Sharing and the Labor Board," 1972 Labor Relations Yearbook, 148, 153 (1972). Thus, it is clear that rights of retirees established by a pension agreement may still be enforced under Section 301 of the Act or under common law.

of doing so. I urge the continuance of this practice even though the Supreme Court has now said that such bargaining is not mandatory. It is ironic that the Court should have arrived at such an unrealistic result in the face of today's climate of Congressional concern over pension plans and the need to protect the rights of retirees.

With this brief mention of the scope of bargaining under the Act, I will now move to the subject which I feel is much more serious today, that is, the inadequacy of remedies against employers when they just plain refuse to bargain in violation of their statutory obligation and in derogation of the statutory rights of their employees.

Inadequacy of Remedies

Of great and overriding concern to the labor movement today is the adequacy—or I should say the inadequacy—of remedies imposed by the Labor Board when employers violate their duty to bargain in good faith. Our focus is on the most basic of employer violations under the Act. As stated by NLRB Member John Fanning, "refusal to bargain is now the unfair labor practice that goes to the heart of the Act."[6] Judge Harold Leventhal ably stated, in a similar vein, that "the obligation of collective bargaining is the core of the Act, and the primary means fashioned by Congress for securing industrial peace . . . *Enforcement* of the obligation to bargain collectively is crucial to the statutory scheme . . . ."[7]

Meaningful collective bargaining indeed is the primary objective of the Act. The rights to form and join a union, to participate in concerted activities, and to be free from employer discrimination because of these activities, along with the procedures for determining bargaining representatives, are provided as means to achieve the overriding goal of meaningful collective bargaining. However, our years of experience under the Act indicate that the remedies which the Board provides when an employer violates his obligation to bargain in good faith are "too little and too late." The problem is two-fold: (1) the delays in obtaining those remedies which the Board does provide and (2) the inadequacy of the remedies themselves.

1. Delays In Achieving the Remedy

Two, three and even more years between the filing of an unfair labor practice charge and the enforcement of a Board order are not

[6] Fanning, John H., "Some Reflections on Remedies Under the NLRA," January 19, 1971 (a paper presented to the Connecticut Valley Chapter of the Industrial Relations Research Association).

[7] *IUE v. NLRB (Tiidee Products)*, 426 F.2d 1245, 1249 (D.C. Cir. 1970), cert. denied 400 U.S. 950 (1970) (emphasis added).

at all uncommon. This is simply too long a time for employees to endure the abridgement of their rights. Expeditious enforcement is essential to vindicate the rights of employees under the law. As a 1959 panel of experts, chaired by Archibald Cox, so correctly observed:

> "In labor-management relations, justice delayed is often justice denied. A remedy granted more than two years after the event will bear little relation to the human situation which gave rise to the need for government intervention."

Judge Leventhal, in his opinion referred to above, stated:

> "Employee interest in a union can wane quickly as working conditions remain apparently unaffected by the union or collective bargaining. When the company is finally ordered to bargain with the union some years later, the union may find that it represents only a small fraction of the employees.* * * Thus the employer may reap a second benefit from his original refusal to comply with the law: he may continue to enjoy lower labor expenses after the order to bargain either because the union is gone or because it is too weak to bargain effectively. Not only furtherance of national labor policy, but also important considerations of judicial administration are involved. Simply put, the present posture of the Board encourages frivolous litigation not only before the Board, but in the reviewing courts. * * * The position of the Company is palpably without merit with respect to its refusal to bargain. Yet it profited through the delay that review entails: all during this litigation it has not had to bargain collectively over wages or other financial aspects of employment."[8]

While much of such inordinate delays can be attributed to the bureaucratic processes of the Board itself, the main fault lies with inadequate procedures mandated by the Act. Proposed legislative changes have several times been introduced in Congress, at labor's urging, to correct these deficiencies. Unfortunately, these efforts have been to no avail.

There have been two major legislative changes sought. The first would provide for discretionary review by the Board of decisions rendered by administrative law judges. Under present procedures, when a charge is filed and complaint issued, a hearing is held before an administrative law judge who, makes an initial determination as to whether an unfair labor practice has been committed, and if so, what the remedy should be. If the employer is dissatisfied with the

[8] *IUE v. NLRB,* supra at p. 1249.

decision, or, as is more often the case with employers bent on delay and frustrating the collective bargaining process, the employer may file exceptions with the Board, which must accord a de novo review before issuing its decision and order.[9]

Although 80 to 90 percent of administrative law judge decisions are sustained in whole or part by the Board, approximately 90 percent are now appealed. The vast majority of these appeals involve simple evidentiary or run-of-the-mill substantive issues. Thus, a highly esteemed study showed that less than five percent of all refusal to bargain cases presented "close" questions.[10] A 1968 Congressional subcommittee concluded: "Board review in many of these unsophisticated cases is merely an excuse for delay."[11]

Under the so far unsuccessfully proposed legislation, the Board would no longer be required to grant review of administrative law judges' decisions at the instance of the employer, but rather would be permitted to exercise its discretion in determining which cases it would not review. If the Board denied such review, the administrative law judge's decision would become final Board action, subject to court review.

Another serious cause of delay is the non-finality of Labor Board orders. At the present time, disobdience of a Board order is not punishable until enforced by a court of appeals, and the Board has the burden of obtaining enforcement.[12] Under these procedures, it is often months after an order has been issued before the Board is even aware that the order is being flouted. The Board must then initiate enforcement proceedings in a court of appeals.

I propose that the Act should be amended to preclude a union-busting employer from sitting back and flagrantly ignoring the Board's orders. Such amendment should provide that the Board's orders are enforceable after issuance, subject to the right of respondent to obtain a stay from the court of appeals within a limited period of time. The stay should be granted only if the respondent makes a showing that there is high probability that the Board's order is defective as a matter of law, and the respondent should be required to furnish security for subsequent compliance as the court considers appropriate. This would put the burden where it properly belongs, i.e., upon an

[9] National Labor Relations Act, Section (10), 29 U.S.C. § 160 (c).

[10] Ross, "The Labor Law In Action: An Analysis Of The Administrative Process Under The Taft-Hartley Act," 1966 Labor Relations Yearbook, 299 (BNA).

[11] Special Subcommittee on Labor of the House Committee on Education and Labor, Report on National Labor Relations Act Remedies, 90th Cong., 2nd Sess. 41 (1968).

[12] National Labor Relations Act, Section 10 (e), 29 U.S.C. § 160 (e).

employer if it is dissatisfied with the Board's finding that it has unlawfully refused to bargain in good faith.

2. Inadequacies of Present Remedies

Section 10(c) of the Act provides that the Board may issue orders requiring "such affiirmative action . . . as will effectuate the policies of this Act."[13] Despite this seemingly broad Congressional mandate, which, as the courts have repeatedly emphasized,[14] gives the Board wide discretion in fashioning adequate and effective remedies, the usual Board order in refusal to bargain cases consists only of a mandate to "cease and desist." The Board merely tells the employer to do that which it was already obligated to do under the express language of the Act itself.[15]

A few years ago, former Board Member Gerald Brown stated that "some employers and unions have been respondents in case after case over the years, involved in one hardnosed violation after the other. I am certain that this is due in large degree to remedial inadequacies."[16] More than a dozen years ago, a Congressional subcommittee concluded:

> "Labor Board orders constitute in many situations no more than a 'slap on the wrist.' They are both too little and too late. They constitute, in the words of one witness, 'a license fee for union busting.' The subcommittee recommends that the Labor Board reconsider the problem of 'remedies' with an eye to taking the profit out of unfair labor practices."[17]

A similar conclusion was reached by Professor Philip Ross, in his study of NLRB refusal to bargain cases:

> "The major shortcoming of the NLRB lies in its failure to adopt adequate and realistic remedies in those cases where the employer unmistakably demonstrated a continuing intent to frustrate the Act."[18]

The Board itself has explicitly recognized the problem. In its famous *Ex-Cell-O* decision, a three-member majority of the Board stated:

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[13] 29 U.S.C. § 160(c).

[14] Most recently, for example, see the Supreme Court's opinion in *Golden State Bottling Co. v. NLRB* (12/5/73), 84 LRRM 2839, 2842.

[15] "In other words, the standard Board remedy ordinarily consists of a restatement of the law and does not directly and realistically take cognizance of the consequences of a violation." *Ross, supra.*

[16] Brown, Gerald A., "Exploring The World of Remedies" presented to the Fourteenth Annual Institute on Labor Law of the Southwestern Legal Foundation (November 2, 1967).

[17] Subcommittee on National Labor Relations Board of the House Committee on Education and Labor, 87th Cong., 1st Sess., in a report entitled "Administration of the Labor Management Relations Act by the NLRB" (U.S. Govt. Print. Off., Comm. Print., 1961) pp. 1–2.

[18] *Ross, supra.*

> "We have given most serious consideration to the Trial Examiner's recommended financial reparations Order, and are in complete agreement with his finding that current remedies of the Board designed to cure violations of Section 8(a) (5) are inadequate. A mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of two or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the Union from a loss of employee support attributable to such delay. The inadequacy of the remedy is all the more egregious where as in the recent *NLRB v. Tiidee Products, Inc.,* case, the court found that the employer had raised 'frivolous' issues in order to postpone or avoid its lawful obligation to bargain."[19]

The two other Board members likewise stated in that decision: "The present remedies for unlawful refusals to bargain often fall short, as in the present case, of adequately protecting the employees' right to bargain."

What then would provide an adequate and meaningful remedy in cases of flagrant refusals to bargain in good faith? The unions sought, and the trial examiner recommended, in the *Ex-Cell-O* case that the Board order the employer to make the employees "whole." By this it was meant that the Board should fashion a remedy whereby the employees would receive in the form of backpay an amount equal to the increased benefits which they likely would have received through collective bargaining had the employer bargained in good faith from the outset. Three Board members, while lamenting the inadequacy of present remedies, concluded that such a make-whole remedy was not within the Board's powers to grant.[20] Two of the Board members disagreed.

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[19] *Ex-Cell-O Corp.,* 185 NLRB 107, 108 (1970).

[20] The main reason that the majority of the Board felt it lacked the authority to award the make-whole remedy in *Ex-Cell-O* was its interpretation of the Supreme Court's decision in *H. K. Porter Co. v. NLRB,* 397 U.S. 99 (1970). There the Court held that even where an employer has refused to bargain in bad faith, the Board does not have the power to order the employer to agree to a specific contractual term. The Court of Appeals for the District of Columbia, which has held that the Board possesses the power to grant the *Ex-Cell-O* remedy, held that *H. K. Porter* does not limit this power, because the *Ex-Cell-O* remedy does not force the employer to agree to any contractual terms, but rather orders him to make a backpay award only. The employer is still free to bargain collectively with the union in the attempt to arrive at an agreement concerning the terms and conditions of employment for the future.

The U.S. Court of Appeals for the District of Columbia Circuit, which is the only court thus far to have ruled upon this issue, disagreed with the Board majority and expressly held that such a remedy *was* within the Board's remedial powers.[21] Nevertheless, the Board continues to assert that it lacks the power to order such a remedy,[22] despite judicial pronouncement to the contrary.

Such intransigence on the part of the Board is totally inexcusable. We are, after all, not talking about close cases, but rather refusals to bargain which involve patently frivolous defenses by the employer, or in which bad faith is clearly evidenced. As noted, Congress directed that the Board take "such affirmative action . . . as will effectuate the policies of this Act."[23] To refuse to award what the entire Board has recognized as the only meaningful remedy in egregious cases of refusal to bargain is unconscionable. If a particular remedy is warranted, it is the Board's obligation to grant such remedy until and unless it receives definitive judicial word that it lacks the statutory power to award such a remedy. Not only has the Board not been told by the courts that it lacks this power, but the only court which has passed on the issue has expressly held on four occasions that it *does* possess such power.

Moreover, the Board clearly has another potential weapon at its disposal. Sectional 10 (j) of the Act (29 U.S.C. § 160 (j)), provides that after issuance of an unfair labor practice complaint by the Board, and while the Board's adjudicative processes are being carried out, the Board may go to federal court and seek an injunction restraining an employer's unlawful conduct. Board utilization of this remedy in refusal to bargain cases has been virtually non-existent, however.

In 1961, a Congressional subcommittee urged the Board to make greater use of Section 10 (j) injunctions.[24] The response, unfortunately, has been negligible. For example, in fiscal year 1969, more than 1600 unfair labor practice complaints of all types—not just refusals to bargain—were issued by the Board's General Counsel against employers. Yet the Board filed Section 10 (j) injunction petitions

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[21] *NLRB v. Ex-Cell-O*, 449 F.2d 1046 (D.C. Cir. 1971). See also, *IUE v. NLRB (Tiidee Products)*, 426 F.2d 1245 (D.C. Cir. 1970), cert. denied 400 U.S. 950 (1970); *Food Store Employees v. NLRB (Heck's Inc.)*, 433 F.2d 541 (D.C. Cir. 1970); *Retail Clerks v. NLRB (Zinke's Foods)*, 463 F.2d 316 (D.C. Cir. 1972).

[22] See, e.g., *Tiidee Products, Inc.*, 194 NLRB No. 198, 79 LRRM 1175, 1177 (1972); *Heck's, Inc.*, 191 NLRB No. 146, 77 LRRM 1513, 1516 (1971).

[23] National Labor Relations Act, Section 10 (c), 29 U.S.C. § 160 (c).

[24] Subcommittee on National Labor Relations Board of the House Committee on Education and Labor, 87th Cong., lst Sess., in a report entitled "Administration of the Labor Management Relations Act by the NLRB" (U.S. Govt. Print. Off., Comm. Print., 1961).

against employers in a paltry total of eleven cases. The picture has been even worse since then.[25]

Unfortunately, under the Board's present view as to its remedial powers, even a Section 10 (j) injunction is of only limited value against the type of employer we are referring to here. An injunction would simply order the employer to bargain as it is statutorily mandated to do. However, it would not provide the meaningful and essential remedy which was sought from, but refused by, the Board in the *Ex-Cell-O* line of cases.

By way of conclusion, I should like to point out that there exists a fundamental double standard concerning the vindication of employee and union rights under the Act. Board remedies under the Act, supplemented by certain state court remedies which are available to the employer, offer management a far greater degree of protection than the Board thus far has accorded to individual employees and unions.

For example, if a charge is filed against a union alleging an unlawful secondary boycott, the Regional Director of the Board will promptly investigate this charge. If he finds that there is "reasonable cause to believe that such charge is true and a complaint should issue" the General Counsel is *required,* pursuant to the express terms of Section 10 (1) of the Act, to seek an injunction against such activity in federal district court. These matters are brought on for hearing before the court very expeditiously, and once the court issues a restraining order, it remains in effect pending final adjudication by the Board. During the interim period, the economic status quo is safeguarded, since the possibility of being held in civil or crimnal contempt of that order serves as a strong deterrent aganst the union's continued resort to unlawful economic pressure.

Further, Section 303 of the Act authorizes any employer, who suffers financial loss resulting from proscribed secondary boycott activity, to institute a suit against the union for money damages in federal district court. In sum, then, the Act not only accords the injured employer prompt and effective relief from unlawful economic pressure, it also authorizes a court procedure for the recovery of money damages and costs flowing from that pressure.

These prompt and effective remedies available to the employer stand in marked contrast to the plight of the individual employee and his bargaining agent. This is but another example of the un-

[25] For example, in fiscal year 1971 over 1,900 complaints were issued against employers and Section 10 (j) injunctions were sought in only 11. In fiscal year 1972 the figures were over 2,000 and 10, respectively.

fortunate tendency of the law frequently to pay more attention to the need for protecting *property* rights than individual rights.

Before it is too late, we must devise remedies which are adequate to enforce the rights granted employees under law. The lack of effective enforcement in this area can only exacerbate the general loss of respect for our system of laws today.

As then Dean Bok commented, we cannot allow the law to lose its "moral authority," otherwise "the most serious consequences will follow."[26]

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[26] Bok, Derek, "The Regulation of Campaign Tactics in Representation Elections under the National Labor Relations Act," 78 Harvard Law Review 38, 59 (1964).

The Future of the NLRB

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Although the title is not punctuated with a question mark it could be rephrased, "Future for the NLRB?" My answer is: a viable, energetic and purposeful future, doing what it has been doing with some incremental changes. The processing of representation and unfair labor practice cases has been institutionalized. Indeed, the Board absorbed Postal and university cases without difficulty, and the Labor Management Relations Act is the model for many State statutes.

I see no marked changes in the next 5 to 10 years because the NLRB's achievements have been substantial and constructive and proposals to replace it have few supporters. The NLRB and its administration are compatible with U.S. society in general and its legal environment in particular. Since employer and union structures and their relationships are likely to continue in the future, and since the NLRB is part of these arrangements, it will not change unless the former shift.

Barring a significant realignment of political power, new labor-management relationships, public dissatisfaction with the power of employers and unions, serious economic problems or marked alterations in the labor force, the NLRB and act will continue in the future as in the past.

The NLRB's future received considerable attention when Frank W. McCulloch was NLRB chairman. Some stemmed from the Board's alleged pro-union bias, some from clientele dissatisfied with the NLRB's continuing delays and lack of effective remedies, and some from practitioners and academics protesting the lack of consistent precedents and the absence of substantive rulemaking. In some circles it was believed that the NLRB was engaged more in legislating than in interpreting and applying the statutes.

Since Edward B. Miller became NLRB chairman, harsh criticisms of the Board as an institution and demands for its abolition and replacement are muted.

I hasten to add that one is not necessarily the cause of the other. Indeed, Chairman Miller has urged publicly some overhaul of the NLRB and once characterized the agency as "Our Rube Goldberg

* The views expressed herein are my own and should not be taken as the official pronouncements of either the NLRB or its General Counsel.

Labor Board."[1] Despite his many speeches about structural reform, his voice seems to be the only one, as he recognizes in the lack of any affirmative action by the labor bar or others. Chairman Miller should not be disappointed because his ideas have not taken hold. The same fate seems to have befallen the testimony and papers incorporated in the Subcommittee's two published volumes.

Accepting the Board's important contributions and assets, all of us would like to eliminate inordinate delays, inadequate remedies, multiple forums and predilections and recurrent changes of NLRB members. But if we want to do something constructive about these, we must understand the realities of America, the particulars of our industrial relations system, and characteristics of the NLRB's legal environment.

What, then, lies ahead for the NLRB? Not major substantive issues, but administrative and operational problems. These stem from the increasing caseload, strongly partisan and experienced labor lawyers, limited agency resources, and judicial implementation of procedural due process and the Freedom of Information Act. To continue providing services the NLRB will have to respond effectively to these and related managerial matters.[2]

This paper is organized into four sections: (1) clearing the underbrush; (2) limiting appeals to the Board or a labor court; (3) NLRB administrative reforms; and (4) conclusions.

One other comment. I view the NLRB's future as a part-time researcher and academic and as a full time NLRB professional. I am not a participant-observer but fully involved with what the Board did in the past, what it is doing now and what it will do in the future. Whether this stance is a vantage point or blind spot, it is the only one for me.

Clearing the Underbrush

Consideration of the NLRB's future must start with the undergirding features of our industrial relations system and those characteristics of the broader polity influencing the system. The Commons-Perlman theory of the American labor movement, a theory whose ordered explanations and predictions have not been significantly chal-

[1] *Nation's Business* (February, 1972), pp. 30–33.

[2] ". . . I think the problem of Board administration is likely to be the number one viability problem of the decade of the 70's." John H. Fanning, "The Viability of NLRB Regulation in the Future," in *Collective Bargaining: Survival in the 70's?*, Richard L. Rowan, ed., Report No. 5, Industrial Research Unit, Department of Industry, Wharton School, U. of Penna. (Phila., Pa., U. of Penna. Press, 1972), pp. 27–41, 37.

lenged, contains propositions illuminating the development of labor law. American unions are decentralized and relatively autonomous; local and national unions are committed to a private enterprise system; workers and unions are neither class conscious nor ideological; workers and unions rely upon their power to bargain collectively, to establish favorable rules, and to insure against the uncertainties of the market; the labor movement is pragmatic, does not follow, an abstract design, and relies mostly on its own strength rather than governmental aid or largesse.

Labor law concentrates upon procedural relations among employers, unions, workers and the public, limiting the methods of conflict and specifying the rules for collective bargaining. It implements the exclusive bargaining principle and leaves wide latitude to the parties to decide substantive conditions and rules of the workplace. Labor and management largely control through arbitration and mediation the administration of their agreements and procedures for negotiations. Finally, this system has developed a cadre of management, union, government and private professionals.

Labor laws play a modest role, notes Derek Bok,[3] because of our legal environment. Since we have a decentralized, adversary system with diffused power, neither unions nor management singly or together have the authority, will or need to improve the quality of legislation and administration of the law. Each litigant is concerned only with immediate advantage and indifferent to the health of the process. In the absence of widespread private agreement, the Board is required to settle basic value issues which regularly turn out to be more unsettling than settling because labor or management challenges the Board. Each party enjoys considerable political and economic power which allows law modest discretion. It is similarly difficult for the supravening courts to evolve long term, consistent, acceptable policies.

Given the litigious nature of our society, availability of resources, high value on due process, presence of many lawyers and ambiguities in our laws, the legal environment showers a heavy load of labor disputes on NLRB and courts. Lastly, the persistent antagonism between many employers and unions, and the concern of workers and the public with union power contribute to the high caseload.

The decentralized character of bargaining, range of substantive negotiations and exclusive representation are likely to continue. If these and the NLRB's terrain persist then the NLRB will continue doing what it is now doing.

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[3] "Reflections on the Distinctive Character of American Labor Laws," *Harv. L. Rev.*, Vol. 84 (April 1971), pp. 1394–1463, 1448–1458.

No statutory changes are in the offing.[4] Neither society nor labor-management relations reveal features comparable to those preceding Taft-Hartley and Landrim-Griffin. The Ervin subcommittee hearings produced scarcely a ripple, both unions and management are muted in their criticisms of the NLRB, and the public is not demanding more labor laws. The NLRB has never been so free from hostile critics. Whichever party controls the White House and/or Congress, no legislative changes are likely and no NLRB appointments will produce marked changes.

Established NLRB principles lubricate our industrial relations system. In the representation area basic standards and procedures are institutionalized and accepted. To be sure business conglomerates, coalition bargaining, accretion, independent contractors, etc. require the Board to develop more refinements but none of these issues suggests significantly new pathways. Similarly, in the unfair labor practice area, changes are incremental, resulting from a dynamic industrial relations system. Just as the hard bargaining of Boulwarism is rarely encountered today in NLRB cases, so other hotly debated issues will either disappear or be incorporated in NLRB law.

I conclude that what lies ahead depends more on the consequences of the following than on the Board's decisions: management and union bargaining structures, union mergers, wage structures, technology, labor force composition, economic markets, and the energy crisis.

Limiting Appeals to the Board or a Labor Court

Dissatisfaction with the Board and its administration have produced various reform proposals. All purport to make the Board more efficient and effective. None has an empirical base showing the plan would indeed produce intended results, considers the prospect of unwanted or unperceived consequences, nor indicates its feasibility.

Making final decisions of the administrative law judges (ALJs) subject to certiorari-type review by the Board has been kicking around for more than a decade.[5] Although supported by Board members and introduced in Congress, it never gained significant support from the Board's clientele or Congress. Why? Two reasons, I suspect. However competent and impartial the judges, neither Congress, employers nor

[4]Former Labor Secretary James Hodgson noted that Congress is disinterested in "power-balancing" legislation and tired of "serving as the arena" between unions and management. *BNA,* 84 LRR 219 (November 12, 1973).

[5]NLRB Chairman Edward B. Miller believes that this reform "may already be archaic." *Address before the Labor Law Section, ABA,* Washington Hilton Hotel, Wash., D.C. (August 7, 1973), mimeo., p. 7.

unions will accept ALJs decisions without automatic review. And second, NLRB clientele accept delays in exchange for a higher appeal level.

Various proposals for replacing the Board with a labor court or transferring unfair labor practices to the district courts have been around for several years.[6] The most comprehensive one, suggested by Professor Charles J. Morris,[7] would establish a United States Labor Court with jurisdiction over unfair labor practices and other sections (not representation) in LMRA, the Railway Labor Act, and Title VII of the 1964 Civil Rights Act.

Morris bases his wholesale restructuring on the NLRB's procedural defects, political swings, absence of pre-trial discovery, inadequate remedies, unreviewable power of the General Counsel, conflict with arbitration, and duplication of other laws and tribunals. Are these valid shortcomings, would a labor court correct them, and is Congress likely to pass such legislation?

I think not. Earlier I indicated that no sweeping changes are probable in the context of our society, character of our industrial relations system, nature of our legal environment and lack of any concerted public demand for change. More particularly, the proposal is flawed because of its assumptions, absence of any hard data and its focus on centralized authority. We prefer diffused power, overlapping jurisdictions and checks and balances. Each group seeks representation and recognition even at the expense of efficiency. Finally, his proposal assumes that since all the laws have sufficiently common elements one court is appropriate. But separate laws with different agencies were established because the settings, problems and goals differed. It is unlikely to generate any significant support. Chairman Miller, an outspoken advocate of some restructuring and repairing, made a point relevant to this proposal:[8]

> We would do well to take pride in our achievements, which, in turn, suggests that we should not permit careless tinkering with a valuable and rather delicately balanced apparatus.

NLRB Administrative Reforms

Barring a major external event like an econmic depression or giving the Board jurisdiction over state and local employees,[9] the

[6] Fritz L. Lyne, "The National Labor Relations Board and Suggested Alternatives," *Labor Law Journal*, Vol. 22 (July 1971), pp. 408–423.

[7] "The Need for New and Coherent Regulatory Mechanisms," in *Collective Bargaining, op. cit.*, pp. 42–76.

[8] "The NLRB—Past, Present and Future," *Address before the Association of the Bar of New York, N.Y.*, (November 12, 1970), mimeo., p. 16.

[9] H.R. 12532 introduced by Congressman Frank Thompson, Jr., in the 2d Sess., 92nd Cong.

NLRB's central problem in the next decade will be managerial. A rising case load and clientele demands for more procedural due process and access to agency documents are among the factors creating operational problems. Elsewhere, Professor William Gomberg and I have suggested internal reforms for the former.[10] Here I shall highlight the administrative changes and consider the consequences of the Board's opening up its procedures and files.

The Board must develop a plan with goals, resources, priorities and appraisals. Neither Congress nor the clientele will act affirmatively with structural or other reforms. Although the Board should establish task forces and advisory committees and invite participation from profes-organizations, universities and law schools, it must be the initiator and catalyst for managing its administrative problems.

The Board should use substantive rulemaking instead of relying only on case-by-case adjudication. A long-standing debate persists between supporters and opponents of this technique. But the opposing views never consider rulemaking in terms of the agency's operational problems. Whatever your views, the process of rulemaking would be constructive.

Preparing for rulemaking, the agency would have to examine fruitful areas and develop categories of cases and problems. Clientele would have to explore all facets of the proposed rule and document their positions. This would stimulate empirical studies, a neglected area, and diminish argumentative and speculative views. Everyone would have to face such questions as where we are, where we want to go, how are we going to get there and what are the consequences if we adopt one rule instead of another.

The rulemaking process should induce employers, unions, professionals and the Board to work for consensus. Our decentralized and adversary system needs unifying processes. Achieving agreement or even defusing antagonisms is a partializing means for resolving group differences. Leaving aside the merits of any particular rule, I suggest that the process would contribute to the Board's effectiveness.

Moving from the Board to the regions, where more than 90% of the cases are processed finally, I suggest more decentralization. Let me tick off several specifics. Postponements, extensions, motions for reconsideration, etc. add to delays. The agency should limit such requests, reduce time for exceptions, briefs, etc., and support directors when parties complain to Washington.

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[10] "Improving Administrative Effectiveness of the NLRB," *Labor Law Journal*, Vol. 24, (April 1973), pp. 201–220; Samoff, "The Case of the Burgeoning Load of the NLRB," *LLJ* Vol. 22 (October 1971, pp. 611–630, and "Coping with the NLRB's Growing Caseload," *LLJ*, Vol. 22 (December 1971), pp. 739–762.

Shifting the burden to charging parties is another administrative technique. Since employers usually file well-documented charges, this shift would fall mostly on unions and individuals. It is a sensitive and unsettling matter because it raises a value clash between protecting statutory rights and more effective use of agency resources.

Shifting the burden for a *prima facie* case may have some compensations. About 70% of all charges against employers are non-meritorious. Whatever the value of processing non-meritorious charges, the agency's resources could be used more effectively in other areas. The "saved" resources should be allocated to speedier disposition of discriminatory discharge cases which are entitled to a second priority under Section 10(m). Directors should be given authority to obtain discretionary injunctions in such situations.

Authorizing directors to convert unfair labor practice cases to representation cases is another mechanism. These cases arise out of union competition and raids and can be resolved by elections. Since the Board has earned accolades for its election processes which settle inter-union disputes, I suggest elections when one union files a charge block an election sought by another union and employer.

Unless the evidence shows flagrant and pervasive unfair labor practices, directors should be authorized to conduct elections irrespective of the charges. Strategic maneuvering by either one of the unions or employer or both through charges would be diminished and hopefully eliminated. Although this conversion would require the Board to reexamine what type of conduct inhibits voters, I believe that employer recognition of one of two rivals does not influence voters.[11] Absent gross unfair labor practices, we should hold the election, dismiss objections and certify.

Another regional approach is an expedited (not statutory priority) unfair labor practice joint conference in selected cases. Instead of conducting a field investigation in every case, the director would pick those for accelerated handling. A professional would conduct an informal hearing, without being bound by the rules of evidence, and be responsible for getting the facts and positions of all parties, who could even cross-examine the other side's witnesses. There would be no transcripts or briefs and local union and plant personnel would be the representatives. A written or oral report would be submitted to the director, including the facts, analysis, findings, precendents and recom-

[11] Derek Bok concluded that, "[i]t is difficult to maintain that recognition in itself influences employees improperly." "The Regulation of Campaign Tactics in Representation Elections Under the National Labor Relations Act," *Harv. L. Rev.*, Vol. 78 (1964), pp. 38–141; 117–123; 117; Samoff. "NLRB Elections: Uncertainty and Certainty," *U. of Penna. L. R.*, Vol. 117 (December 1968), pp. 228–252.

mendations. The director with senior staff would decide, and the professional would inform the parties. This would be on a selective-case basis[12] and closely monitored.

Although the informal, open, joint meeting should be tried, I am mindful of its shortcomings. Nevertheless, it is a feasible, constructive mechanism, helping the director stay close to the parties and issues and giving him authority and discretion to optimize staff resources. Since the director is familiar with the cases, issues and parties, the director can react promptly and effectively to strategies and untoward consequences.

These, then are some of the internal reforms. In addition the courts have compelled the Board to give more standing[13] and make its records available to the parties. Although these decisions have not yet created any serious agency problems, their consequences would limit agency discretion, add to its workload and afford parties delaying strategies.

Relying upon the Freedom of Information Act, courts have compelled the Board or General Counsel to provide an index of directors' decisions[14] and copies of internal advice and appeals memoranda.[15] Although all legal issues are not yet resolved, the direction is clear. Furnishing such copies requires the agency to revise the form and contents of internal documents. Preparing indices is a Herculean task requiring a shift of scarce resources. I shall not evaluate opening up the agency but mention these changes to suggest what lies ahead.

Conclusions

What do I see for the NLRB? Unless there are such widespread forces as an economic depression, major restructuring of employers, unions and collective bargaining, or marked political realignments, the Board will continue doing what it is now doing, with incremental changes to meet labor law refinements. Its approach will be pragmatic, self-limiting and evolutionary. The private and public bureaucracies with their vested interests and orderly procedures are moderating and stabilizing influences.

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[12] A somewhat similar program adapted for expedited arbitration is being used by United Steelworkers of America, AFL-CIO and some steel companies. Ben Fischer, "Arbitration: The Steel Industry Experiment," *MLR*, Vol. 95 (November 1972), pp. 7–10.

[13] *N.L.R.B. v. Leeds & Northrup*, 357 F. 2d 527 (CA-3, 1966), *Terminal Freight Handling Company and Terminal Freight Co-Operative Association v. Joseph H. Solien, Regional Director of the Fourteenth Regional National Labor Relations Board, for and on Behalf of the National Board*, 444 F. 2d 699 (CA-8, 1971).

[14] *Automobile Club of Missouri v. N.L.R.B.*, —F.Supp.— (U.S.D.C., June 12, 1973).

[15] *Sears Roebuck & Co., et al. v. N.L.R.B. and Peter G. Nash, Genenal Counsel*, 480 F. 2d 1195 (C.A.D.C., July 23, 1973); cf., *Safeway Stores, Inc. v. N.L.R.B.*, —F. Supp.— (U.S.D.C., October 16, 1973).

No sweeping NLRB changes are likely. Management and union organizations, powerful entities, are shaped by economic markets, use extensively various levels of due process, and are modestly affected by labor law. This suggests that neither the Board nor its decisions will alter significantly in the future.

Will the Board be replaced by a labor court? Hardly. The American soil is unreceptive to concentrating so much power in one court. The claimed virtues of a single forum have not been documented and neither Congress nor the affected clientele are supporting it. Should we discard our present arrangement? Senior Board member John H. Fanning answered in these words:[16]

> What I do suggest is the system now in operation has shown itself remarkable adaptable and expandable, and one should think carefully before changing it.

Marshaling and allocating agency resources to achieve justice are the agency's future goals, requiring planning, leadership and the development of a unifying process of substantive rulemaking. Directors should be given more discretion to reduce delays, impose heavier burdens on charging parties, convert certain unfair labor practice cases to representation ones, and experiment with informal conferences in selected unfair labor practice cases.

All labor-management professionals are and will be facing uncountable challenges. To cope with them intelligently and effectively we might ask with Immanuel Kant the three basic questions: "What can we know? What should we do? What may we hope?"

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[16] "Some Commentary—Mostly Kind—One the NLRB," *Address before the Los Angeles Chapter, IRRA,* October 9, 1973, mimeo., p. 8.

V. NEW VISTAS IN COLLECTIVE BARGAINING

Current Experiments in Collective Bargaining

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Nineteen hundred and seventy-three has been noteworthy for the development or extension of experiments in collective bargaining. These experiments include the adoption of the Experimental Negotiating Agreement in the basic steel industry, the continuing experiment with collective bargaining in the Postal Service in a statutory context providing for finality through compulsory arbitration, the utilization of so-called "med-arb" in the newspaper industry in San Francisco and the Pacific Coast and Hawaiian longshore industry, and the probing of the "last offer" technique.

THE STEEL EXPERIMENTAL NEGOTIATING AGREEMENT

The Experimental Negotiating Agreement in steel, ENA, provides for voluntary arbitration tailored to the special needs and circumstances of labor and management in the steel industry. ENA was reached well in advance of the August 1, 1974 termination date of the existing steel agreements. The agreements between the United Steelworkers of America and the ten companies that make up the Coordinating Committee Steel Companies, Allegheny-Ludlum, Armco, Bethlehem, Inland Steel, Jones and Laughlin, National, Republic, U.S. Steel, Wheeling-Pittsburgh, and Youngstown Sheet and Tube, provide that there will be a guaranteed minimum wage increase of at least three percent each year of a three-year agreement due on August 1, 1974, August 1, 1975, and August 1, 1976. In addition, each member of the bargaining unit who is employed as of August 1, 1974 will be paid a one-time bonus of $150.00. The 1971 cost of living clause will remain operative each year through 1977 with no ceiling and no floor on the amount of cost of living adjustments.[1] Several clauses in the existing collective bargaining agreements are to be continued and will not be subject to arbitration. This category in-

[1] The cost-of-living formula is subject to revision through collective bargaining or, if necessary, through arbitration.

cludes the provisions which protect local working conditions, the union shop and check off, the no strike and no lockout clauses and the management rights provisions.

A two-tiered bargaining procedure is established, one to resolve national issues and another to resolve local issues. At the national level, talks will begin no later than February 1, 1974. If no agreement is reached by April 15, either party may submit its unresolved proposals to an Impartial Arbitration Panel which will have authority to render a final and binding determination of the issues. A tripartite arbitration panel is established consisting of one advisory union representative, one advisory representative of the companies and three impartial arbitrators. The three impartial arbitrators will be selected by the parties. At least two of the three arbitrators to be chosen must be thoroughly familiar with collective bargaining agreements in the steel industry. The panel will hold its hearings during the month of May 1974 and must render its awards no later than July 10, 1974.

As to local plant issues, for the first time there is established a separate right to strike or lockout over such issues at the particular plant involved.

The Experimental Negotiating Agreement is a salutary development. Some regard it as revolutionary. My own view is that ENA is rather an evolutionary development. Voluntary arbitration is not new. There is an impressive history of the arbitration of new contract disputes going back to the 19th century.[2] The practice of voluntary arbitration has been particularly well developed in the local transit and printing industries.[3]

In the early part of this century, arbitration of contract terms or wages was not infrequent in the coal and clothing industries. Other industries often employ agreements to arbitrate new contract disputes and in still others voluntary arbitration of the contract disputes has been used occasionally.[4] Thus, the extension of the voluntary arbitration process in the steel industry is part and parcel of a process which, generally speaking, antedated the arbitration of grievance disputes.

There are, of course, a number of reasons underlying ENA which led the parties to reach that agreement. One was to forestall "stock-

[2] Witte, *Historical Survey of Labor Arbitration,* 10–15 (1952).

[3] Schmidt, *Industrial Relations in Urban Transportation,* 193–207 (1935); Witte, cited at footnote 10, at p. 15; Kuhn, *Arbitration in Transit* (1952); Loft, *The Printing Trades,* 234–237, 239; National Labor Relations Board, Bull. No. 4, *Written Trade Agreements in Collective Bargaining,* 53, 55, 57, 107 (1939).

[4] See Cushman, *Voluntary Arbitration of New Contract Terms—A Forum in Search of a Dispute,* 16 Labor Law Journal 765 (1965).

piling." The industry had been in the habit of building up large inventories of steel long in advance of a potential strike date. This practice had a number of unhappy consequences. Where no strike in fact occurred steel production, in view of the prior buildup, would be limited and substantial layoffs of employees occurred. The steel industry incurred extra expenses because of scheduling of overtime and the start up of marginal facilities. The incentive upon management to reach a settlement of the issues was diluted because the demand for steel would be relatively light in the months following a settlement. And employees who went on strike would not be entitled to SUB benefits which would be financed by the employers.

On the management side of the equation, financial benefits would seem to be significant. Although the union can bargain for additional wage and fringe benefits, steel customers are assured of continuance of steel deliveries with an attendant reduction of any incentive to purchase foreign steel. In addition, the steel companies would be able to schedule production on a normal basis thus eliminating the costs of start up of marginal facilities, attendant overtime costs and, after a peaceful settlement through collective bargaining or arbitration, avoid SUB costs which would otherwise result from crisis bargaining.

THE 1973 POSTAL SETTLEMENT

The agreement reached by the United States Postal Service and the four national exclusive postal unions was also the result of an effort to avoid crisis bargaining. The agreement contains a number of provisions which may fairly be classified as novel and in the nature of collective bargaining experiments. Rumors of a possible postal strike had somehow been circulated. Several large mailers were said to be making arrangements to use other methods of delivery because they feared an interruption of postal service. To quiet such apprehensions, the parties established for themselves a deadline of June 20 within which to complete bargaining, a date one month prior to the expiration of the then current agreement. That result was in substance achieved.

The statutory background against which the agreement was negotiated must be understood in order to evaluate the nature of the problems before the parties at the bargaining table. The Postal Reform Act provides that if no agreement is reached by the expiration date, there will be factfinding with recommendations and, if that process does not result in an agreement, compulsory and binding arbitration. Such procedures could extend for five or more months beyond

the expiration date of the contract. The uncertainties and delays inherent in such procedures were factors which led to strenuous efforts to reach an early agreement. Thus, the need to assure continued mail service was analogous to the stockpiling factor in steel. In addition, the uncertainty of the outcome of an arbitration to be reached after lengthy delays and the uncertainties of vacillating and unclear governmental stabilization policies were motivating forces for an early agreement.

As in the case of steel, certain safeguards for employees were essential to lay the groundwork for the reaching of an agreement. In the postal situation, the retention of the no layoff clause was one prerequisite for reaching any agreement. In steel, there were the economic guarantees and benefits for both parties outlined above.

The postal settlement produced a number of innovating provisions. An integral part of the postal scene is the rapid mechanization of postal facilities. One aspect of the introduction of new technology is the building of preferential mail centers and bulk mail facilities often located or to be located on the fringe of the metropolitan areas in which the older postal installations have been located. A result of the establishment of such facilities is to require the transfer of employees, often minority employees, from urban center installations to somewhat remote suburban facilities with attendant transportation and housing problems. The postal agreement established two committees to deal with such problems. At the national and regional levels, Joint Committees on Human Rights were established to study plans for site selection for facilities planned for regional mail networks in major metropolitan areas and to review the availability of adequate housing and transportation, particularly for minority groups. That committee is authorized to develop affirmative action proposals for all matters affecting minority groups. This provision supplemented the nondiscrimination clause in the agreement and provided, further, for expedited grievance procedures applicable to such matters.

The contract also established a National Blue Ribbon Committee which would, among other things, discuss such problems.

These provisions represent a serious and innovative effort by the national exclusive postal unions and the Postal Service to create machinery for the anticipation and resolution of special problems affecting minority employees within a framework of fair representation for all employees in the bargaining units.

Another provision of the postal agreement provides a pioneering check off for group or mass marketed automobile insurance.

The parties settled without fanfare a sharp clash of views as to

mandatory overtime by providing for "overtime desired" lists for those employees who desire overtime and providing further that no full time regular employee could be required except in an emergency situation and in the month of December to work more than 10 hours a day or six days a week.

Among other contractual protections against the impact of technological change, the contract provides that the employee whose job is eliminated and who is placed in a job calling for a lower grade receives permanent rate protection unless and until a position in his former wage level becomes open and he fails to bid or apply for that position.

The postal agreement, like the steel agreement, established a two-tiered system for the settlement of local issues. Under the postal agreement, however, if no agreement is reached on local issues within 30 days, then the unsettled issues may be referred to final and binding interest arbitration by either of the parties.

Med-Arb

Under the procedure called med-arb, the parties agree in advance that all decisions whether as a result of mediation or arbitration, are incorporated into the aribtrator's award which is final and binding. The key to the success of the process, according to its leading practitioner, Sam Kagel, is that it gives the so-called mediator muscle in "interest" cases.[5] The conventional and governing notion about the mediator's role is that he who mediates never arbitrates. A rigid separation of mediation and arbitration has been thought to be necessary so that the arbitrator may make his decision on the merits unaffected by offers of compromise made during the negotiation or mediation process.

Med-arb is said to have the effect of requiring the parties to abandon strategic extremes in their positions for realistic proposals within the area of settlement. If the mediator is going to make a decision, the parties are thought to be forced to reveal their hands and settlement thereby enhanced. Med-arb did work well in the San Francisco newspapers' dispute, in the Hawaii teachers' strike situation and in settling the Pacific Coast and Hawaiian longshore disputes without a strike.

The fact is that there is nothing new about combining mediation with arbitration in interest disputes. Some arbitrators have in practice used the technique for better or for worse in the past. The name and emphasis are, however, new.

The increasing use of med-arb does, however, emphasize a trend

[5] *Monthly Labor Review*, September 1973, p. 62.

toward the use of voluntary arbitration as an alternative to the strike or lockout.

"FINAL OFFER" SELECTION

In its simplest form, the "final offer" technique is one which requires that the arbitrator in an interest dispute choose between the employer's final proposal and the union's final proposal. The theory which underlies the "final offer" technique is that each party will substantially soften its demands and make concessions in the course of bargaining so that its offer will be held to be the more reasonable one in the event of arbitration.

The simple "final offer" technique is quite unrealistic. In practice, it might well make for a totally unacceptable arbitration award and never really serve to narrow the issues at the bargaining table. In real life proposals made by unions at the outset of bargaining frequently contain a number of demands which are therapeutic in nature. That is, such proposals are intended to satisfy the union membership even though the judgment of the union officers is that such proposals are not realizable at this particular set of negotiations. Such demands may be abandoned or substantially modified in the course of bargaining but the abandonment or modification is not highlighted because of the way in which collective bargaining proceeds. Normally, management makes a package proposal which may contain no reference to what may be styled as "political proposals" not expected to be achieved. Union leadership is then free to deal with the management proposals without any special spotlight on their abandonment of the "political proposals." The "final offer" technique, however, requires the union to publicly put on the table its "final offer." There will be a number of proposals which union officials could not, as a practical matter, omit from their "final offer." The acceptability of an award adopting the management offer in such a context would be extremely doubtful.

There is a possibility that an arbitrator might be empowered to select one offer or the other on an issue by issue basis. Since many parties bargain on a "package" basis, however, the positions of the parties probably will not be interrelated to the extent that the arbitrator could separate them out by issue.

Other more complicated "last offer" techniques exist. For example, Massachusetts recently enacted a "last offer" law applicable to policemen and firemen.[6] The new law will be effective July 1, 1974.

[6] Chapter 150(E), Massachusetts General Laws, 1973, as reported in *Government Employee Relations Report* No. 533, December 10, 1973.

Once other impasse resolution procedures of the law have been exhausted the disputed issues are to be submitted to a three-member arbitration panel, tripartite in nature. The arbitration panel would conduct hearings and, at the conclusion of the hearing, each party is required to submit a written statement containing its last and best offer for each of the issues in dispute to the panel. The panel is then required, upon the basis of rather broad statutory criteria, to select one of the two written statements and its decision is final and binding not only upon the parties but also upon the appropriate legislative body.

There are those who urge that the "final offer" procedure operates to provide less government intervention in the bargaining process than in the case of compulsory arbitration. If the panel is given the wide discretion in selecting the more reasonable offer that the statutory criteria purport to afford, it is naive to claim that government intrusion is of a substantially lesser magnitude in this process than in compulsory arbitration.

Compulsory Arbitration

Many state statutes provide for compulsory arbitration for public employees and prohibit strikes. There is also a substantial segment of opinion which tends to favor compulsory arbitration accompanied by a prohibition of strikes in the private sector in major disputes in private industry. Some suggest that collective bargaining and our present procedures for handling national or local emergency disputes are inadequate. Increasingly, there is a tendency to substitute compulsion and public decision making for private decision making when strikes or lockouts in key industries are threatened or occur. Our national labor policy has been based on the concept that collective bargaining should be promoted and encouraged. The national labor policy also embodies the notion that the right to strike is an essential element in motivating successful collective bargaining. Those concepts are still, in my view, viable concepts.

We need to refresh ourselves as to our experience with regard to compulsory arbitration. The World War II War Labor Board experience and experiments in some eight states after World War II demonstrated that under techniques of compulsory arbitration or seizure the collective bargaining process atrophied. Often one party or the other believed that it had something to gain in awaiting dispute determination by compulsory arbitration. The dispute became unduly protracted and very often embittered. And strikes, depsite legal prohibitions against them, did occur.

On the other hand, it has been suggested that the very existence of a compulsory arbitration procedure will tend to motivate an agreement and that the conventional wisdom which looks to a contrary result is mistaken.[7] It may be argued that the postal experience demonstrates that the proponents of this point of view are correct. It is premature to draw conclusions from the postal experiment. Rather we should look to the history of compulsion and its failures for guidance. That history shows that compulsory arbitration simply will not normally work effectively.

On the other hand, voluntary arbitration of new contract terms, particularly when surrounded with safeguards for both parties as in the case of the Steel Experimental Negotiating Agreement, offers great possibilities. Voluntary arbitration has the virtue of a process that may be developed and shaped by the parties themselves to fit their own special needs. If labor and management place their reliance upon government decrees rather than upon themselves, industrial self-government will founder.

Both in the private sector and in the public sector there is no efficacious final solution for the problem of strikes or lockouts. The survival of collective bargaining in both the public and private sectors is dependent upon the people who are involved. In the last analysis, collective bargaining demands mutual and reasoned accommodations. In the absence of that spirit of accommodation neither collective bargaining nor our other most valued institutions can endure.

[7] See Carl M. Stevens, "Is Compulsory Arbitration Compatible With Bargaining?", 5, *Industrial Relations* 38, pp. 49–50, February 1966.

Reflections On Bargaining Structure Change

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Introduction

The structure of collective bargaining in the United States is a fascinating polyglot of craft, industrial, local, regional, national, and miscellaneous arrangements that derive from history, accident, ambition, relative power, governmental interference, and a host of other factors. Certainly it is not possible to describe this system in a brief paper. Hence these remarks will be confined to the potential for change in a few key areas.

The cornerstones of the mixed American system are the principles of exclusive representation and majority rule, which make changes in the structure, for the most part, dependent upon the consent of the parties. Hence changes in structure are not easy to obtain, however well or indifferently they serve the parties or the public interest. A structural change upsets both the existing power balance and the political status quo. If, for example, bargaining is altered from a local to a regional basis, it is likely that the economic advantage of one party over the other is lessened while, at the same time, the importance and/or political stature of the local union officials and plant personnel and line officials suffer a decline. It is readily apparent that changes of this nature are not universally welcome.

Nevertheless, change does occur and is occurring, and for a variety of reasons. In this paper, I shall focus on four instruments of change: 1) union mergers; 2) management instigated restructuring; 3) governmental pressures; and 4) international developments. Of course, there are many other factors involved, and even for the subjects covered, space constraints permit only the highlights to be noted.

Union Mergers and Bargaining Structure Impact

As Professor John T. Dunlop has pointed out, union organization in the United States is under considerable stress, not for ideological reasons as the intellectual left and other romanticizers would have us believe, but for the mundane facts of financial realities.[1] Three-fourths of American unions have a membersip of 100,000 or less. With

[1] John T. Dunlop, "Future Trends in Industrial Relations in the United States," address before 3rd World Congress, International Industrial Relations Association, London, 1973, mimeo.

scattered membership, with, like universities and other nonprofit bodies, costs rising in an inflationary period much faster than income, and with membership disinclined readily to increase dues, many of these smaller unions do not have the finances to serve their memberships adequately. Recently, for example, the International Chemical Workers Union required the injection of a one dollar per month dues increase merely to survive. Consequently, we have seen quite a few union mergers, and more are likely to develop.

On the other hand, a few large unions, particularly the Teamsters and the Steelworkers, see the plight of smaller unions as an opportunity. Both have become conglomerate unions. Devoid of ideological hangups, they merge smaller organizations in a manner analogous to their industry counterparts, providing for guaranteed employment and pensions for the officers and staff of the merged union at rates higher than the small impecunious unions could possibly pay, thus securing support for the merger action. Then like the conglomerate corporation which assures the world that "no changes in personnel or staff are contemplated," the conglomerate union removes the frequently less than expert newly acquired staff from positions where their bumbling could be hurtful or where their possible disloyalty could be upsetting, and sets out to reorganize bargaining structure in the industry.

The United Steelworkers' experience in nonferrous mining and its entry into chemicals are cases in point. In the former case, it merged the Mine, Mill and Smelter Workers in 1967, and attempted immediately to put bargaining on a company-wide, if not industry-wide basis. Apparently, its optimism that this could be accomplished out of hand was based on the USW experience in steel, aluminum and can, and the former MMS bureaucracy's belief that all it required was unity and the USW's resources. Fearful that such a structure would doom their converting businesses, the Big Four nonferrous mining concerns refused to yield. After a nine months' strike, settlement was finally achieved on the basis of a compromise, but new structure worked out by an extra-legal board headed by the late Geroge W. Taylor. This structure maintained the separation of primary and secondary processing and manufacturing operations.[2]

Now the Steelworkers has become the largest union in the chemical industry by absorbing District 50. This industry has featured a low degree of unionization, weak unions, and plant bargaining units.

[2]For a detailed account of these events, see William N Chernish, *Coalition Bargaining*. Industrial Research Unit Study No. 45 (Philadelphia: University of Pennsylvania Press, 1969), Chapter IX.

All this the Steelworkers is determined to change. It has set out to unionize DuPont, the industry's giant. A majority of DuPont's plants are unorganized; the second largest group bargains with local independents; and about five plants are unionized by the International Chemical Workers Union. The Steelworkers' organizing drive had yielded one victory in a small facility, and a defeat in a larger one by the end of 1973. Meanwhile, it is wooing the independents to merge them and actively attempting to organize other plants.

Elsewhere in the industry, the Steelworkers have induced Allied Chemical to agree to regional bargaining in New York state, and with a union coalition, have succeeded in gaining limited company-wide barganing at Union Carbide on pensions and insurance.[3] For the Steelworkers to accomplish its mission, it needs not only to increase the degree of unionization in the chemical industry, but to effectuate further expansion of bargaining units. Single plant units allow companies to transfer production and to withstand strikes, especially since chemical production processes permit maintenance of a high degree of production at single facilities by supervisory and salaried personnel during strikes. Needless to note, success of the Steelworkers' organizing and restructuring plans in the chemical industry would result in a fundamental shift of bargaining power there and a further enhancement of union power generally.

Management Instigated Restructuring

In terms of relative bargaining power, the construction industry is at the other end of the spectrum from chemicals. Union power is so overwhelming that the unions have only to watch the clock tick the employer into submission. As a result of excesses resulting from the abuse of this raw power, not only contractors, but also users and even government have moved to redress the balance. Yet it is the dismal science, economics, in the guise of nonunion competition, that is in fact having the greatest impact in this regard.

Historically construction bargaining has been largely on a local basis, and although multicraft bargaining has always occurred, there have been in most jurisdictions, several key crafts that bargain on an individual basis. Management representation has been split up into a plethora of associations, many of which seem more interested in the survival of their bureaucracies than in containing union power. In case a strike occurred, strikers could drive a few miles and work during the strike. Contractors, many of whom are small and financially weak,

[3] Union Carbide previously had fought hard to avoid coalition bargaining. See Chernish, *op. cit.*, Chapter VII.

had no such easy method to sustain themselves. Moreover, each contractor was subject to strikes by several crafts, anyone of which could shut him down.

To make matters worse, the industry has a number of national contractors with national agreements. These contractors traditionally kept working in a locality during a strike against local firms. When that occurred, strikers did not even have to travel to keep working. Meanwhile, contractors, national or local, who experienced a strike would receive unremitting pressure from manufacturing companies and other users to end the strike "regardless of the cost." And just in case the construction unions might suffer from the consequences of having everything going their way, the federal government has been there to bolster their power through the Department of Labor's propensity to define the Davis-Bacon prevailing rate as the union rate whenever doubt existed, and/or by the National Labor Relations Board and the courts interpreting the restrictions on secondary boycott to mere shadows of their purported substance.[4]

The results of such imbalance have led to a special stabilization program, a rethinking by the users and national contractors of their roles, and attempts by industry, government and users to alter bargaining strategy, tactics, and structure. In the Dallas-Ft. Worth areas of Texas, for example, local associated general contractor and specialty contractor associations have assigned bargaining rights to a broad regional group, countered union whipsawing and effectuated a much better bargaining balance. Similar restructuring of the bargaining units have had like results elsewhere. These results, have achieved some success, at least in part, because of a number of key developments:

1. Users, formed the construction Round Table, now a part of the Business Round Table, in order to support, instead of pressure contractors, and have done just that.
2. Partially as a result of the Round Table's efforts, national contractors are now contributing to local negotiations, and not working if a local stoppage occurs.
3. The construction stabilization program has apparently aided in slowing wage increases, thus in effect bolstering contractors.

All these developments might have been in vain, however, if the union construction wage inflation, and continued productivity de-

[4] A forthcoming Industrial Research Unit study will examine Davis-Bacon policy in detail. On secondary boycotts, see Ralph M. Dereshinsky, *The NLRB and Secondry Boycotts*. Labor Relations and Public Policy Series, Report No. 4 (Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1972).

cline, had not induced an increasing number of users and contractors to see an alternative and contractors to take advantage of that alternative which is, of course, nonunion construction. In a study now underway at the Wharton School's Industrial Research Unit, we have found a surge of nonunion construction throughout the country in areas and types of work that just a few years ago were monopolized by union construction. This expansion of the nonunion sector, widely acknowledged by unions and contractors, has created a number of union responses, including contract concessions, violence, and especially pertinent here, a willingness to agree to bargain on a different structural basis, as for example, the Dallas-Ft. Worth example just noted.

At this point, I should like to add a caveat against the trend to wider bargaining units. I can well understand the reasoning, and I agree that some widening might be necessary to avoid whipsawing in construction. Experience generally, however, indicates that in the long run, wide bargaining units may enhance already inflated union power, not modify it.

Indeed, those who see larger bargaining units as a panacea for bargaining weakness might well pause and study experience before they act. Certainly there is little in the history of national collective bargaining in the railroad, bituminous coal, flat glass, or steel industries that would automatically cry out for emulation, and overrated regional bargaining structures, such as those in the West Coast paper industry, have been reappraised on the basis of later developments. The larger the unit and the farther away from the employee that the decisions are made concerning wages, hours, and working conditions, the less are the problems of employee concern likely to be addressed, or the needs of local union officials likely to be considered. If an attempt is made to localize some of the bargaining to avoid ignoring workplace problems, as in practice is likely to be necessary, then the potential of separate national and local strikes exists. For the building contractor, being liable for only two strikes is a great advance, but in the less underdeveloped areas of work, this is a retrogression. Moreover, local strikes become more difficult over time because employers who settle economic matters at the national or regional level have little or nothing to give locally. Hence, they are unable or unwilling to make concessions to please employees or to provide political salve for local union business agents—at least until forced to by recurring local strikes.

Perhaps a better way of coping with the construction crisis is to permit economic forces to make their pressure felt. Ideally, this would

involve repeal or modification of the Davis-Bacon Act so that where unions are not strong, union rates would not be artificially inflicted on the tax paying public. It would also include repeal or modification of the Norris-La Guardia Act so that union tactics, such as harassment picketing, secondary boycotts, and organizational strikes can be dealt with. (The latter is, of course, what Congress thought it was doing with the 1958 Landrum-Griffin amendments to the Taft-Hartley Act, but the National Labor Relations Board and the courts have essentially rewritten these provisions.) And finally, it would involve enforcement of laws against violence, destruction, and personal injury—or treatment of such actions in a labor dispute no different than they are handled in other cases. Unfortunately, I must conclude that since these fundamental reforms are not on the horizon, construction employers must do what is possible—and today that means widening the bargaining unit and considering either going nonunion or forming a "double-breasted" nonunion subsidiary.

Government Pressures

Within our essentially mixed private-government collective bargaining system, government pressures on the structure of bargaining will continue to be significant. Only a few can be noted here. Bargaining unit determination by the NLRB has always been a strong shaper of bargaining structure, and will surely continue to be.[5] If, as it appears, the stabilization period drags on, changes in structure are likely to occur under the aegis of Dr. Dunlop, whose interest in the subject is obvious. In late 1973, for example, the cement and the supermarket industries were key targets for restructuring pressure from the Cost of Living Council. In both, the industry has performed very poorly in bargaining and unions have demonstrated little restraint.

Although the direction of restructuring emphasis by the Cost of Living Council is not fully clear at this writing, it does appear that it is toward wider bargaining units at least in so far as cement is concerned. My caveats about this trend have already been made. I do believe that such industries as cement and supermarkets should take a good hard look at mutual aid a la the airlines, if they are to withstand union pressures. The supermarket industry is beset, like construction, with nonunion competition, and its unionized sector desperately needs some social engineering to remain viable. Its plight is similar to that

[5] For an analysis of the NLRB in this regard, see John E. Abodeely, *The NLRB and the Appropriate Bargaining Unit*, Labor Relations and Public Policy Series, Report No. 3 (Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1971); especially Chapter IV, "Unit Modification."

of the construction contractor, and more than restructuring of the bargaining system is required for relief.[6]

For more than twenty years it has been very clear that the power of the Retail Clerks and, to a lesser extent, Meat Cutters in the supermarket industry, rested almost entirely on the boycott power of the Teamsters.[7] Reducing the efficiency of that boycott power, as I have proposed, would do much to bring collective bargaining in the supermarket industry closer to the public interest. Absent this basic reform, the inexorable forces of economics should result in a continued expansion of the regional and local supermarkets. They use separately owned cooperative or wholesaler warehouses, trucks, and in most cases, unionization. They are able therefore to utilize manpower more efficiently. Even if they pay equivalent wage rates to the union ones, like their nonunion construction counterparts, they then have significantly lower manpower costs. Sooner or later, this competition must affect the supermarket unions, although they have yet to face up to the clear results of their power.

International Developments

Today there is much publicity and discussion concerning the potential of multinational collective bargaining. Much of this is self-appreciating bombast by a few officials of International Trade Secretariats, particularly the Secretary-General of the International Federation of Chemical and General Workers Unions (ICF), Charles Levinson. He has claimed credit for a host of successful confrontations with multinational companies. These claims have now all been investigated—Saint Gobain, AKZO, Michelin, Dunlop-Pirelli, and a host of others—in a recently completed article by a colleague and myself.[8] In all cases, the claimed results have been falsified, or exaggerated, or both, but accepted as fact by business journals and/or scholars too inefficient or lazy to delve behind cleverly written press releases.

Nevertheless, there are significant developments which could lead to multinational bargaining in the European Economic Community. These developments involve not the traditional trade secretariats, but regional groups under the aegis of the European Confederation of Trade Unions,

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[6] Some discussion of similarity between construction and supermarkets is found in Herbert R. Northrup *et al., Restrictive Labor Practices in the Supermarket Industry.* Industrial Research Unit Study No. 44 (Philadelphia: University of Pennsylvania Press, 1967).

[7] See Morten Estey, "The Strategic Alliance as a Factor in Union Growth," *Industrial and Labor Relations Review,* Vol. IX (October 1955), pp. 41–53.

[8] Herbert R. Northrup and Richard L. Rowan, "Multinational Collective Bargaining Activity: The Factual Record in Chemicals, Glass, Rubber Tires, and Petroleum," *Columbia Journal of World Business* (March and June 1974).

and particularly its affiliate, the European Metal Workers Federation. The latter, which has no official ties to the International Metalworkers Federation (IMF), has conducted several multinational union discussions with Philips, and Fokker-VFW, and with the European shipbuilding industry. That these discussions could lead to new bargaining structures that could involve American multinational concerns, and eventually American unions, seems clear. Although it is easy to overlook problems, difficulties, and national institutions which stand in the way of fruition of union aims, we do anticipate some multinational bargaining structures in Europe within this decade.

Concluding Remarks

In this paper, I have confined my attention to the private sector. Just a glance at the public sector indicates that all the mistakes ever made relating to bargaining structure in the private sector are being made in the public one, plus a few new ones. Moreover, whereas economic realities do assert themselves in the private sector, however hesitantly, they are blocked by political considerations in the public one. The imbalance of power there is so monstrous as to raise very serious questions whether collective bargaining among public employees is a viable method of determining employee wages, hours and working conditions, and the current bargaining structure, with its fragmented units and special groups, add to the problem. The viability of local and state government, as well as the need to gain effective control of the national government, all require that we thoroughly rethink and reanalyze what was done when the private collective bargaining model was applied to the public sector.

At the same time, it would seem to behoove all of us to examine critically where we are headed in the structure of bargaining in the private sector. Is not the whole question of structure grounded in the concept of relative power? If that is so, is the thinking of the 1930's, so strong in the views of the NLRB and Department of Labor bureaucracies, not lacking in the public interest for the social setting of the 1970's? If the answer remains affirmative, should we not question much of the law and administration which underpins union and management power in order to determine whether it is in the public interest? Obviously I believe so, and I invite particularly the younger scholars to rethink this question most seriously.

Trends in International Collective Bargaining with Multinationals and the Respective Strategies

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Seyfarth, Shaw, Fairweather & Geraldson, Chicago

"Multinational" is the name given a corporation that operates plants in various countries. Union leaders conclude that because it stretches across national boundaries, such a corporation acquires special powers vis-a-vis the labor unions that represent the employees working in the various plants. Legally, multinationals do not yet exist. At this point in time, multinational corporations are groups of corporations called subsidiaries established under the law of the different countries and must operate as any other domestic corporation in the country where they are organized. There is a statute now under consideration that will give multinationals legal status throughout the Common Market area. This means that the collective bargaining procedures that have legal recognition within each country are the procedures that apply to each of the subsidiaries of the multinational.

Because subsidiaries are domestic corporations, the Deputy Managing Director of the Confederation of German Employers' Associations asserted there is no justification for instituting a dual collective bargaining system—one applicable to the "multinationals" and one to domestic corporations. But some labor union leaders would not agree. They urge that some of the collective bargaining between multinationals and labor unions be moved to the international level to counterbalance the assumed special power of the multinationals.

To implement this view, councils of representatives from the national unions of countries where various multinationals operate have been formed. The International Metal Workers Federation has organized councils for General Motors, Ford, Volkswagen, Daimler Benz, Toyota and Nessan, Chrysler-Semca-Rootes, Fiat-Citroen, Renault-Peugeot, BLMC, General Electric, Philips, Siemens-AEG, Westinghouse, and International Telephone and Telegraph (ITT). The International Chemical and General Workers Union has formed similar councils for Dunlap-Pirelli, Michelin, Goodyear-Firestone, Akzo, St. Gobain, Rhone-Paulenc, W. R. Grace, Ciba-Geigy, BSN-Glaverbel, Shell, Hoffmann-LaRoche, Pelkingtons, BG and Unilever.

The council meets to plan strategies to be used against the corporation and typically the leader of the council is from the largest union representing employees of the multinational in its home country. The

International Metal Workers Federation has 80 affiliated unions in 49 countries and the International Chemical Workers has 86 affiliates in 33 countries. Together the two organizations claim 13 million members. In addition to these two large international organizations (secretariats) there are 16 others, and all are linked together through the International Trade Secretariat (ICFTA).

Although the councils have been formed, the movement of any meaningful collective bargaining between the council and the multinational up to the international level has been complicated by inter-union rivalries, ideological conflicts, personality clashes and lack of resources.

Our first task is to determine whether there are sufficient rewards to be obtained from collective bargaining on an international level to cause these difficulties to be submerged, permitting strong coalitions of unions to develop and meaningful collective bargaining to be transferred to the international level; and our second task is to determine what the strategies of those advocating and resisting the trend will be.

Why International Collective Bargaining?

Any attempt to predict whether the formation of the councils is the birth of effective coalition of unions for bargaining at the international level must involve a consideration of several "gut" questions. Why would union leaders want to bargain at this level? What could they expect to gain there that they could not gain in bargaining at the employment situs or at the national level?

A study of the reports from the meetings of various councils reveals that the attack against multinationals is usually the claim that their managements, lured by tax concessions granted by the governments of under-developed countries or by the lower wages prevailing in pockets of under-utilized manpower in the more developed countries, will build plants in foreign locations to utilize these resources—and in doing so "export jobs" which otherwise would remain at home and be filled with union members. The multinational is called a "capitalist concentration" that causes "maximum redundancies" when they "export jobs" by moving capital across national boundaries of "maximize profits."[1] One study for the AFL-CIO implementing this theme said that over 5,000 jobs a week were exported by U.S. based multinationals.[2]

[1] "The Trade Unions Against Multinational Companies," World Trade Union Movement (London World Federation of Trade Unions, May–June 1971, pp. i–xii).

[2] S-S Ruttenberg, et al., "Needed: A Constructive Foreign Trade Policy," A special study commissioned and published by the International Union Department, AFL-CIO, Washington, D.C. October, 1971. The same attack surfaces in the union's support for legislative restrictions upon capital movement in multinationals exemplified by the Burke-Hartke bill.

This same concern is expressed when it is said that collective bargaining with a multinational should be moved to the "locus of decision"—that is, to the world headquarters. Decisions concerning the "wages, hours and working conditions" of employees working in a particular plant in a particular country can be made just as effectively at the "locus of employment" as they can be made at world headquarters and, hence, the desire to move the bargaining to the world headquarters means the union leaders want to talk about the investment policies that cause jobs to grow in one country and contract in another.

It cannot be argued that investments by multinationals in foreign countries, when examined from a worldwide point of view, is not good. Such investment permits the economies of the host countries to catch up economically to the economies of the home country. Union leaders, however, who represent members in various countries, are pragmatic political people who view matters from the self-interest point of view of their particular members and, hence, they cannot, as a practical matter, view economic growth from a worldwide perspective. Some will support an effort to block foreign investment to protect jobs and others will want it to cause job opportunities to be created. These basic differences will cause strains between the representatives from the under-developed and those from the developed countries.

The divergent views of union leaders were revealed when representatives of the AFL-CIO met with their Mexican counterparts and urged a choke-down in the growth in industry south of the U.S. border by using force to raise wage levels. The Mexican unionists found this advice quite transparent. They knew that to heed it would cause layoff of members and reduction in dues income.

Therefore, on the only issue that must be discussed at world headquarters—that is the worldwide investment policy of the multinational—there will be deep divergence of view among the union leaders who would be part of the union coalition bargaining committee and when these divergent views come into conflict, the coalition will break up.

International Wage and Benefit Bargaining Would Result in Only a Poor Third Tier

If the members of the union coalition could not agree on a common objective concerning the multinational's investment policy, a common position on wages and employee benefits might become an alternative. However, the union representatives from the countries where wage and benefit levels are high would obviously advocate "wage parity" to make the foreign investment less attractive, and the union represenatives from the less developed countries would advocate that minimum

wage and benefit levels be negotiated so that the multinational could increase the investment in their countires to create more employment opportunities and the tax base needed to improve roads, schools, hospitals, etc.

Such bargaining would produce results somewhat parallel to the bargain reached between coalitions of employers (represented by employers' associations) and unions in Europe. The national wage and benefit bargain is fixed at a level that permits the least efficient companies to continue to exist but permits the more profitable companies to establish higher wages and benefit levels for their employees. The difference between the level of wages in the national bargain and the wages actually paid by the more profitable companies is called "wage drift." "Wage drift" is not a condition that exists in the U.S. because the wages established in the collective agreement represent the wages actually paid.

In the U.S. where the United Automobile Workers bargain with major automobile and farm implement companies on a centralized basis, the bargaining over the local supplement which establishes certain differentials for individual plants, has produced what is called two-tier bargaining. Since the economic conditions surrounding plants in different countries are so different, if the bargaining at the world headquarters concerned itself with wages and benefits, the bargain would only establish a third-tier minimum and the more meaningful bargaining would be the national bargain and the plant site bargain.

If the core desire of some union leaders was to force the multinational to establish wage parity at all its plants to make investment in foreign countries less attractive, it has lost much of its steam. In the last two and one-half years, wages in Britain have risen 34%, in West Germany 31%, in France 25%, in contrast to only an 18% increase in the U.S. and labor costs have risen faster in Europe than these percentage changes would suggest because the wage related fringe costs are greater in Europe than in the U.S.[3] For example, the number of vacations and holidays in Europe is about 24; double wages are paid during vacation periods and a 13-month bonus is typically provided at the end of the year. Hence, many European employers pay 15-plus months of wages for only 10 months of work and a slight rise in wages means a substantial rise in costs.

Furthermore, this cost rise will not level out. The pressure to harmonize fringe benefits within the Common Market area is generating "leveling up." This means that the lowest level of benefits will tend

[3] Italian fringe costs are 89% of wage costs; in France, 66%; West Germany, 52%; whereas in the U.S. they are only 30%.

to move up to the highest level. Any move toward uniformity does not contemplate reductions.

Finally, the energy crisis has skyrocketed costs and Europe is no longer a place to build a plant to produce products for export back into the U.S. Even though the value of the dollar relative to the value of the European currencies is rising, such rise will not be sufficient to offset the effect of these other cost increases. It is now the European labor leaders' turn to attack the multinationals for exporting jobs. The major European corporations are building plants in the U.S. to held their U.S. business.[4]

The Difference in Union Structures Makes International Coalitions Fragile

The typical bargaining in the U.S. is between an employer and a union at the site of employment and the union that represents the employees also represents employees in plants of other employers. The main bargaining goal of such a union is the establishment of wage and benefit levels for the employees of each plant comparable to those paid by the other employers. The union spokesmen assert that "Wages must be taken out of competition." Because independent unions that limit their membership to the employees of a particular employer become too concerned with the economic well-being of the particular employer, they are considered in the U.S. to be less dedicated to the forcing up of wages and benefits to the industry level.

In Japan, in contrast to the U.S. (with one or two exceptions), unions confine their membership to the employees of a single employer. Instead of being called "independents" as they would be called in the U.S., they are called "enterprise unions." This form of unionism developed in Japan as a natural consequence of an all-pervading employer paternalism. Since the employee considers employment by the employer to be for a lifetime, the employees link their welfare closer to the fortunes of the employer because they want that employer to stay in business for a lifetime. This means that Japanese employees will more quickly object when their "enterprise union" takes an action that economically harms their employer than will the typical unionized U.S. employee. This structural difference between Japanese and U.S. unions affects employees' attitudes toward their employer. If a strike were called by an international coalition and the Japanese members considered the economic impact on their employer to be excessive, they might well not support the effort even though their U.S. colleagues gave it support, and the coalition would break down.

[4] Volvo is building an assembly plant costing over $100,000,000 in Chesapeake, Virginia. The total foreign investment in the U.S. has climbed to 1.4 billion dollars a year.

Similarly, differences between European and U.S. unions would introduce fragility into coalitions. For example, the French constitution, and for that matter the constitutions of most European countries except Great Britain, grants to employees the right to freely disassociate from any association at any time. Hence, union shop arrangements typical in the U.S. cannot be made effective and if French workers were asked to strike in an effort to choke off U.S. investment in Mexico, they could express their dissatisfaction with such an objective by withdrawing from the union. This power in European union members to retaliate against the leaders of the coalition (if a decision to use force is considered by the members to be inconsistent with their self-interest) is a difference which can make coalitions fragile.

Another difference that would weaken coalitions is that in the U.S. an agreement is not binding (with a few exceptions) until the "handshake agreement" has been ratified by a vote of the membership, whereas in Europe where coalition bargaining is normal, it is very unusual for the terms of a negotiated agreement to be submitted to ratification by the members. In fact, in Germany it is required by law that unions have representatives at the bargaining table who have the power to bind when the handshake agreement is reached. A collapse of the coalition would occur, of course, if the U.S. members of one of the unions in the coalition did not ratify the agreement. If an international coalition included U.S. unions, a basic change would have to be made in the U.S. ratification practice if the coalition was to function. However, if the ratification rights were taken away, the U.S. members would object.

When the United Steelworkers tried to form a multiunion coalition to bargain with Anaconda, Phelps-Dodge, Kennecott and American Smelting and Refining, the unions were unable to change the traditional bargaining relationships because it was discovered that employees want to have more involvement in their own destiny and, hence, want the meaningful bargainng to occur at the plant site. To try to move any meaningful bargaining to a foreign country would make the bargaining more remote and breakaway movements would results.

There is another reason coalitions are difficult to maintain. The participating unions must agree among themselves that no one union will enter into an agreement with the employer without the approval of the others. However, if a union refuses to sign with an employer after an agreement has been reached, the employer can claim that the union is violating its bargaining obligations under the law and legal pressure can be brought to bear which can disrupt the coalition.

The laws in most European countries provide that the national bargain made between the coalition of unions and employers can be extended to companies who are not represented in the employers' coalition and, hence, a multinational engaging in international collective bargaining could be forced to comply with an inconsistent national bargain which, of course, would make coalition bargaining on an international level difficult, if not impossible. Robert Copp of Ford explained that Ford of Germany bargains through the employers' coalition because Ford believes that "its interests were best served by joining the appropriate metal industry employer associations and adhering to agreements negotiated by them."[5]

If an effort was made to force Ford to bargain on an international basis, the pressure would have to be sufficient to cause Ford to withdraw from the employers' coalition in Germany or the international bargain would be so insignificant that Ford could bargain at both the international and national levels without inconsistent overlap.

Would Collective Bargaining be "Consultation" or "Collective Bargaining?"

A process known as "consultation" is part of the European labor relations systems and is to be distinguished from the process known both in Europe and the U.S. as "collective bargaining." Consultation is a dialogue concerning managerial plans that takes place at works council meetings which are procedures required by law in West Germany, France and Belgium, and in the public sector in Britain. Some union leaders might argue that discussions they desire to hold at the worldwide headquarters of a multinational are "consultation" rather than "collective bargaining." Since European employers typically meet with representatives of their employees and carry on dialogues about future company plans, including plans for additional investment, the requests for such meetings are not strange to the European businessman. A consultation delegation representing the European Metal Workers met with a management committee at the Philips Corporation headquarters in Holland and another such delegation representing the International Metal Workers met with the Brown-Bouveri management in Switzerland.

Since "consultation" is not part of the U.S. system, similar meetings have been very infrequent in the U.S. During the National Recovery Act days, works councils were being established in the U.S. under government encouragement but when the National Labor Relations

[5] Robert Copp, *The Multinational Corporation and Industrial Relations: The Labor Affairs Function in a Multinational Firm,* Proceedings of IRRA Spring Meeting, September 1973, p. 454.

Act became law, they were declared illegal as interferences with the representational rights of unions (1 NLRB 1).

There have been two meetings between international delegations and Ford company representatives. The limited agendas for the discussions did not permit these meetings to be classified even as "consultations" and Robert Copp of Ford explained that requests by international delegates to engage in consultive negotiations has been rejected, giving these reasons:

> "Generally speaking, Ford managements restrict their consultations and negotiations with employee representatives to the employee effects of management decisions, . . . Ford managements do not so far consult with international bodies about their investment and production deployment decisions, and the IMF has not persuaded us why it (or some other international trade union body) should receive unique treatment in this respect."[6]

Even in Europe, the distinction between "consultation" and "collective bargaining" is breaking down. In the new West German Works Councils Act, a planned management change can be blocked by an objection from an employee representative and the status quo must be maintained until an agreement is reached or the deadlock resolved by a government board. In Britain, any one of the 4,500 employers covered by the Engineering Employers agreement must negotiate over every desired change objected to by the employee representatives until an agreement is reached or the dispute has been processed through a long "procedure to resolve questions arising," which ends before an employers' court in York, England. And even in the U.S., management planning is slipping into the collective bargaining arena. The NLRB has construed the law to require consultation between the management and the union before changes can be made that affect employees, and if the union representatives object to the change, the status quo must be maintained until an agreement is reached or an impasse occurs.[7]

"Consultation" changes character and becomes "collective bargaining" when the union or employee representatives can block a proposed change and negotiate compromises. Even though it may be "con-

[6] Robert Copp, *The Multinational Corporation and Industrial Relations: The Labor Affairs Function in a Multinational Firm,* Proceedings of IRRA Spring Meeting, September 1973, p. 458.

[7] *Fibreboard Paper Products Corp. v. N.L.R.B.,* 379 U.S. 203, 85 S.Ct. 398 (1964). The current Board is less desirous of slowing down the rate of productivity improvement that occurs when change must be negotiated before it can occur, but these new obligations under the law indicate how quickly consultation can move into collective bargaining.

sultation" at the international level that is being requested by the union representatives, if formal consultation starts it will slowly change into collective bargaining. The Ford Motor Company, like other major employers, is aware of such transitions. Copp explained:

> "[A]lthough the IMF suggested informal and general discussions, we would expect that these would prompt—probably fairly quickly—demands for more formal, structured meetings in which the union bodies would first seek specific Ford commitments and would eventually seek collective bargaining at an international level. . . ."[8]

The European Stock Company Statute May Introduce Marketwide Bargaining

The Treaty of Rome forced no time table for the harmonization of negotiated wage and fringe benefit levels or those provided in each country by law. However, harmonization is clearly the desired result and delegations of trade union and employer association representatives are in continuous contact with each other at the offices of the Commission in Brussels. As the international differentials in wages and benefits become narrower in the Common Market area, the stage is being set for meaningful collective bargaining between coalitions of union representatives within that area *if* and *when* the *European Stock Company Statute becomes law.*

This proposed statute provides that corporations may be organized on a Marketwide basis and obtain legal status in all countries in the Market area if they have been organized as a national corporation in one of the member countries for three years, have operated subsidaries within the different countries, and met certain minimum financial standards.[9] If a corporation reorganizes itself under this new statute, it will be required to establish a two-tiered board and follow the codetermination procedures which are part of the West German law. This means that one-third of the members of the supervisory board will be selected by employees and these employee representatives will receive complete financial information concerning the operations of the corporation on an Europeanwide basis.

In addition, if a multinational corporation operating throughout the Common Market concludes that it is to its advantage to become a stock company under the Statute, it cannot be assumed that the cor-

[8] Robert Copp, *The Multinational Corporation and Industrial Relations: The Labor Affairs Function in a Multinational Firm,* Proceedings of IRRA Spring Meeting, September 1973 p. 458.

[9] A draft of the law is expected from the European Parliament legal committee in late February or March, 1974.

poration will escape from the obligations in the laws of West Germany, France and Belgium to consult with representatives of the employees at works council meetings. Therefore, it must be assumed that the Europeanwide corporation will have to form a Marketwide council and once such a council is formed, the institutional framework within which international collective bargaining can commence will exist.

If this statute becomes law, this type of international collective bargaining will be limited to the larger companies because only large companies can incorporate under it.

There is some historical basis for bargaining between large employers and coalitions of unions on a separate basis. The Ford Motor Company bargains outside the employers' federation in Britain and Renault bargains outside the employers' coalition in France pursuant to a 1950 amendment to the law in France.[10] Therefore, it is to be assumed that the large Euro-corporations will undoubtedly negotiate outside the employer coalitions negotiating the national or regional collective agreements.

Conclusion

No trend toward meaningful collective bargaining between multinational companies operating plants in the U.S., Europe or Japan on a worldwide basis can be expected to develop, even though meetings with limited agendas have been held between leaders of international labor organizatons and members of central managements of multinationals. However, if multinational corporations, operating in various countries in the Common Market area, conclude that it is to their advantage to become a stock company under the new Stock Company law, which gives the corporation legal status throughout the Common Market, it must be assumed that a type of international collective bargaining will occur between a works council composed of representatives coming from the various plants within the Market area and management of the multinational and that there will be some "consultation" between delegations of union leaders and such managements.

[10] Pierre Dryfus, Director General of Renault, entered into an agreement similar to the 1950 five-year agreement between the UAW and General Motors with a coalition of unions representing the Renault employees. When other large companies followed Renault for this type of bargaining, Patronat (CMPF), the large employers' association headquartered in Paris, reacted and built up sufficient opposition to cause the trend to die down, but the precedent is still there.

Role of the National Commission for Industrial Peace

DAVID L. COLE
National Commission for Industrial Peace

In a discussion of new vistas in collective bargaining or of current experiments or trends one naturally wonders about the National Commission for Industrial Peace set up by the President by executive order last April. The functions of this commission were declared to be:

> ". . . to explore methods by which labor and management may best reconcile their differences through the collective bargaining process consistent with the public interest in the outcome of negotiations; investigating means by which the Government may be most helpful in achieving this goal; encourage labor and management representatives in particular industries or sectors to develop and implement procedures to facilitate resolution of disputes and constructive bargaining in the public interest; and to make recommendations to the President concerning these and related matters."

The membership of this commission includes some of the nation's most experienced and sophisticated labor relations experts. We have tacitly recognized that no industrial peace program is likely to succeed if it is forced on unwilling parties. Labor relations has been emotional and highly controversial and traditionally an area in which conflict has been taken for granted. To transform such an area into one in which cooperation and peacefulness are the benchmarks is most difficult. It requires great patience, and much care and tact.

We have been proceeding cautiously and slowly. We are watching with great interest developments like the experimental no-strike agreement in steel. We are exploring in other critical or basic industries the possibility of arrangements with the same purpose. In some instances our approach is indirect. We concentrate with the responsible leadership on improvement of grievance handling with the thought that this will minimize this source of friction and at the same time demonstrate that it is possible to make progress by voluntary joint efforts.

A few facts have been observed. The first is that our system of collective bargaining is predicated on agreement. Labor and management must arrive at accord, and must do so largely by means which are acceptable to them. To try to compel them to come to agreement,

by legally denying them, for example, the right to shut down the operation in their respective efforts to have their point of view prevail is a denial of the voluntary character of collective bargaining as we understand and accept it.

On the other hand, the second truth seems to us to be that constant and unqualified reliance on the strike is not essential to collective bargaining. This is a process in which the parties seek to reach agreement and it must be expected that the means by which they do so will be modified by them as their relationship matures and changes, and as they develop new viewpoints and values. Surely, a process for composing differences by agreement must be one which is rational in nature. As such, it must be flexible and must be able to respond to changing circumstances and new problems.

In some quarters it has become a matter of habit or ritual to declare that without the strike or the threat of the strike we cannot have collective bargaining. Obviously this is not so. One need merely listen to the public statements of respected labor and management leadership currently to realize this.

George Meany, I. W. Abel, Paul Hall, and Heath Larry have recently spoken out clearly on this subject. Many causes of strikes in years gone by are now resolved by other means, without harming the process of collective bargaining. Some are now governed by statutory or administrative regulation. Several are settled by voluntary but binding arbitration, having in mind grievances and jurisdictional disputes.

As I have said on other occasions, to insist that we cannot have collective bargaining without depending on the strike is like saying that if we renounce war we cannot have diplomacy. To me, precisely the contrary is true.

Moreover, there is really little that is truly new in current developments. There is a revival or renewal of old approaches, but nothing fundamentally different from programs in use many years ago. A century ago voluntary arbitration was employed by agreement in Great Britain to resolve contract-making disputes in a number of important industries, and more than 50 years before then in France and elsewhere on the Continent. Over 70 years ago in local transit and in the graphic arts it was by contract agreed that disputes that could not be resolved by negotiation would be submitted to binding arbitration.

It took very little research on my part to find that in the decade or so following World War II I sat as arbitrator in more than 50 disputes that arose in negotiations. I also found that in critical industries I repeatedly served at the request of management and labor

in a variety of neutral capacities in their mutual desire to avoid the strike or other form of economic combat. Interestingly, as I reviewed this I found that they were most ingenious in the manner in which they varied my neutral role, often in the course of a single case, as they felt their needs were best served.

The third fact we noted is that in collective bargaining self-interest is a far stronger motivation than social responsibility is. This is so despite the strong feelings to the contrary on the part of the public and our great national leaders. In former times appeals could be made with some effectiveness on behalf of the public or the national well-being, but in recent years the ability to inflict hardship has too often been regarded as a way of demonstrating strength which commands respect.

Nevertheless, in the course of our low key, often off the record meetings with representatives of management and labor in several industries we observe a growing interest in developing means of avoiding strikes in part at least out of consideration for the public welfare. These representatives want reassurance that this can be done without doing injustice to themselves, but it represents progress and promise.

Our commission is treading lightly. We have been gratified with the low incidence of serious strikes the past year or so, and of course with the experiment in steel. While the pressures of inflation could easily and abruptly change the relatively tranquil atmosphere, we are encouraged by the willingness of more industrial and labor leadership to discuss with us more freely the desirability of non-punitive means of resolving their differences. While few deny the function the strike has served in organizing the workers and in gaining recognition, they are beginning to open their minds to rational and constructive approaches to dispute settlement.

We have made some beginnings toward the establishment of labor-management panels, with a neutral chairman, in a few critical industries. Working quietly, such panels could well help overcome much of the traditional hostility in favor of finding and developing areas of mutual interest.

Over the years we have observed that labor peace is not something that can be achieved by some mechanical process. In fact, the procedure used is far less important than the disposition of the parties to have peaceful relationships. Often a given labor agreement works well in one company or one plant while resulting in nothing but friction in another. Or a given approach may be a failure at one time and yet function well at another.

Our commission recognizes this and considers one of its most im-

portant purposes to be of a missionary, peace-inducing kind, in order that minds be opened to the constructive type of approach.

In this we would be immeasurably helped if we could somehow induce the parties to give more weight to the factor of public welfare. In this connection, I remember a lecture by Walter Reuther in the 1956 series at Michigan State University, *U.S. Industrial Relations: The Next Twenty Years.* Among his observations were these:

> ". . . the goal that we need to shoot for, hoping to achieve it before 1975, but making that the target date. Labor and management must recognize that in a free society they may discharge their broad social and moral responsibility only as they jointly succeed in elevating collective bargaining above the level of a struggle between competing economic pressure groups, and recognizing that basic decisions in collective bargaining must be based upon the total needs of the total community. . . .
>
> ". . . [W]e need to recognize that in a free society, bargaining decisions should be based upon facts and not upon economic power. I hope the day will come in America when, in collective bargaining problems and other problems that bear upon the economic interest, decisions can be based upon the power of economic persuasion rather than upon the persuasion of economic power. In the exercise of naked economic power we make arbitrary decisions, which too frequently are in conflict with the basic needs of the whole of our society."

These thoughts, together with considerations of mutual and self-interest which labor and management leadership currently are stressing, reflect the hopes of the industrial peace commission. We know, however, that such thoughts and considerations can come only through understanding and good will and cannot be induced by legal compulsion or decree.

VI. CONTRIBUTED PAPERS

The Determinants of Completion in Apprenticeship

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Despite the proliferation of evaluations of manpower programs, very little emphasis has been given to apprenticeship training programs, the oldest, if not the largest of the present systems of formal investment in human capital. Apprenticeship training has assumed the bulk of the responsibility for supplying highly skilled labor to meet the dictates of the labor market. Generally, we know a great deal about the success of manpower programs on an aggregate level, but very little concerning individual characteristics which have a bearing on success; nor is there any literature about a program or about the characteristics of programs that may influence the probability of individual success. If the factors influencing the probability of an individual completing an apprenticeship program can be isolated and identified, we may then be able to alter the success position with appropriate policy measures.

To explore the dimensions of "success" in apprenticeship programs a multivariate model was developed to test whether the determinants of completion of the program could be isolated and identified. The dependent variable employed is "success" in the apprenticeship program defined as completion of the indenture; it is represented in the analysis as "1" for completion and "0" for noncompletion.[1]

The independent variables are: (1) occupational area of apprenticeship, (2) marital status, (3) union status, (4) sex, (5) education

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[1] Due to length constraints a discussion of the statistical considerations surrounding the use of a dichotomous dependent variable could not be included. Upon request the author will supply the analysis related to this study.

(yrs.), (6) rating of the on-the-job training, (7) urban-rural location of training, (8) race, (9) father's occupation, (10) dependents, (11) wage rate at start of indenture (dollars), (12) pre-apprenticeship experience in trade (mo's.), (13) age, and (14) unemployment rate at time of completion or cancellation. The general model is specified as follows:

$$C = a + b_1O + b_2M + b_3U + b_4S + b_5Ed + b_6OJT + b_7UR + b_8R + b_9FO + b_{10}D + b_{11}WR + b_{12}PE + b_{13}A + b_{14}UN + u$$

where:

C = Completion of the indenture
O = Occupational area of apprenticeship (see note "j" Table 1)
M = Dummy variable for married
U = Dummy variable for union membership
S = Dummy variable for men
ED = Years of formal education
OJT = Rating of on-the-job training (see note "k", Table 1)
UR = Dummy variable for serving apprenticeship in urban area
R = Dummy variable for white
FO = Dummy variable for father in apprenticeable occupation
D = Number of dependents
WR = Weekly wage rate at start of indenture
PE = Months of pre-apprenticeship experience in the trade
A = Age at time of indenture
UN = Unemployment rate at time of completion or cancellation of indenture

The model was then applied to a sample of respondent apprentices who were enrolled in a registered apprenticeship program in Wisconsin between 1965 and the end of 1970. The cohort represents an approximately equal number of drop-outs and completers, selected from the population of apprentices in the years mentioned, and stratified across occupational and geographic areas. The responses were tested and found to be a valid representative sample of all the participants in the Wisconsin program over the six year period.

The results of the analysis are shown in Table 1.[2] The amount of variation explained in the dependent variable by the series of independent variables equals $R^2 = .28$.[3]

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[2] Step-wise multiple regression was used in estimating the coefficients in the model. The means of measurement of the variables and theoretical justification for their inclusion in the model is explained in detail in Thomas A. Barocci, *The Drop-out and the Wisconsin Apprenticeship Program: A Descriptive and Econometric Analysis*, National Technical Information Service, Springfield, Virginia, Accession #PB 210935 or from the author upon request.

TABLE 1
Completion Model: Dichotomous Dependent Variable
"1" = Completion, "0" = Cancellation: Regression Function

	Mean Value	Regression Coefficient	Regressor T-Value	Variable F-Value
1. Base Group "Occupational area of Apprenticeship"				9.3996***
a. Graphic Arts	.07			
b. Construction	.41	.1234	1.241	1.540
c. Industrial	.23	.1755	1.648	2.715*
d. Service	.29	.0445	.403	.163
2. Dummy for married	.67	.2256	3.099	9.606***
3. Dummy for Union Membership	.48	.2109	3.803	14.463***
4. Dummy for Men	.93	.2232	1.981	3.926**
5. Education (years)	11.99	−.0399	−2.202	4.850**
6. Rating of "on-the-job training"	13.38	.0184	2.589	6.702***
7. Dummy for urban residence	.78	.1046	1.592	2.534
8. Dummy for white	.98	.2975	1.486	2.209
9. Dummy for father in apprenticeable occupation	.34	.0811	1.518	2.306
10. Dependents	1.50	.0350	1.522	2.317
11. Pay Rate (dollars per week at start of indenture	72.66	−.00081	−1.100	1.210
12. Experience (months pre-apprenticeship)	7.10	−.0011	− .661	.437
13. Age	23.00	−.0017	− .391	.153
14. Per Cent Unemployment Rate at time of Completion or Cancellation	3.74	.0014	.072	.005

a. Coefficient of determination $= R^2 = .28$.

b. Significance levels are indicated as follows:
* = significant at the .10 level
** = significant at the .05 level
*** = significant at the .01 level

c. Constant ("a") value = −.1431. For the base group variables "occupational area of the apprenticeship," the first category "graphic arts" is the reference group and its influence enters into the intercept term given above.

d. The dependent variable is dichotomous: completion of apprenticeship = "1", and cancellation of the indenture = "0". Mean value = .54.

e. Number of observations = N = 311 (143 drop-outs and 168 completers).

f. For categorical (dichotomous) variables the mean value gives the proportion of the 311 observations in each category. For the continuous variables it is the mean value of the independent variables.

g. Due to rounding the t-values may differ slightly from the regression coefficient divided by its standard error.

h. Number of parameters (regression coefficients) = K = 16.

i. Calculated F. ratio $= \frac{R^2 / K}{(1 - R^2 / N\text{-}K\text{-}1)} = 7.04$ with 16 and 294 d.f.***

j. In order to find the significance level for the "Base group," occupational area of the apprenticeship, it was necessary to run the entire model over with one change—the "occupational area" variable was deleted. In this manner we were able to determine the change in the R^2 due exclusively to the occupational area variable and obtain a significance level for the group.
The calculated value = F = 9.3996, significant at the .01 level. This is reported in the above table.

k. The rating of the on-the-job training variable has a mean value of 13.38. The range of the variable is 5 to 20. If we take the mean value and divide it by 5 (the number of categories entering into the formulation) we get a value of 2.68 for the mean rating for each category. This can be interpreted to mean that the apprentices, on the average, rated the various aspects of the on-the-job training between "fair" and "good."

Interpretation of the Model

The coefficients shown in Table 1 are interpreted as the amount of change in the conditional probability of completion of the apprenticeship resulting from being in one category of the dichotomous variables, or, for the continuous variables, resulting from a one unit change.

The occupational area chosen for an apprenticeship significantly influence the probability of completion. Ranking the occupational areas in terms of the likelihood of completion by any given apprentice shows industrial trades first, construction second, service third, and graphic arts last. The significance of the occupational area in the equations well may be the result of attitudes on the part of both the employers and trainees involved in each of the specified areas. Unfortunately we were unable to obtain a valid measure of these attitudes.

Of all of the personal characteristics employed as explanatory variables, marriage is the most important and increases the probability of completion by almost 23 per cent.

The primary reasons for the significance of marriage probably center around the "type" of person who marries, as well as the post-marriage socio-economic situation. Labor market experts generally agree that married people are more work oriented, less mobile, and more interested in future employment and financial security than their single counterparts; the sociological and psychological phenomenon of the support and urging by one's partner to succeed in a mutually beneficial endeavor may influence staying power in a program. Other information obtained from the apprentices shows that the average time between termination of the indenture and the next full-time job was over 8 weeks. The unavailability of a comparable and readily suitable job would be a stronger deterrent to termination for married persons than for their single counterparts.

The influence of union membership while an apprentice is positively and significantly related to completing the apprenticeship and increases the likelihood by more than 21 per cent. The strong influence of union membership can be explained in several ways. The union man may have more and quicker channels for making known his grievances while an apprentice. He is likely to maintain a closer relationship with the journeymen in the trade, especially in the building trades. Then, too, apprenticeship entry into unionized occupations is generally more

[3] The R^2 value of .28 indicates that factors, other than our series of explanatory variables, must explain the remaining 72 per cent of the observed variance in completion status. We believe that employer characteristics and motivational and attitudinal indexes of the former apprentices would be significant determinants of the likelihood of a person completing the apprenticeship. Unfortunately, however, we were unable to make estimates of these variables using our collected data, nor obtain the necessary information from other sources.

difficult because of union controls over the journeyman-apprentice ratio and, consequently, this may positively influence completion of the indenture. Finally, the apprentice who completes the indenture has a union card as well as the journeyman certificate, and this almost assures him of a job anywhere he goes.

Sex, too, is significant. Females have a 22 per cent lower probability of completing the indenture than their male counterparts. Whether this finding is indicative of institutional sexism or attitudinal and motivational characteristics associated with females is hard to discern. It is not unreasonable to hypothesize that neither of the above reasons by themselves account for all of the sex related difference in assessing probability of completion; the fact that the working pattern of women is more erratic than that of males may be of importance here. In general, women are members of the secondary labor force; they move into the labor market in time of need and/or ease of attaining a job and may leave just as quickly as they entered. In addition, perception of their future prospects in the labor market may mitigate against completion.

Empirical studies of the influence of prior education on completion of a training program suggest a wide variation of conclusions. In this study, the coefficient obtained indicates a negative relationship between years of education and the conditional probability of completion. Perhaps this somewhat surprising finding can be explained by asserting that the person with less education has greater need "to invest" in the full apprenticeship program, while it may be easier for his more educated counterpart to secure an alternate "good" job without completing indenture.

The analysis shows a positive relationship between the index of the opinions of the on-the-job training and the conditional probability of completion. The components used to create the index of attitude toward the on-the-job training were the apprentice's rating of the quality of on-the-job instruction, the teaching ability of the instructors, equipment and tools on the job, working conditions, and adequacy of job rotation so that all phases of the trade were learned. Each aspect was labeled either "excellent," "good," "fair," or "poor," and numbers were assigned to each response and added up to obtain an index for each apprentice. The significance of this on-the-job rating gives quantitative proof to the assertion that the higher the apprentice's opinion of the various aspects of the on-the-job training, the more likely he is to remain for the full term of the indenture.

The other variables used in the model did not yield significant coefficients; however, the lack of significance of several of them may have some important implications.

The length of the indenture is not included in the final equation. It was excluded because of high correlation with the occupational area variable.[4] Experimentation shows that even when the length variable was included in the model without the occupational area variable, it did not significantly influence the probability of completion. The implication of this is that the term of the indenture does not bear any relation to the likelihood of completion. This is surprising since programs vary in length from 2 to 5 years. Other characteristics of the longer apprenticeship program must make up for the "inconvenience" of having to be in learner's position for up to five years. The fact that apprentices' pay increases as a percentage of journeymens' during their progression through programs may be the decisive factor here.

It is not surprising that the race variable did not show a significant relationship to completion since only 2 per cent of the entire sample is non-white and all are drop-outs.

Given that almost 50 per cent of the drop-outs indicated that low wages influenced their decision to terminate the indenture, it was quite surprising to find that the variable reflecting wages at the commencement of the indenture was not significant in the equation. Two possible explanations come to mind; first, different apprentices may have quite different ideas concerning what is and is not a reasonable wage to be earning while an apprentice; second, the high and low extremes of the wage scales may have "washed out" the overall significance. . . That is, those at the low end of the pay scales may terminate because of the low pay and those at the high end may terminate because of the availability of alternate high-paying jobs in their occupational area.

Prior experience in the trade results in a shortened indenture, but the variable shows no relation to the likelihood of completion. The insignificance may indicate that those who use apprenticeship as a means of upgrading their present position have no real completion advantage over their neophyte counterparts.

Employing the conclusions of David Farber, we predicted that the unemployment rate would be positively related to the conditional probability of completion.[5] The regression results, however, add no support

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[4] High correlation of the length and occupational area variables resulted in multicolinearity. When both were included in the model, the occupational area variable showed no significant relationship to completion.

[5] David Farber, "Apprenticeship in the U.S.: Labor Market Forces and Social Policy." *Research in Apprenticeship Training.* Proceedings of a Conference, (Madison, Wisconsin: The Center for Studies in Vocational and Technical Education, University of Wisconsin 1967) pp. 2–23. The unemployment rate at the time of completion or cancellation was matched for each apprentice. The underlying assumption being that the "tighter" the labor market the more likely a person would drop-out because of a readily available option in the market. Alternatively, the "looser" the market, the more incentive there would be for the apprentice to remain in the program.

to this hypothesis. The coefficient is positive but not significant and adds almost nothing to the total R^2. To further test the Farber thesis, we used data on the number of new and cancelled indentures for each month for the period 1965 through 1970. The enrollment and cancellation figures were then matched with the monthly unemployment rate for the entire state and a correlation matrix was computed. The results of the test failed to buttress Farber's conclusions. For example, the gross correlation between the number of cancelled indentures and the state unemployment rate is $-.027$. Although this is the direction predicted by Farber, the size of the correlation gives no support to the thesis that the number of cancellations is directly related to the labor market conditions. The correlation of the number of new indentures with the unemployment rate is large and positive, however. The coefficient of $+.281$ is significant ($p<.05$) and implies that there is a basic positive association between the unemployment rate and the number of apprenticeship program enrollees.

In sum, data matched to individuals did not support the "economic man" thesis; the aggregate data for the State, although somewhat supportive of the Farber thesis, allows for no definite corroborating conclusions. The lack of significance may be because there are essentially two opposing forces involved here: that is, the desires of the individual apprentices to respond to labor market changes regarding the decision to complete or cancel the indenture may be the direct opposite of actions that employers want to take at the same time. For example, high unemployment indicates that the economy is in a state of downturn and this is precisely the time the apprentices will be content with their position because there are few alternate options in the labor market; concurrently, the employer is experiencing a business slowdown, and may want either to lay-off or at least discourage the apprentice from continuing the indenture.

Discussion and Policy Implications

Before discussion of the policy implications of this study it is necessary to point out that the findings are directly applicable only to the apprenticeship system in Wisconsin. Failure to generalize the findings to all state apprenticeship programs, however, would be a less than optimum use of the information. The only really unique feature of the Wisconsin program is the fact that under state law the employer pays apprentices their full wages for the time they spend on in-school related training. This may be a deciding factor in the decision to complete the indenture but it does not preclude application of the overall findings to other state apprenticeship programs.

The findings also should be looked at beyond their relation to apprenticeship programs; that is, most evaluations of training programs have concentrated on the aggregate success rates in terms of completion and placement in a job and have essentially ignored the factors which influence the likelihood of an individual completing the program. This study has validated, for the sample of apprentices, the technique of using classical regression to predict the probability of completion. This can be duplicated in other programs where various personal, occupational and labor market factors are known about the participants. Such an analysis will enable the policy makers to put the emphasis in the right place when refining present programs and planning new efforts. Once the individual determinants of success have been isolated, the specific factors found to influence success could be altered with appropriate policy measures.

It should be reemphasized that the definition of success employed in this analysis is relatively narrow, and essentially ignores the fact that many persons find entrance into a skilled trade of their choice without completing an apprenticeship; in fact, almost 50 per cent of the dropouts surveyed indicated that they are now working in the same general occupation as that in which they served a partial apprenticeship. This implies that the termination of the indenture did not represent failure, but rather, it was simply a rational decision to take a job which required only partial apprenticeship provided the job was commensurate with the goals and aspirations of the person. These terminations, then, cast no disparaging light on the apprenticeship system, but rather may enhance its value, since it prepares a person to engage in a meaningful occupation without having to be indentured for the full term.

The above point was reinforced by the fact that apprentices, in their rating of job rotation, indicated that they did not really learn all facets of the trade since the employer had no need for many of the skills which traditionally are part of certain trades and, consequently, apprentices were not rotated as they expected to be. This leads to a policy implication which would essentially alter the whole structure of the apprenticeship system as it stands. For many years the basis of apprenticeship has been to train men so that they would become *all around* skilled tradesmen. In times past this may have been necessary since the degree of specialization was not nearly as high as it is today; now, many employers have no need for all around skills and consequently they see no need to have the apprentices learn all aspects of the trade.[6]

In West Germany, Canada, and England, experiments are being

[6] The policy recommendations concerning the modular apprenticeship system have less applicability to the building trades than to the other occupational areas.

undertaken with the "modular" system of apprenticeship training. The modular system was initiated on the premise that many programs are not producing tradesmen skilled in all aspects of the trade even though they are so designed, and that individual and industry requirements may vary greatly in the breadth of skill needed or wanted. Further, this system is lauded as being more efficient in that it includes self-steering mechnaisms for both apprentices and employers. The system is organized roughly as follows: The first module is the period when basic training takes place; other modules train in certain specialized aspects of the trade, are designed around industry requirements, are optional for the apprentice; the apprentice is granted the basic diploma after a one or two year period and then has the option of taking the remaining modules if both he and his employer deem them necessary; the length of the modules is based on what has to be taught and the learning rate of the individual.

The modular system would not be applicable to all occupational areas, but, where appropriate, it could benefit both the apprentices and the employers. The apprentice would gain because there would be flexibility in the program length and he would have to remain in the training status only for the period of time necessary to gain the basic knowledge required to work in the trade; the option to pursue specialized training would remain available. Further, the system allows apprentices to return to the program after a period of time if they later decide they want or need further training. Employers would benefit in that they would not have to make the full four or five years commitment to training that is now required in many occupations. Employers would also be able to require only the skills they need for the work to be performed. Wage differentials could then reflect the skill differentials.

Several of the personal characteristics of the apprentices are significantly related to completion; these, for obvious reasons, cannot be manipulated by policy, nor should those possessing characteristics detrimental to completion be screened out in the selection process. The study shows that apprentices who are female and/or single have a much lower probability of completion; the implication is that special attention must be given to apprentices with these characteristics, especially the females. Follow-up counseling is imperative if the females are going to experience the same degree of success as their male counterparts. This counseling and indoctrination must extend to the employers and unions, as well as to individual apprentices. The world of the skilled tradesman has been and essentially remains the domain of the male, and only relentless and directed effort will break down the sexist barriers. It should be noted here that the State Apprenticeship

Agency in Wisconsin has initiated a comprehensive program designed to recruit women into new areas of apprenticeship.

The study also shows that probability of completion is significantly influenced by the occupational area in which an apprenticeship is served. This implies that characteristics and attitudes of employers in these different areas may be determining factors. Unfortunately, we did not have data on employer characteristics, but a previous study of of success in on-the-job training programs in Canada, shows that 49 per cent of the variation in the probability that a trainee will graduate is accounted for by company characteristics.[7] Even without the company data, we must conclude that the employer certainly does make a difference in completion probabilities. Apprentices' reasons for "dropping out" center around low pay and lack of fairness on the employers' part. The findings support criticism often leveled against employers, namely, that they use apprentices as a source of cheap labor or to fill in when the labor market is tight; then they either lay-off, discourage, or merely fail to encourage completion of apprenticeship. Closer supervision of hiring, on-the-job training, and pay-rates received is imperative.

Many aspects of this study indicate that subsidization of apprenticeship training would aid in the expansion and strengthening of the present system. A tax credit type subsidy appears to have wide support.

Justification of the tax credit subsidy rests on several assumptions: (1) There is a need for more and better craftsmen to allow for efficient functioning of the economy. Supply-demand imbalances result in poor-quality services, lower productivity and possibly higher prices—these all represent a "hidden tax" on consumers and producers; (2) Substantial public funds are now spent for schools which teach essentially the same skills that can be acquired through apprenticeship; (3) This subsidy would allow for intensive pre-job instruction which in turn may reduce drop-out rates and present on-the-job "break-in" costs; (4) Apprenticeship is an integral part of the national educational system and produces skilled, knowledgeable and productive citizens; and (5) A good apprenticeship program requires a substantial investment on the part of the employer which is totally lost if the new journeyman leaves the employer from whom he received his training. Subsidy may induce more participation by employers capable of assuming the training function.

This study also shows that union membership for an apprentice is

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[7] Morley K. Gunderson, "Determinants of Individual Success in On-the-Job Training: An Econometric Analysis." Unpublished Ph.D. Dissertation, University of Wisconsin, 1971.

a significant positive influence on the completion probability. The DAT cannot take a stand to encourage unionization; nonetheless it could concentrate more effort into setting up new apprenticeship programs in union situations. The presence of a union and its say in the labor policies of an employer are shown to make a substantial difference in the likelihood of an apprentice completing the indenture.

Suggestions for Future Research

The conclusions of this study, as well as its shortcomings, lead to questions which can be answered only by further empirical research. If the conclusions of this project are to be tested by investigation of apprenticeship programs either in another state or on a nationwide basis, data must be collected on the characteristics of the employers who participate in the apprenticeship system. The results of this research hint strongly that the employer may be a prime influence on probability of completion. If employers are surveyed, they should be questioned about the efficacy of subsidies for apprenticeship training and the possible ramifications of government aid to finance training. Employers should also be asked about the recommendations for a "modular apprenticeship system."

To take this study one step further, we suggest a follow-up study of former apprentices concentrating on their employment record, and the economic returns to the apprentice and the public in terms of income and tax dollars respectively. Incorporated in this proposed study should be data on the cost of apprenticeship training to the employers and federal, state, and local governments. Standard human capital investment models would be appropriate.

Police Labor Relations and Multilateralism

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Police Labor Relations and Multilateralism

The purposes of this paper are to present some of the findings of a recent study of police union-management relations in 22 cities and to use these findings to suggest that a multilateral labor relations framework may be a more appropriate conceptual vehicle for the analysis of municipal union-management interactions than a bilateral collective bargaining framework.[1]

MULTILATERAL BARGAINING

A fairly extensive literature has developed which compares the nature of collective bargaining in the public and private sectors.[2] The distinction usually drawn between the two sectors is that the paradigm case in the private sector is accurately characterized as bilateral but that in the public sector this two-party label may be too limited to include all the necessary actors. In the usual private sector case there are two parties involved—the union and the employer, and they bargain to a conclusion within the constraints imposed primarily by their economic market context and secondarily by the

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[1]This study was made possible by a grant from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice. Partial support of the preparation of this paper was provided by the Manpower Administration, U.S. Department of Labor, Grant No. 31-39-70-09. This support is gratefully acknowledged, with the usual disclaimer that the support in no way implies that the above agencies have any responsibility for or agreement with any of the views expressed herein. The study was performed by the author and Northwestern University Professor Hervey Juris, and Juris deserves much of the credit for whatever strengths this paper has.

The data was collected from a variety of archival, questionnaire, and interview sources, with the primary method consisting of interviews with police union leaders, police management officials, and city labor relations representatives in each of the 22 cities. An issue-specific interview technique was used, in that the interviews focussed on specific issues which had arisen among the parties (these issues were specified during archival and qustionnaire research prior to the interviews) and how the parties had interacted with each other to achieve a resolution of these issues. The 22 cities include: Baltimore, Boston, Buffalo, Cincinnati, Cleveland, Cranston, R.I., Dayton, Detroit, Hartford, Los Angeles, Milwaukee, New Haven, New York, Oakland, Omaha, Philadelphia, Pittsburgh, Providence, Rochester, N.Y., San Francisco, Seattle, Vallejo, Ca. In all, 137 interviews were conducted in the summer and fall of 1971.

A definitional note: as used here, the term "union" refers to any and all employee organizations which systematically represent their members' interests on a full range of employment conditions, and is not limited to organizations affiliated with larger organizational groups or which have been exclusively certified as collective bargaining representatives.

political-legal context (i.e., the nature and extent of government regulation and intervention).[3] Certainly private sector unions are no strangers to political action, but their political activities usually are aimed at procedural objectives designed to strengthen their position vis-à-vis the private employer with whom they seek to influence substantive employment conditions via collective bargaining. Further, the private firm is characterized by a tight hierarchical structure in which the lines of decision-making authority are carefully drawn and observed (compared to public organizations). Operationally, this means that for collective bargaining purposes the firm speaks with a unitary voice, and interactions with union representatives are channeled through the firm's designated industrial relations officials.

However, at the local level of government collective bargaining frequently may become a multilateral process because of the involvement of more than the two direct parties to the agreement. According to McLennan and Moskow (who coined the phrase), these other groups usually do not participate in the actual contract negotiations but influence the bargaining outcomes by being able to impose a direct cost on at least one of the signatory parties to the agreement.[4] Another type of multilateral bargaining is operationally defined as violation(s) of a strictly bilateral union-management interaction pattern (i.e., union-management interactions via other than the formally designated representatives).[5] There is no hard-and-fast dividing line between the two types, and in the rest of this paper "multilateral bargaining" will refer to both kinds of behaviors.

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[2] Probably the best known work in this area is Harry Wellington and Ralph Winter, *The Unions and the Cities* (Washington, D.C.: Brookings, 1971). Selected other pieces include George Hildebrand, "The Public Sector," in *Frontiers of Collective Bargaining,* eds. John Dunlop and Neil Chamberlain (New York: Harper and Row, 1967), pp. 125–154; Kenneth McLennan and Michael Moskow, "Multilateral Bargaining in the Public Sector" in *Proceedings of the Twenty-First Annual Winter Meeting, Industrial Relations Research Association,* ed. Gerald Somers (Madison: IRRA, 1968), pp. 31–40; Michael Moskow, Joseph Loewenberg, and Edward Koziara, *Collective Bargaining in Public Employment* (New York: Random House, 1970), Chapter 8; several of the articles in *Collective Bargaining in Government: Readings and Cases,* eds. Joseph Loewenberg and Michael Moskow (Englewood Cliffs, N.J.: Prentice-Hall, 1972); Thomas Kochan, *City Employee Bargaining With A Divided Management* (Madison: University of Wisconsin, Industrial Relations Research Institute, 1971); and Kochan, "A Theory and Empirical Analysis of Multilateral Collective Bargaining in City Governments," NYSSILR, Cornell University, unpublished manuscript, September 1973.

[3] The validity of this bilateral paradigm in the private sector is reduced if direct wage and price controls become a permanent feature of the American economy.

[4] McLennan and Moskow, *op cit.,* p. 31.

[5] This definition has been advanced by Tom Kochan, "Internal Conflict and Multilateral Bargaining," (Madison: University of Wisconsin, Industrial Relations Research Institute, unpublished manuscript, 1971), pp. 17–18.

TABLE 1
Selected Dimensions Affecting Union-Management Relations in the Municipal and Private Sectors

Dimension	*Private Sector*	*Municipal Sector*
1. Primary market context	Economic	Political
a. Cost-price relationship of products	Priced according to costs and market demand	Usually unpriced
b. Relationship between revenues and output	Revenues are direct function of sales in the market	Revenues usually have no connection with services provided
c. Degree of competition	Usually competitive	Usually monopolistic
d. Ease of entry for new firms	Usually some opportunity for new entrants	Usually no opportunity for new entrants
e. Selection of top management	Appointed from above, usually on basis of administrative ability	Elected from below on basis of political appeal
2. Decision-making context		
a. Managerial decision-making structure	Unified hierarchy	Diffused by separation of functions and powers
b. Visibility of and accessibility to decision process	Relatively invisible and unaccessible to outsiders	Relatively visible and accessible to outsiders, esp. political interest groups
c. Primary decision criterion for top management	Profit maximization (max. revenue, min. costs)	Elected management: maximize political careers
3. Bargaining context		
a. Right to strike	Usually yes	Usually no
b. Scope of collective bargaining	Relatively broad (relative to municipal sector)	Relatively narrow (relative to private sector)

An examination of several salient contextual dimensions of public and private sector union-management relations presented in Table 1 supports the validity of this bilateral-multilateral distinction.

The most obvious distinction deals with the economic market context of the private sector and the political market context of local governments. These differences mean that the local government organization is not subject to the same economic market constraints that private firms are, and it also means that the taxpayers do not have the same freedom of choice to purchase or not purchase government services that consumers in private sector markets have. These pricing and monopoly characteristics of local government services may increase the interest of citizens and interest groups in the outcome of municipal union-management interactions, especially those concerning monetary items. Further, the political context creates an incentive for interest groups to intervene in the making of many decisions. Top management consists of elected officials and other officials appointed by elected officials, and depending on the shape of the political influence structure and on the locus and degree of political ambition,

the potential payoff to interest groups which command desired political resources (e.g., money, votes, etc.) from interceding in the governmental decision making processes may be high.

The decision making context of the two sectors varies dramatically. Compared to the relatively unified decision making hierarchy of the profit-seeking firm, government jurisdictions are deliberately created with diffused decision making structures. This diffusion means that many government decisions involve a variety of decision makers.[6] Combined with the purposefully created visibility and accessibilty of public decision processes, this means that interest groups seeking to influence managerial decisions are provided with multiple access points.

The bargaining context also establishes an incentive for multilateral behavior. Most public employees have no *dejure* right to strike and thus they are legally deprived of the standard private sector union weapon for imposing or threatening to impose significant costs of disagreement upon management. This lack of strike rights tends to increase the incentive to engage in traditional political interest group tactics and/or various impasse resolution procedures to impose these costs. Similarly, since the scope of local government bargaining frequently tends to be narrower than in the private sector,[7] municipal employee groups desirous of influencing the shape of employment conditions excluded from the scope of bargaining must engage in political activities if they are going to have a voice in the determination of these non-bargainable items.

In sum, these political, decision-making, and bargaining contextual dimensions establish a constant potential for local government collective bargaining to be multilateral; the test is whether bargaining is actually conducted in such a manner. The evidence gathered in this research effort strongly suggests that in the police service the multilateral characterization is appropriate. For example, of the eighteen cities in the sample with institutionalized collective bargaining systems interviewees in seven cities related instances of union leader

[6] For our purposes the best example is the fragmentation of municipal control over personnel issues. Authority over monetary items may be shared among the executive branch (which often prepares the budget), the legislative branch (which may amend but must ultimately approve the budget), and the civil service commission (which may prepare salary and fringe benefit recommendations). Some cities (e.g., San Francisco, Oakland, Los Angeles, Cleveland), have charter provisions, approved by the voters, which regulate city employee pay and fringes. Authority over nonmonetary items may be shared among the department head, the civil service commission, the personnel director, the city attorney, the mayor or city manager, the city council, and the state legislature. See John Burton, "Local Government Bargaining and Management Structure," *Industrial Relations,* Vol. 11 (May 1972), pp. 123–140.

[7] See Paul Gerhart, "The Scope of Bargaining in Local Government Labor Negotiations," *Labor Law Journal,* Vol. 20 (August 1969), pp. 545–552; reprinted in Loewenberg and Moskow, eds., *Collective Bargaining in Government.*

interactions with city council members during the contract negotiation process. Six other cities yielded examples of union interaction with mayors during bargaining.

The political context means that these and other kinds of activities may have a definite effect on the strength of the union's collective bargaining position. Thus, the Detroit Police Officers Association had improved access to the mayor's office because of its endorsement of former Wayne County Sheriff Roman Gribbs for mayor. In 1969 the Seattle Police Guild endorsed and made a contribution to mayoral candidate Wes Uhlman; within two months of his election Uhlman signed a police union contract with both union and management interviewees characterized as generous. In 1970 a midwestern city council approved a generous police contract; interview comments portrayed the reluctant approval as an exchange for the union's assistance in securing passage of state legislation enabling the city to levy a sales tax (a process aided by the fact that the union business agent was also a state legislator). In these instances (and in many others not mentioned) the unions strengthened their bargaining position by interactions with governmental actors other than the formally designated managerial labor relations representatives.

Work stoppages provide additional illustrations of the multilateral character of police collective bargaining. Of the seven partial or total work stoppages in this sample through 1971 six were connected with the collective bargaining process.[8] The pressures created by these disruptions of the delivery of normal police services are not the same kind of pressures associated with private sector strikes where the employer incurs economic losses. Since revenue collection is not connected with the delivery of police services, police work disruptions do not place significant economic pressure upon management.[9] Instead, the pressures are of a political nature in that the citizens are being deprived of some portion of essential municipal services. This

[8] Detroit (May–June 1967), New York City (October 1968 and January 1971), Vallejo (July 1969), Rochester (May 1970), Pittsburgh (April 1970), Milwaukee (January 1971). The Pittsburgh "blue flu" was in response to some racially-motivated transfers among the city's police districts, and did not have any connection with the police collective bargaining process.

[9] Police work disruptions frequently involve a cessation of the issuance of traffic tickets, thus depriving the city of these revenues. This research suggests that ticket strikes are a vastly overrated economic weapon because the amount of money involved, as a percent of total city revenues, is so small. See Hervey Juris and Peter Feuille, *Police Unionism: Power and Impact in Public Sector Bargaining* (Lexington, Mass.: D. C. Heath, 1973), p. 89. Ticket slowdowns are more accurately characterized as political weapons in that they directly challenge management's authority, they tend to be well received by the public, they may serve as a warning that larger scale disruptions are possible, and thus they tend to create a public embarrassment and concomitant political liability for city officials.

deprivation of service is intended to create political pressure by causing public concern and inconvenience which is translated into pressure upon city officials to remove the inconvenience by restoring the deprived services which in most instances operationally translates into agreeing to some or all of the union's demands.[10]

Multilateral Labor Relations

Additional examination of police union-management relations reveals that while the multilateral bargaining label is accurately applied to the collective bargaining process, it is an inadequate characterization of the scope of union-management interactions to influence police employment conditions. As the following examples demonstrate, much important police union-management interaction is not connected with the collective bargaining process: In 1970 the Hartford police union intensively lobbied the city council and solicited expressions of public support in its efforts to oppose the council's investigation and potential establishment of new police gun use guidelines;[11] in 1970 the Buffalo police union engaged in a federal court litigation contest with the city to oppose a city order that all police officers on duty during a particular shift stand in identification line-ups so that the alleged victims of a police assault would have an opportunity to identify their assailants;[12] in 1970 Boston Mayor Kevin White significantly improved police working conditions, even though a contract was in effect and no contract negotiations were in progress, after the patrolmen's union endorsed him in the Democratic gubernatorial primary;[13] and in 1969 the Detroit patrolmen's union conducted a variety of actions, including picketing, gathering petition signatures, purchasing newspaper advertisements, and filing censure charges, aimed at a local judge who released 142 black suspects arrested at the scene of a gun battle between black militants and the police.

Each of these cities has an institutionalized collective bargaining procedure through which the city and the police union had bargained at least one police contract by the time the above issues surfaced. Yet the above union-management behavior (and many similar situations

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[10] This same reasoning applies to most other public employees strikes, including those by firefighters, teachers, garbage collectors, etc. See Wellington and Winter, *op. cit.*, pp. 25–26.

[11] Information obtained from field interviews and the *Hartford Courant*, 2, 5, 6, 8, 9, 11 April, and 15 December, 1970.

[12] Information obtained from field interviews and the *Buffalo Evening News*, 2, 3, 5 June, 18 August, 19 September, 1970 and 11 March, 1971. The case is Biehunik vs. Felicetta, 441 F. 2d 228 (2d Circuit, 1971).

[13] Information obtained from field interviews; for some details of this exchange and the internal union repercussions see the *Boston Globe*, 5 and 13 September, 1970.

not mentioned) cannot be explained with reference to the collective bargaining process. The argument advanced here is that the police union-management scene is accurately described and analyzed with a multilateral labor relations conceptualization which incorporates not only the union and employer designated representatives and collective bargaining activities but includes numerous other actors (such as mayors, city council members, state legislators, etc.) and traditional political interest group activities such as lobbying, electoral political exchanges with candidates, electoral politics over ballot measures, litigation, interest group alliances, etc. It seems inappropriate to suggest that because these issues and activities are not connected with collective bargaining they comprise a secondary set of union interests. While they may not be a part of collective bargaining they certainly are a part of police labor relations, and interview responses in the sample cities indicate that these kinds of issues and activites are anything but secondary to union and rank-and-file interests.

Pulling the threads of this discussion together, we find that the multilateral conceptualization includes several kinds of union-management activities in a variety of contexts: traditional collective bargaining activities such as contract bargaining, grievance bargaining, and work stoppages; traditional political interest group activities as described above in order to strengthen the union's position at the bargaining table; the same kinds of political interest group activities over issues which are not decided via bargaining; and (as a special case of the preceding category) the same kinds of political activities where no collective bargaining exists. In the police union sample it was quite apparent that the collective bargaining process is the single most important union-management interaction vehicle. On the other hand, it was impossible to explain the power-based interactions of the parties and the scope and depth of the police unions' impact upon substantive employment conditions without reference to the frequent union political activities connected and unconnected with collective bargaining.[14]

Conclusion

The theme of this paper is that police union-management interactions are more properly conceptualized via a multilateral labor relations framework which explicitly recognizes the interdependence of collective bargaining and traditional interest group activities in a political context rather than relying on a bilateral bargaining framework which tends to slight those union-management interactions not

[14] For an elaboration of this statement, see Juris and Feuille, *op cit.*, Chapters 6, 7, 8.

connected with bargaining. Further, the suggestion is made that this conceptualization may be appropriate for the entire range of local government union-management relations. Critics may respond that this sweeping characterization is inaccurate because other municipal employee groups have no parallel with the interest of police unions in the law enforcement issues over which so much of the police union non-bargaining activities are conducted. This criticism may have some validity, but consider that, as with the police, such groups as the teachers and social workers have direct "working conditions" interests in educational and social welfare policy issues and use political activities (in addition to collective bargaining) to advance those interests. Consider also that other city groups frequently use political activities to press their claims (the firefighters are the best example). Consequently, the multilateral concept may have substantial usefulness in analyzing the behaviors and impacts of a variety of municipal unions and in formulating intelligent public policy responses to the active presence of these unions. More research is needed to confirm or deny the validity of this suggestion for the municipal sector generally; the research reported here suggests it is usefully applied in the police service.

Public Sector Bargaining: An Investigation of Possible Environmental Influences

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Milton Derber's intensive investigation in Illini City twenty years ago provided a wealth of fresh insight into union-management relationships. One key proposition to emerge was the that through time the environment influences the kind of labor relations which develop in the community.[1] Derber was able to identify several major "areas of influence" that contributed to this shaping process.

A recent study reexamined the above proposition cross-sectionally.[2] Derber's areas of influence were operationally defined into fifteen quantifiable community characteristics and only the labor relations in the public sector were studied for possible effects. Specifically, the attempt was to determine what effect, if any, these community factors had on public sector bargaining. Thirty-six cities in Michigan were examined over a four-year period, measuring possible environmental effects by the degree of bargaining difficulty experienced. Such an approach views a management-union relationship as an "open system," influenced not only by the characteristics of its bargaining table components (e.g., demands of the parties, personalities involved, etc.), but affected by the nature of "external" variables as well.

Evidence of a breakdown in the bargaining process was held to be an important measure of the kind of labor relations that existed because, as suggested by both Chamberlain[3] and Form and Miller,[4] the community itself is most likely to influence its labor relations only when an impasse occurs. Or, simply stated, if community environment affects labor relations generally, it is most likely to be in evidence relative to bargaining impasses. Further, it is precisely the occurance

[1] Milton Derber, et al., *Labor-Management Relations in Illini City* (Champaign: Institute of Labor and Industrial Relations, 1953). Also: Milton Derber, "A Small Community's Impact on Labor Relations," *Industrial Relations*, 4:2 (February, 1965).

[2] Thomas L. Watkins, "The Effects of Community Environment on Negotiations," *The Journal of Collective Negotiations in the Public Sector*, 1:4 (Fall, 1972), pp. 317–327.

[3] Neil W. Chamberlain, *Social Responsibility and Strikes* (New York: Harper and Bros., 1953).

[4] William H. Form and Delbert C. Miller, *Industry, Labor and Community* (New York: Harper and Bros., 1960).

of an impasse that the parties and administrative agencies would like to avoid. Thus, it was felt desirable to investigate whether some external, environmental factors, generally beyond the control of the negotiating parties, might be related to bargaining difficulty as demonstrated by a dependency upon third-party intervention in the person of a mediator. If a relationship could be found, cities possessing certain characteristics could be identified as more likely to reach an impasse in negotiations.

The proposition was advanced that certain environmental characteristics are related to the difficulty experienced in the negotiation of public sector labor agreements. "Difficulty experienced" was operationalized by defining "Mediation Dependency:" the extent of mediation expressed as a percent of total contracts negotiated. Mediation Dependency (MD) became the dependent variable in the study. Individual characteristics of the cities were then associated with MD by using Spearman's rho, a nonparametric test employing ranked data. The results indicated that certain identifiable factors, all characteristics of non-growth (or "stable") cities, could be related individually to Mediation Dependency. This can be summarized as follows: Municipalities with lower growth rates, educational levels, income levels, and with higher unemployment and age levels, tended to have a greater reliance upon mediation.

The intercorrelations of these factors was, of course, high, and therefore their joint predictive value was felt to be scarcely better than their individual correlations. However, the "stable city" proposition which did emerge from the study, as described above, both supported and extended the Derberian position. The investigation was somewhat unsatisfactory, however, for a number of reasons:

1. The time frame was insufficient. Only a four-year span was possible due to the passage of the Michigan public employees' statute in 1965;
2. The model included fifteen environmental characteristics, none of which reflected the revenue level of the cities; and
3. A nonparametric test was utilized. Use of this test did not permit examination of joint effects the included characteristics might have had on mediation dependency.

Besides a desire to improve the study, additional incentives to construct a second model came from the literature. For example, Moskow et al.[5] have noted that there are excellent reasons for hypothesizing a relationship between negotiating difficulty and the type of municipal government, due to the possibility that the elected official

[5] Michael H. Moskow, J. Joseph Loewenberg, and E. C. Koziara, *Collective Bargaining in Public Employment* (New York: Random House, 1970), p. 213.

will be more sensitive to the electorate than the appointed official. Stieber[6] has hypothesized that there is a strong association between private and public sector relationships. This study, therefore, was undertaken to pursue the initial proposition further, to correct the three earlier deficiencies noted above, and to more accurately reflect emerging theories.

Construction of the Model

The new model differs substantially from the first in several respects:

1. The time frame covered is expanded through 1972, a total of seven-and-one half years;
2. The selection of independent variables is modified to better describe the community environment; and
3. A stepwise regression is employed to measure the joint relationships of various environmental characteristics and reliance upon mediation assistance.

A regression analysis appeared particularly suitable for two reasons. First, the dependent variable, MD, was almost perfectly normally distributed over the sample. Second, it would permit an examination of just effects of several explanatory variables. The use of stepwise regression analysis was necessitated by the large number of potential explanatory variables, by the fact that in many cases there was more than one possible measure of an environmental characteristic, and by the high intercorrelations among several explanatory variables (see Appendix B).

The new model thus permits use of absolute (as opposed to ranked) data, and allows examination of the interaction of the descriptive factors of Mediation Dependency. It was hoped that if the explanatory level was high, it would aid in predicting in what cities the need for mediation assistance would likely occur—regardless of "internal factors" such as the level of demands, who the bargainers happened to be, etc.

The State of Michigan was again chosen as the laboratory not only because of the availability of data, but also because it has a law covering public employees that is very representative of the ones being increasingly considered in other states.[7] The survey included all cities in Michigan with an incorporated 1960 population of 25,000 or more, except Detroit.[8] There are thirty-six such cities, and all were described

[6] Jack Stieber, "The Nature and Extent of Public Sector Unionism." An address delivered to the Detroit Area Chapter, IRRA, November 5, 1970.

[7] Act 379 of the Public Acts of 1965 (M.S.A. 17.455 (1) – (16)).

[8] Detroit was omitted because the city negotiates with fifteen times as many units as any other city in the state, a factor which could cause the statistical analysis to be distorted.

on the basis of the characteristics listed in Table 1, which are assumed to be representative (rather than exhaustive) of external areas of influence suggested by Derber.[9]

Information related to the dependent variable (V-1) was obtained by surveying each municipality as to when and with whom it had negotiated an agreement over the period. The Michigan Employment Relations Commission provided the data on mediation.[10] Division of the number of mediations experienced in each city by the number of negotations yielded a single index of Mediation Dependency—the dependent variable in the analysis that follows.

TABLE I

Independent Variables: Characteristics of the Cities *

Variable	
1 **	
2 **	
3	Relative city wealth (revenue per capita)
4	City size (population)
5	Growth rate (percent of population change, 1960–70)
6	Racial balance (percent of non-white population)
7	Educational level (median years of school completed)
8	Age level (median age of population)
9	Income level (median household income)
10	Tax burden (total taxes (× 1000), fiscal year 1968–69)
11	Aggregate city wealth (total city revenue (× 1000), 1969)
12	Degree of industrialization (percent of resident labor force in manufacturing)
13	Blue collar influence (percent of resident labor force in blue collar occupations)
14	Unemployment level (monthly average, 1966–70)
15	Union militance-severity (percent idle due to labor-management disputes, monthly average, 1966–70)
16	Union militance-frequency (number of months out of 60 more than 100 workers idle due to labor-management disputes, 1966–70)
17	Type of municipal government (mayor or manager)

* All data are for 1970 except as noted.

** Variables 1 and 2 are related to Mediation Dependency, as explained previously and below.

In addition to the above 15 city characteristics, several additional variables were thought to be worth considering on an *a priori* basis. These variables are listed in Table 2. It should be noted that these explanatory variables were obtained by splitting the entire 7½ year period into two time periods, 1965–70, and 1971–72, in order to deter-

[9] Derber identified seven types of influences: the size and scope of community, the social structure, the industrial composition, the political structure, the economic status, the labor relations climate, and the opinions of the communications media. All but the last of these have been representatively defined in this study.

[10] The sample included a total of 573 negotiations, 256 of which were mediated (44.7%).

TABLE 2

Additional Explanatory Variables to be Considered

Variable	
2	Percent mediation dependency, 1965–70
18	Public safety negotiations as a percent of total negotiations, 1965–70
19	Mediations per bargaining unit, 1965–70
20	Negotiations per bargaining unit, 1965–70
21	Public safety negotiations as a percent of total negotiations. 1971–72
22	Mediations per bargaining unit, 1971–72
23	Negotiations per bargaining unit, 1971–72

mine the extent to which relationships in the first period could be used to predict relationships in the second period.

The purpose of the analysis was to use stepwise regression to determine which of the 22 external explanatory variables could best explain mediation dependency in the 1971–72 period (V-1). The results of the stepwise regression analysis are displayed in Table 3. It should be noted that the five variables listed were the first five variables to enter the regression and that, while these five variables were significant and remained significant when other variables were added, no additional significant variable or sets of variables were identified by the stepwise analysis.[11]

TABLE 3

Results of Stepwise Regression Analysis

Variable	*Coefficient*	*Standard Error*	*t-statistic*	*Expected Sign of Coefficient*
Constant	−11.837	23.299	−0.508	
12	1.476	0.442	3.335 [a]	+
17	−31.038	9.269	−3.348 [a]	−
21	46.452	18.932	2.453 [a]	+
23	16.201	8.939	1.812 [b]	−
20	8.349	4.713	−1.771 [b]	−

Notes: 1. $n = 36$ $R^2 = 0.3992$
2. $\sigma_y = 22.83$ (σ = the standard error of the estimates. Use of the $\pm 2\sigma$ rule will yield confidence intervals.)
3. Based on a two tailed test, significance at the 99% level or higher is denoted by 'a' and at the 96% level or higher is denoted by 'b'.

The results of the stepwise regression analysis shown in Table 3 must be interpreted cautiously for several reasons. First, although the residuals were reasonably normally distributed (see Figure 1), these same residuals were strongly linearly related to the dependent variable

[11] None of the remaining variables attained significance at a level higher than 50% when entered.

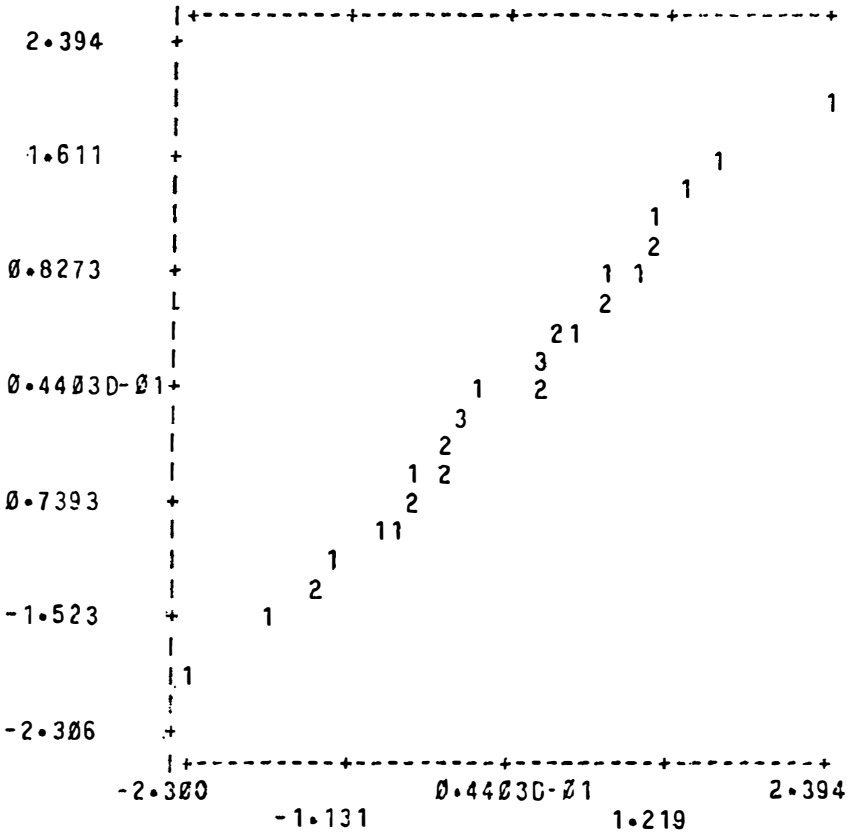

Figure 1. Normal Probability Plot of Stepwise Residuals

(see Figure 2).[12] The relationships depicted in these two figures were unaltered when additional explanatory variables were entered. The existence of a linear relationship between the residuals and the dependent variable is of considerable concern and does suggest a major specification error in the model.

Since the model was designed to explain only the effects of external variables of MD, it is very possible that the exclusion of internal variables constituted a specification error. If one assumes that the external variables are representatively measured by variables 2 through 23, then one might hypothesize that there are internal variables that must

[12] When the residuals were regressed on the dependent variable (MD in 1971–72), the t-statistic of the coefficient of MD was 7.153 and the R^2 for the regression was 0.6008. Note that our primary interest in this paper is the estimation of the strucural parameters for hypothesis testing. For this reason, the caveats noted above must be considered. These caveats, however, do not hinder the use of the estimated regression equation if the only interest is in predicting mediation dependency.

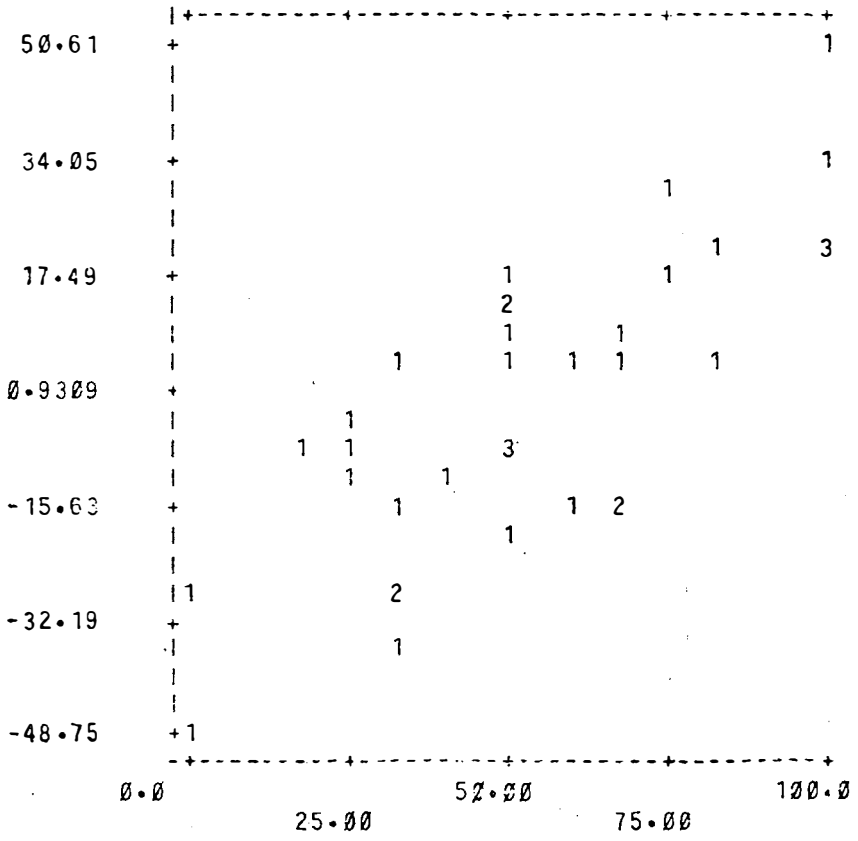

Figure 2. Plot of Stepwise Residuals (Vertical) vs Dependent Variable (Horizontal)

be included in the model and that these internal variables will explain a larger percentage of the variation in MD than the external variables. This hypothesis will be tested in subsequent work by introducing several internal variables into the model.

Since the above caveats have been duly noted, one may now return to the stepwise regression results of Table 3 and interpret them (albeit with appropriate caution). The expected sign of the coefficients are listed in Table 3 and were hypothesized as follows:

V-12 A positive relationship was hypothesized between manufacturing employment and MD on the basis of Stieber's findings of private and public sector similarities;

V-17 Because of Moskow's position on the influence of government type, it was hypothesized that mayor governments would experience less difficulty in bargaining

than manager governments. The assumption is that as an elected official, a mayor will more vigorously seek to avoid labor trouble;

V-21 Negotiations involving public safety unions are among the most difficult.[13] Thus a positive association was hypothesized between the number of those negotiations in the current period and MD;

V-23 Negotiations per unit in 1971–72 was hypothesized to be negatively related to MD because it was assumed that frequent negotiating contact with each existing unit would tend to reduce reliance upon mediation;

V-20 Negotiations per unit in the prior period was hypothesized to be negatively related to MD in the current period for similar reasons: it was held that frequent negotiating contact with each existing unit in the earlier period would tend to reduce the reliance on mediation in the later period.

The expected signs are in agreement with the actual signs in every case, except for variable 23.[14] In the case of variables 12 and 17, this agreement indicates some support for the views expressed in the literature by Stieber and Moskow respectively. Further, although the results are tenuous, there is some additional support for the original Derberian proposition of viewing labor-management relations as open systems.

In a broader sense, this study addresses itself to that portion of the labor relations literature which views labor-management relationships as closed systems. It was found that although the external variables did not, by themselves, explain where bargaining difficulty might occur, it is significant that to some degree these uncontrollable factors were found to be influential.

Thus, it is now clear that much further research remains to be done, and that this work must proceed with *both* internal and external variables included in the model.

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[13] Our raw data tends to support this: Public safety units as a group had a MD = 49.6%, whereas all other units had an aggregate MD = 37.5%. This assumption about public safety bargaining is also part of the explanation why Michigan has a compulsory interest arbitration statute for public safety units.

[14] Within each time period it was expected that negotiations per unit would measure the relative length of the contracts. Failure to obtain the expected sign of the coefficient possibly indicates that negotiations per unit was a poor measure of contract length. It is hoped this inconsistency can be resolved by further research.

APPENDIX A

Description of Variables

Variable	*Mean*	*Variance*	*Standard Deviation*	*Minimum*	*Maximum*
1	54.17	743.9	27.28	0.0	100.0
2	41.56	671.8	25.92	0.0	100.0
3	144.0	5191.	72.05	62.60	399.1
4	68.04	2126.	46.10	23.80	197.6
5	13.45	918.3	30.30	−20.20	119.9
6	8.642	179.2	13.39	0.3000	56.90
7	12.12	1.439	1.200	9.500	16.40
8	26.93	13.47	3.670	21.80	39.70
9	0.1194D05 *	0.4952D07	2225.	8716.	0.1814D05
10	4566.	0.1823D08	4270.	945.0	0.1796D05
11	0.10144D05	0.9527D08	9760.	2121.	0.4791D05
12	35.84	92.00	9.592	6.100	47.60
13	50.79	161.9	12.72	19.90	65.50
14	5.383	0.8397	0.9164	3.800	8.400
15	0.5806	0.5075D−01	0.2253	0.0	1.200
16	41.50	253.5	15.92	0.0	59.00
17	0.3056	0.2183	0.4672	0.0	1.000
18	0.5778	0.3549D−01	0.1884	0.0	1.000
19	1.256	0.6363	0.7977	0.0	3.000
20	3.047	0.7774	0.8817	2.000	5.000
21	0.6500	0.4714D−01	0.2171	0.0	1.000
22	0.6222	0.1486	0.3855	0.0	1.700
23	1.100	0.1977	0.4447	0.0	2.000

* The D notation indicates multiplication by 10 to the indicated power. For example, D07 means $\times 10^{7}$, D−01 means $\times 10^{-1}$, etc.

APPENDIX B
Correlation Matrix

Variable											
1	1.0000										
2	0.2695	1.0000									
3	−0.0270	0.1795	1.0000								
4	0.0533	0.2269	0.1060	1.0000							
5	−0.1122	−0.1688	−0.3747	0.3436	1.0000						
6	−0.1291	0.0045	0.6273	0.0886	−0.2864	1.0000					
7	−0.0872	−0.2621	−0.3468	0.0835	0.4840	−0.2433	1.0000				
8	−0.1416	0.1068	0.3059	−0.1761	−0.2890	−0.0628	−0.3661	1.0000			
9	0.0921	−0.2325	−0.4473	−0.0359	0.5801	−0.5521	0.4385	0.0481	1.0000		
10	0.1244	0.2908	0.4493	0.8655	0.0473	0.2307	−0.0639	0.1240	−0.1614	1.0000	
11	0.1292	0.2557	0.5463	0.8320	−0.0185	0.3668	−0.1033	−0.0115	−0.2661	0.9452	1.0000
12	0.2769	0.3580	0.1607	−0.0121	−0.2896	0.0438	−0.7499	0.0511	−0.1931	0.0556	0.0882
13	0.1300	0.3546	0.2566	−0.0471	−0.4936	0.3512	−0.7767	−0.0359	−0.7091	0.0274	0.1257
14	0.1463	0.4365	−0.0687	−0.1273	−0.1856	−0.0853	−0.3690	0.1614	−0.2090	−0.1343	−0.1501
15	0.2174	0.0598	−0.0507	0.2738	0.0863	0.0152	−0.0451	−0.0300	0.1401	0.1929	0.2726
16	−0.1201	−0.0403	−0.0691	−0.0777	−0.0244	−0.0294	−0.3869	0.2578	0.2393	−0.0625	−0.1387
17	−0.2376	−0.0646	0.1770	0.0662	0.0685	−0.0542	−0.2505	0.2205	0.0862	0.1353	0.0591
18	0.1650	0.2654	−0.1934	−0.0954	0.0195	−0.0300	−0.0006	−0.0935	0.0056	−0.2159	−0.2124
19	0.2140	0.9012	0.1781	0.1316	−0.1475	0.1130	−0.2508	0.0725	−0.1606	0.1625	0.1610
20	−0.0216	−0.0781	0.1945	−0.1754	−0.1833	0.1735	−0.1886	0.1056	0.0150	−0.1597	−0.1224
21	0.2105	−0.1358	−0.0717	−0.0238	0.1269	0.0737	0.0367	0.3033	0.2802	0.0206	−0.0281
22	0.7294	0.1612	−0.0029	−0.1580	−0.0430	−0.3272	0.0676	0.0497	0.3333	0.0124	−0.0777
23	0.1717	−0.0699	0.0810	−0.1808	0.0455	−0.2177	0.1992	0.0851	0.3481	−0.0453	−0.1044
	1	2	3	4	5	6	7	8	9	10	11
12	1.0000										
13	0.6905	1.0000									
14	0.2989	0.3369	1.0000								
15	0.1035	0.0973	0.1617	1.0000							
16	0.3631	0.2881	0.0268	0.1971	1.0000						
17	0.2899	0.1699	−0.1546	−0.1320	0.5934	1.0000					
18	0.2611	0.2011	0.0474	0.0770	0.1114	−0.0180	1.0000				
19	0.3552	0.2792	0.2925	0.0364	−0.0956	−0.1389	0.3944	1.0000			
20	0.1728	−0.0286	−0.1086	−0.0269	−0.0375	−0.1193	0.3729	0.3053	1.0000		
21	−0.0790	−0.1625	−0.3504	0.0029	0.2364	0.1831	0.4191	0.0462	0.1933	1.0000	
22	0.1825	−0.1815	0.0350	−0.0179	−0.0782	−0.0705	0.0463	0.1557	0.0742	0.1365	1.0000
23	−0.466	−0.3778	−0.1416	−0.2025	−0.0662	0.1650	−0.1569	−0.0266	0.0896	0.1184	0.7033
	12	13	14	15	16	17	18	19	20	21	22

Determinants of Differences in Union Membership Among the States

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Theorists of the American labor movement have long argued over the causes of fluctuations in union membership and the prospects for future union growth. For a number of years, the so-called business cycle hypothesis of Commons, Perlman, Davis, and Dunlop, which related union expansion to the business cycle, was the most widely accepted explanation of the fluctuations in union membership.[1] Over the years, a number of critics such as Hoxie, Wolman, Shister, and Bernstein challenged the business cycle hypothesis on the grounds that American unionism is too complex and diffuse a social phenomenon to be understood in such simple terms.[2] They contended that a multicausal system (including the cycle) is necessary to account for the rise of trade unionism. Bernstein argued:

> The primary forces that have shaped the secular growth are the expansion of the labor force, growing acceptability of unionism, increasing homogeneity in the working class, and extension of collective bargainng provisions for union security. In the short run, membership has expanded sharply as a consequence of wars and very severe depressions. Unions, in other words, have been the beneficiaries of disaster.[3]

Ashenfelter and Pencavel recently estimated a single behavioral relationship, including social and political as well as economic variables, capable of explaining the growth of American trade union mem-

[1] John R. Commons, "Labor Movements," in *Encyclopedia of the Social Sciences* (New York: Macmillan Co., 1932), pp. 690–705; Selig Perlman, *A Theory of the Labor Movement* (New York: Augustus M. Kelly Pub., 1966); Horace B. Davis, "The Theory of Union Growth," *Quarterly Journal of Economics*, Vol. 55 (Aug. 1941), pp. 611–633; and John T. Dunlop, "The Development of Labor Organization: A Theoretical Framework," in Richard A. Lester and Joseph Shister, *Insights into Labor Issues* (New York: The Macmillan Co., 1948), pp. 163–193.

[2] Robert F. Hoxie, *Trade Unionism in the United States* (New York: D. Appleton and Co., 1923); Leo Wolman, *Ebb and Flow in Trade Unionism* (New York: National Bureau Economic Research, 1936); Joseph Shister, "The Logic of Union Growth," *Journal of Political Economy*, Vol. 55 (Oct. 1953), pp. 413–433; Irving Bernstein, "The Growth of American Unions," *American Economic Review*, Vol. 54 (June 1954), pp. 301–318.

[3] Bernstein, *ibid.*, p. 317.

bership in the period 1900–1960.[4] Although the model of A&P has apparently identified the historical determinants of union growth, there is some question as to whether the model has equally identified the determinants of future union growth. This issue lies at the heart of the recent debate among the so-called "saturationists" and the "historical school" concerning the future prospects of the rate of growth of the American labor movement.[5]

The "saturationists" have challenged the "historicalists" argument that the labor movement "increases its size in two ways—at a modest pace over long spans of time and in sharp spurts at infrequent intervals," and that the slow rate of growth of unionism in the post World War II period can easily be fit into the historical theory.[6] The "saturationists" contend that the significant changes have occurred within the structure and composition of the American workforce which have caused the past determinants of union growth to be inoperable in the future.[7] The "historical school" has, in turn, questioned the "saturationists" arguments on the grounds they assume propensities and psychological attitudes which have not been proven and which are not consistent with actual experience.[8]

The debate between the "saturationists" and the "historical school" has not yet been resolved. The level of actual union membership has increased by 4,300,000 or 25.4 percent for the period 1953–1970, but the level of "real" union membership, as measured by the percent of

[4] Orley Ashenfelter and John H. Pencavel, "American Trade Union Growth, 1900–1960," *Quarterly Journal of Economics,* Vol. 82 (Aug. 1969), pp. 434–448. For an alternative formulation of a multicausal empirical model see: R. B. Mancke, "American Trade Union Growth, 1900–1960, A Comment," *Quarterly Journal of Economics,* Vol. 85 (Feb. 1971), pp. 187–193.

[5] The terms "saturationists" and "historical school" were coined by Irving Bernstein, "Union Growth and Structural Cycles," IRRA *Proceedings* (Dec. 1954), pp. 202–230 and "Discussion," pp. 231–247. The earliest statement of the "saturationist" position is that of Daniel Bell, "The Next American Labor Movement," *Fortune* (April 1953), pp. 120 ff. Others which appear to have followed this line of argument are: Benjamin Solomon, "Dimensions of Union Growth, 1900–1950," *Industrial and Labor Relations Review,* Vol. 9 (July 1956), pp. 544–561; Solomon Barkin, *The Decline of the Labor Movement,* Center for the Study of Democratic Institutions (Santa Barbara, Cal.: The Fund for the Republic, Inc., 1961); Joel Seidman, "The Sources for Future Growth and Decline in American Trade Unions," IRRA *Proceedings* (Dec. 1954), pp. 98–108; Edward Townsend, "Is There a Crisis in the American Trade-Union Movement? Yes," in Solomon Barkin and Albert A. Blum, *The Crisis in the American Trade Union Movement,* The Annals of the American Academy of Political and Social Science (Philadelphia, 1963); and Joseph Shister, "The Outlook for Union Growth," in Barkin and Blum, *ibid.,* pp. 55–62. Those which appear to have followed the "historical school" approach include: Irving Bernstein, "The Growth of American Unions," *op.cit.* (Spring 1961), pp. 131–157 and "Discussion," pp. 365–379; and Albert A. Blum, "Why Unions Grow," *Labor History,* Vol. 9, (inter 1968), pp. 39–72; Philip Taft, "Is There a Crisis in the Labor Movement? No," in Barkin and Blum, *op.cit.,* pp. 10–15.

[6] Bernstein, "The Growth of American Unions, 1945–1960," op. cit., pp. 133–149.

[7] For a summary of the "saturationists" position, see Bernstein, *ibid.,* pp. 70–72.

[8] Taft, *op. cit.,* p. 12.

nonagricultural employment organized has declined from 34.1 to 30.1. Although the labor movement has had some success in organizing such difficult structural groups as government employees, white-collar workers, and workers in the South, it has not yet reached a major watershed among these groups. Thus, on the basis of available evidence, neither side can claim victory.

This paper attempts to shed some light on the debate by examining the influence of a number of structural variables cited by the "saturationists" in determining the differences in union membership among the states in the postwar era.[9]

I. Structural Factors Influencing Union Growth

Percentage of Women in the Labor Force (WLF)

"Saturationists" believe that women are less inclined to join unions than men because they regard themselves as temporary members of the labor force, their incomes often represent second incomes to their families, and they may feel that unions discriminate against them with respect to equal pay and fair representation in officeship.

Age Composition of the Labor Force

Three age variables were tested in our regression analysis: the percentage of the civilian labor force in the youth work force, ages 16–24 (YLF), in the primary work force, ages 25–54 (PLF), and in the senior labor force, ages 55–64 (SLF). Because there is no consensus in the literature, no particular sign was hypothesized on the coefficients of the age variables.

Percentage of Non-White in the Civilian Labor Force (NWLF).

The influence of the racial mix of the labor force on the growth of unions is unclear. Sociologists tend to argue that "any objective factors which block mobility, exclude groups from full social participation, or diminish belief in the dominant cultural values of success, striving and individualism should make people more likely to join unions in collective defense of their interests."[10] Others have noted that widespread racial discrimination by unions in all parts of the country has

[9] Thus far, two other studies, Ruth Kornhauser, "Some Social Determinants and Consequences of Union Membership," *Labor History*, Vol. 2 (Winter 1961), pp. 30–61 and James G. Scoville, "Influences on Unionization in the U.S. in 1966," *Industrial Relations*, Vol. 10 (Oct. 1971), pp. 354–361, have investigated factors related to individuals' membership in American unions. The relation between the findings of these studies and the current one are discussed subsequently.

[10] Kornhauser, *ibid.*, p. 55. See also: Vladimir Stoikov and Robert L. Raimon, "Determinants of Differences in the Quit Rate Among Industries," *American Economic Review*, Vol. 58 (Dec. 1968), pp. 1283–1298.

existed for many years and that a growing Negro-union schism has been evolving in recent years.[11] Data for sex, age, and race was calculated from U.S. Census of Population for each of the sample years.

PERCENTAGE OF EMPLOYMENT IN AGRICULTURE (EAG)

The percentage of employment in the agricultural sector is considered to be an important obstacle to unionization since agricultural workers have poor economic status, face stiff employer and community opposition, lack legal protection, and are frequently temporary, scattered, and migratory.

PERCENTAGE OF EMPLOYMENT IN BLUE-COLLAR OCCUPATIONS (BCW)

This variable was used to represent the controversy over the relative ease of organizing blue-collar versus white-collar workers.[12] The authors purposely selected a narrow blue-collar variable including craftsmen, foremen, and kindred workers, operatives, and non-farm labor rather than a broad white-collar variable because they agree with Bernstein that there are significant differences among white-collar workers. "White-collar workers are divided by differences in education, income, employment regularity, status, and relationship to the employer, all of which shape their propensity to unionize."[13]

PERCENTAGE OF EMPLOYMENT IN THE GOVERNMENT SECTOR (EGS)

The percentage of state employment in the public sector was added to our model to test the "saturationists" contention that government employees are difficult to organize.[14]

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[11] Barkin, *op.cit.*, pp. 49–50; F. Ray Marshall, "Ethnic and Economic Minorities: Unions' Future or Unrecruitable?" in Barkin and Blum, *op.cit.*, pp. 64–69 and *The Negro and Organized Labor* (New York: John Wiley, 1965); and Orley Ashenfelter, "Racial Discrimination and Trade Unionism," *Journal of Political Economy*, Vol. 80 (May/June 1972), pp. 435–464.

[12] The literature on white-collar organization is becoming quite extensive. See for example: Barkin, *op.cit.*, pp. 39–49; Solomon, *op.cit.*, pp. 549–561; Benjamin Solomon and Robert K. Burns, "Unionization of White-Collar Employees: Extent, Potentials, and Implications," *Journal of Business*, Vol. 26 (April 1963), pp. 141–165; and Everett M. Kassalow, "White-Collar Unionism in the United States," in Adolf Sturmthal (Ed.), *White-Collar Trade Unions* (Urbana, Ill.: University of Illinois Press, 1967), pp. 305–364.

[13] Bernstein, "The Growth of American Unions, 1945–1960," *op.cit.*, pp. 153–154.

[14] Historically, union organization of government employees has faced strong resistance from hostile, administrators and elected officials, unfavorable legislation, and rival "professional associations," but in recent years the situation has changed significantly. During the period 1956 to 1968, membership in government unions increased from 915,000 workers or 5.1 percent of total union membership in the U.S. to 2.2 million workers or 10.7 percent of total membership. See Harry P. Cohaney and Lucretia Dewey, "Union Membership Among Government Employees," *Monthly Labor Review*, Vol. 93, (July 1970), pp. 15–20.

DEGREE OF URBANIZATION (URB)

The "saturationists" argument that small firms and small towns are more difficult and costly to organize cannot be directly tested because data are unavailable.[15] As a rough proxy for the size of community and to a lesser extent, perhaps, the size of firms, we included the percentage of population living inside urbanized areas as reported in the *U.S. Census of Population.* This urban variable also may serve as a proxy for other phenomena such as the degree of industrialization as well as our two size variables.[16]

REGIONAL FACTORS (SOU)

Since the "saturationists" contend the South is a formidable regional bar to unionization, a dummy variable taking the value of one for South states and zero for non-South states was included in our model.[17]

PUBLIC POLICY (SRTW)

Governmental policy as expressed in statutory law and the attidudes and opinions of administering agencies has long been accepted as an important determinant of union growth.[18] The significance of one unfavorable governmental policy is represented by a dummy variable (SRTW) taking the value of one for states having right-to-work laws and zero for states that have no such law. This completes the list of independent variables to be tested in our models.

II. Empirical Results

To empirically test the influence of the structural variables specified above, several linear regression models are formulated to explain the variation in the degree of union membership among the states for the

[15] The "saturationist" argument appears to be widely accepted despite the lack of empirical support. One of the few sources cited in this regard is H. M. Douty, "Collective Bargaining Coverage in Factory Employment, 1958," *Monthly Labor Review* (April 1960), pp. 345–349.

[16] Clark Kerr, John T. Dunlop, Frederick Harbison, and Charles Meyer, *Industrialization and Industrial Man* (Cambridge, Mass.: Harvard University Press, 1960) and others have argued that trade unions and industrial relations systems are by-products of the process of industrialization.

[17] South includes: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

[18] Review: Dunlop, *op.cit.,* pp. 185–186; Bernstein, "The Growth of American Unions," *op.cit.;* F. Ray Marshall, *Labor in the South* (Cambridge, Mass.: Harvard University Press, 1967), pp. 312–323; Shister, "The Logic of Union Growth," *op.cit.;* Blum, *op.cit.,* pp. 43–55; Barkin, *op.cit.,* pp. 19–24; and Ashenfelter and Pencavel, *op.cit.,* pp. 436–437.

TABLE 1
Regression Results

Independent Variable	Model I 1970	Model I 1960	Model I 1950	Model II (a) 1950–70	Model II (b) 1950–70	Model II (c) 1950–70
WLF	−2.156[1]	−1.550[1]	−1.586[1]	−0.916[1]	−1.331[1]	−1.040[1]
	(−4.292)	(−3.287)	(−4.129)	(−7.109)	(−6.633)	(−7.230)
NWLF	0.269[2]	0.194	0.399[2]		0.192[2]	0.145[3]
	(2.419)	(1.255)	(2.173)		(2.504)	(1.960)
SLF	1.346[3]	1.883[2]	3.476[1]	1.817[1]	2.409[1]	2.269[1]
	(1.831)	(2.365)	(3.159)	(4.640)	(5.339)	(5.030)
BCW	0.554[1]	0.482[1]	0.472[1]	0.343[1]	0.254[1]	0.399[1]
	(3.697)	(2.748)	(2.937)	(4.195)	(2.292)	(4.651)
URB	0.197[1]	0.186[1]	0.193[1]	0.178[1]	0.130[1]	0.170[1]
	(4.846)	(3.917)	(3.216)	(6.730)	(4.015)	(6.424)
EAG					−0.286[3]	
					(−2.036)	
SRTW	−3.938[3]	−4.200[2]	−3.566	−4.752[1]	−3.751[1]	−4.207[1]
	(−1.989)	(−1.701)	(−1.283)	(−3.557)	(−2.767)	(−3.113)
SOU	−8.538[1]	−7.297[2]	−7.637[2]	−4.364[1]	−5.945[1]	−6.256[1]
	(−3.217)	(−2.173)	(−1.897)	(−2.817)	(−3.306)	(−3.452)
Constant	59.046	26.452	4.214	14.352	26.440	9.656
	(2.975)	(1.643)	(0.230)	(2.464)	(2.567)	(1.546)
S.E.	5.311	6.268	6.725	6.208	6.078	6.146
$\bar{R}^2$	.64	.61	.60	.61	.62	.62

t—values in parentheses.
[1] Indicates the coefficient is significant at the 0.01 level.
[2] Indicates the coefficient is significant at the 0.05 level.
[3] Indicates the coefficient is significant at the 0.10 level.

years 1950, 1960, and 1970.[19] Although numerous variations of the models were estimated, only the most satisfactory results (in terms of $\bar{R}^2$ and significant coefficients) are reported in table 1. Throughout our analysis, the dependent variable is union membership as a percent of employees in nonagricultural establishments within a state. Data for 1960 and 1970 is reported by the Bureau of Labor Statistics in its *Directory of National Unions*. For 1950, we used estimates based on 1953 data reported by Troy.[20]

Under Model 1, separate regressions are estimated for 1950, 1960, and 1970. Because of the problem of multicollinearity, not all of the independent variables could be included in the same regression equation. For example, the agriculture variable (EAG) and the urban

[19] In order to derive comparable estimates for these years and to subsequently pool the data base, the sample was restricted to forty-eight states and the District of Columbia.

[20] Since the Bureau did not publish membership figures by state prior to 1964, it was necessary to use figures which were based on a 1963 survey as a proxy for 1960. The slow growth of unions over the short period suggests that this procedure would not seriously bias our results. The same logic applies to our use of Troy's 1953 estimates for 1950. See: Leo Troy, *Distribution of Union Membership Among the States, 1939 and 1953*, Occasional Paper 56 (New York: National Bureau Economic Research, 1957).

variable (URB) could not be included in the same equation without one of these variables becoming insignificant.[21] Both of these variables, however, were found to be significant when tested in separate equations.

To reduce the problem of multicollinearity and to increase the reliabilty of our estimates, the cross-section data for 1950, 1960, and 1970 were pooled to test the influence of the structural variables on the degree of state unionism. The results of this change are reported as Model II in table 1. Notice that in Model IIb, both the agriculture (EAG) and urban (URB) variables recorded significant coefficients, suggesting the problem of multicollinearity has been reduced.[22]

The major findings from our regression results presented in table 1 can be summarized in the following way:

1. All of the variables included in Models I and II except one are significant at the 0.10 level and most are significant at the 0.05 level or higher.

2. All of the variables included have the sign posited above. The percentage of blue-collar workers and urban population have a positive influence on unionization. The percentage of women and agricultural workers in the labor force and the two dummy variables for right-to-work states and South states have the negative influence hypothesized.[23] The fact that both right-to-work laws and the South variables have independent negative influence on the strength of unionism may come as a surprise since many people tend to lump these factors together.

3. The sign of the regression coefficient for the percentage of non-whites in the civilian labor force turns out to be positive and significant in most cases.[24] This suggests that the sociologists argument of the need for collective protection of minority interests may outweigh the influence of union racial discrimination.

4. Of the three age variables, only the senior labor force variable (SLF) consistently recorded a significant coefficient and it was positive.[25] Several possible hypotheses appear relevant to this finding. Senior

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[21] The simple R^2 between these variables is $-.61$ which is significant at the 0.01 level.

[22] Two age variables (YLF and PLF) and the government employment (EGS) variable were omitted from our final models not because they were significantly related to the included independent variables, which they are, but because they had no significant influence on the explanatory power of the models.

[23] These results are consistent with those of Kornhauser, *op.cit.*, and Scoville, *op.cit.*, which were based on individual observations, with one exception. Kornhauser found that women have a lower propensity for joining unions than men while Scoville found the sex factor to be insignificant, *ceteris paribus*.

[24] Kornhauser reported inconclusive results with respect to this variable, but Scoville also found Negroes significantly more likely than whites to be members of labor unions.

[25] Neither Kornhauser or Scoville found age to be a significant influence on a worker's propensity for joining a union.

labor force members may have a greater concern for job security and seniority status which trade unions are apt to support. Secondly, the experience of having lived through the 1930's Depression may have molded workers' attitude toward collective action.

5. Overall, our regression models explain slightly more than 60.0 percent of the variance in the percentage of union membership among the states.

6. An F test for the equality of the three constants in Model I for 1950, 1960, and 1970 indicates the hypothesis that the three constants are the same should be rejected at the 0.05 level.[26] The constant term presumedly reflects general social and economic conditions, legal arrangements not accounted for in the equations, and public opinion about trade unions. Thus, the rising value of the constant term through time may reflect changes in the general social and economic conditions, favorable changes in state labor legislation such as laws requiring collective bargaining for public employees, or the "growing social acceptability of unionism" hypothesized by Bernstein.

7. An F test for the equality of the three sets of coefficients for 1950, 1960, and 1970 collectively and individually indicates that the hypotheses that these coefficients are the same cannot be rejected at the 0.05 level.[27] Thus, we can assume that the slopes of the regression equations are homogeneous and the relative significance of the individual coefficients has not changed over this period.

III. Conclusions

The above analysis lends considerable support to the "saturationists" argument that structural factors are important determinants in explaining union growth. The "saturationists" appear quite justified in challenging Bernstein's contention that if the U.S. should enter another war or the nation should experience another social cataclysm, "we might soon thereafter expect to see a great expansion of union members and profound changes in the structure of the American labor movement and of employer associations."[28]

All of this is not to say that unions will fail to continue to expand their membership in the future. As Rezler noted several years ago, "the views of the historical school and the "saturationists" may be reconciled by considering the saturation point dynamically and not statically. In the short-run, unionism might be quite near its actual

[26] For a discussion of this test, see: J. Johnston, *Econometric Methods*, (New York: McGraw-Hill Book Co., 1972), pp. 192–207.

[27] *loc. cit.*

[28] Bernstein, "Union Growth and Structural Cycles, *op. cit.*, p. 229.

saturation point (the number of organizable persons who are within the practical reach of unions). Over the long-run, however, growth factors might change in favor of union expansion and a higher saturation point (favorable labor legislation, emergence of strong union leadership, or a change in the structure and programs of unions which could better accommodate the unorganized sectors).[29]

[29] Julius Rezler in the "Discussion" of Bernstein, "The Growth of American Unions, 1945–1960," p. 373.

DISCUSSION

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The saturationist versus the historical views of the possibilities for growth in union membership came in for extensive research and comment over a decade ago. This important field has lain largely fallow in recent years. Professors Moore and Newman have performed a useful service in reopening this subject. They have analyzed earlier studies, and culled from these the elements or variables cited as significant for union growth. The variables utilized are those to which the saturationists attribute the limits on union growth. These variables have been applied to the dependent variables of union membership in the States in 1950, 1960 and 1970. Although the details of the models are not available, I have no reason to question the reliability of the results.

There are no surprises for those variables which produced the most satisfactory results. Positive correlations were associated with the prominence of blue collar workers, urban labor force populations and senior labor force members. Significant negative correlations were associated with prominent percentages of women and agricultural workers. Their finding of a positive correlation between the percentage of non-whites in the labor forces of individual States and unionization is of interest, and is supported by the Bureau of Labor Statistics study of the demographic characteristics of union and nonunion members in 1970. Dummy variables for right to work States and for southern States produced expected negative correlations.

The authors find the results as supportive of the saturationist view regarding the limits on union growth. While cautious in their conclusions regarding the limits of explanation provided by their regression techniques, on balance they conclude that the saturationists have won the field against the historicalist views of the possibilities for substantial growth in the event of another major war or social cataclysm analogous to the Great Depression.

Cataclysms need not be posited to question the conclusions drawn. The authors have themselves referred to signs of some success in organizing government employees, white collar workers, and workers in the South. The organization of retail trade workers, the changing orientation of professional employee associations, with their substantial numbers of women members, toward collective bargaining, and the changing age composition of the labor force are additional major

ongoing factors which are not taken into account in the authors' models. Whether the historical school is right or wrong can not be determined on the basis of the present research effort. It is suggested, however, that the historical school's analytical approach—viewing the influences of the broad environment on specific development over time on individual occupational groups, industries and areas should be utilized along with the focus on a single aggregative dependent variable.

Professors Huettner and Watkins have looked to the environmental factors influencing public sector bargaining. Drawing on research which has suggested the community influences developing over time in private sector negotiations, they have adapted these and sought to determine their effect in the public sector. Positing assertion of community influence when impasses arise in public sector negotiations, they have used a measure of "Mediation Dependency," or the extent of recourse to mediation as approximative of the impasse situation. This may receive support from the high correlation found for such "dependency" in the case of so-called stable cities.

The results of the regression analysis were, as the authors point out, very limited. Expected positive correlation was found between "Mediation Dependency" and the prominence of industrial employment and the number of public employment negotiations; expected negative results for elected governments and more frequent negotiations. A positive correlation was found on frequency of negotiations in a more recent period, where a negative correlation was expected.

The authors properly assign qualified significance to their results, limiting them to indications of some support for earlier assertions regarding the effect of types of governments, and the influence of private sector relationships on public employment negotiations. The further research they propose, to include direct bargaining table variables in public employment negotiations along with external factors in developing a model, is clearly still needed.

An empirical test of the widely developing view that multilateralism characterizes public employee bargaining as against prevalent bilateralism in private sector bargaining is provided in Professor Feuille's paper, utilizing police labor relations as the proving ground. He has reviewed the development of the concept in the expanding literature of public employee bargaining, and has graphically set out the contrasting dimensions. Generally, these appear to be logically formulated and valid distinctions. The study is based on a variety of sources, with particular emphasis on interviews with police union and management officials, and other city labor relations officials in 22 cities. In the majority of instances, he found that there was interac-

tion between union officials and local government elected officials during negotiations. The effect of these interactions, the interviews suggest, was to obtain more favorable terms than the hired negotiators were prepared to offer. The interactions were often two way, with benefits to elected officials through support by police officers unions to the elected official or on particular legislative issues. Police work stoppages or partial cessation of duties, are viewed as political pressures on city officials by arousing public concern and inconvenience.

That multilateralism is the appropriate conceptual framework for police negotiations, and perhaps for those of other well-organized groups of public employees, appears to be well on the way to acceptance. (Parenthetically, this may also apply to such industries as maritime and construction, even in periods when there are no wage stabilization policies.) There are, however, certain qualifications which warrant consideration in this formulation. The habit and practice of political lobbying by police and other public employee organizations were already established prior to the development of public employee bargaining. Further, as Professor Feuille points out, many political activities of police organizations relate to public actions affecting the role of the police which are not connected with the collective bargaining process. The political pressure avenue is the continuing one for such matters. Professor Jack Stieber has written that "unions will not readily forego opportunities to improve on negotiated settlements through political 'end runs' and 'double deck' bargaining, and public officials will continue to make political capital out of their power to approve or vote the funds necessary to implement negotiated agreements." However, the growing acceptance of arbitration for police and firemen negotiations suggest that these organizations may increasingly prefer to take collective bargaining processes and subjects out of the political arena, as well as to avoid impasse stoppages.

At a time when the system of vocational education is in dire need of reorientation, Professor Barocci's effort to assess the determinants making for completion in apprenticeship is commendable. The results showed significant positive correlation for the completion of apprenticeship by married males who were trade union members and who had a favorable view of the on-the-job program. There was a significant negative correlation between prior education and apprenticeship completion, while the length of the apprenticeship period had no appreciable effect.

Both the data presented, and the results of the analysis are incomplete, however. The absence of a complete description of the sample used in the study, including the occupational group disper-

sion, is especially noteworthy in view of the results for women and non-whites. While the results indicate a 22 percent greater likelihood that women will drop out, there is no treatment of the factors in the success for those women achieving completion. Non-whites comprised only 2 percent of the sample, and all of these were dropouts from the program. These results, coupled with the finding that over 40 percent of the dropouts actually obtained employment in the same general occupations covered by their partial apprenticeships suggest the need for further study and more precise follow-up.

Professor Barocci laudably looks to the broader application of his research techniques and results. He proposes application, where appropriate, of the modular training system with which there is current experimentation in West Germany, England and Canada. Suggesting that a tax credit subsidy for apprentice training has wide support, he calls for broadened studies for other states, with views sought from employers on subsidies for training and modification of the apprentice training system.

In this connection, a recent study by Professor Roomkin for the Chicago area may be noted. While employers generally favored public subsidization of training programs, they preferred minimal intervention in existing training and personnel practices in the firm. Local unions were generally wary of increased Federal involvement in apprenticeship. They, too, generally favored minor modifications operating within the existing apprentice training framework. However, he found suffiicient interest on both sides in the need for finding remedies for apprenticeship problems to warrant detailed study of foreign training practices to determine their applicability in the United States. The work of Professors Barocci and Roomkin warrants further development to meet the critical needs of new entries into the labor force, particularly for women and non-whites.

VII. EMPLOYEE ATTITUDES, JOB ENRICHMENT, AND THE WORK ETHIC*

Job Enrichment: Little That's New—and Right for the Wrong Reasons**

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I shall endeavor to illustrate that the job enrichment movement, and indeed it is a movement, represents an amalgam of ideas, concepts and beliefs. As such it is neither "provable" in any social science sense, nor implementable from a management point of view. This not-so-new organization religion does contain a number of "truths" (most of which are a good deal older than the current crop of proponents are willing to admit). It also contains some questionable assumptions which are also worth examining.

WHAT IS JOB ENRICHMENT?

In reviewing the literature, it appears to me that job enrichment comprises really three quite distinguishable sets of ideas having minimal interrelationship.

1. The first element is the belief that new workers are different from older workers and the 1970's are different from the 1950's. More education, higher aspirations and reduced internal fears of poverty or damnation are presumed to lead to ever more restless workers demanding better jobs.

2. The second element concerns the nature of worker motivation or what "releases" employee energies in work directed pursuits.

3. Then there are a number of techniques designed to improve or enrich jobs, presumably consistent with those motivational theories.

THE NEW BREED: THE DEMANDING ONES

We are told with impressive evidence that ours is a new age and older management is likely to find itself out of step with a younger work

* The paper presented in this session by D. L. Landen, General Motors Corporation, is not included in the published *Proceedings*.

force. The young of today have greater education, sophistication and much greater expectations, and surely this will cause them to demand more fulfilling work.[1] That youth are more restless, more demanding, and that race can aggravate those feelings, is hardly surprising. What gets debatable is the meaning given to those dissatisfactions.

One can trace such ideas back almost as far as the eye can see. David Riesman excited many of us years ago when he helped us see that cultural myths were related to economic development. Affluent societies shifted "motivations" toward consumption values (living the good life and maintaining social acceptability) and away from "production" values (hard work and economic success).[2]

The implications for the so-called Protestant "work ethic" were and are clear: work, at best, is a means not an end and the employer has the tougher job of convincing employees to work when family and religion no longer do that particular kind of socializing.

However, after accepting all that, I still admit to some skepticism that we are increasing the number of employees seeking demanding jobs. A culture which glories in consumption, deifies hedonism, where there is overriding concern with inner placidity, is more likely to produce employees attracted to 3 day weekends and flex-time than jobs with substantial challenge and responsibility. Employees are legitimately in revolt against the trappings of nineteenth century employer colonialism: piddling and demeaning work rules, time clocks, opressive, ever watchful supervisors and jobs which imply they are but an extension of the machine. They want to end the unjustifiable distinctions between blue and white collar work.

Obviously auto assembly lines are among the worst offenders where every motion is predetermined, personal time must be scheduled precisely, and job's motions are designed to fill-in for still imperfect automation.

But Lordstown itself is no demand for self-actualization; it is a demand for fair work standards (easier jobs) and humane working conditions as have 30 years of auto industry similar strikes. No one doubts there are achievement oriented workers who want significant career opportunities that will provide the deeper psychological satisfactions which most managers and professionals enjoy. But are all workers so motivated?

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[1] An impressive synthesis of materials relating to changing values and business organization is presented in Carl Madden, *Clash of Culture: Management in an Age of Changing Values*, National Planning Association, Washington, D.C., 1972.

[2] David Riesman in collaboration with Reuel Denney and Nathan Glazer, *The Lonely Crowd*, Yale University Press, New Haven, Connecticut, 1960.

It is the petty tyrannies of work that are less tolerable to the youth of today brought up with extraordinary stress on independence, "doing your own thing" (which rarely means your "work" thing) and the absolute right to challenge their elders. Authority, in all its societal forms, has lost its momentum to command so that worker discontent is often focused more against rigid discipline than rigid job procedures.

One cautionary note: perhaps we should not rush to conclusions about these inter-generational differences. As my colleague James Kuhn points out, a good deal of the social unrest of the sixties may have nothing to do with new values so much as with simple population changes: "In the single decade of the sixties, the youth population aged 14 to 24 increased by over 13 million, growing nearly twice as fast as it had in the previous fifty years."[3]

While it's tempting (and even reasonable) to believe that the restlessness in U.S. culture, perhaps reflecting the insecurities of any highly industrialized, mobile society, would show itself in higher turnover, unambiguous evidence doesn't exist. Correcting for seasonal and cyclical variations, there is no clear trend toward more turnover that might support the contention that employee dissatisfaction with the intrinsic nature of their jobs is motivating them to move elsewhere.[4]

To be sure in a relatively full employment economy employees will seek to avoid oppressive work. The U.S. and England after the war experienced problems in getting men to go into the coal mines—not because the jobs lacked autonomy and responsibility (quite the contrary) or were unchallenging, but because they were *dangerous, heavy* and *dirty.* Similarly, perhaps more in Europe than the U.S., auto plants have had turnover and recruitment problems because the work was relatively unappealing in a full employment economy and this surely has motivated many of the European experiments with job enrichment.[5] (But note the increased demand for U.K. mining jobs after wages increased in 1974.)

Thus, as far as the "new breed for workers" hypothesis goes, our conclusion is that workers, particularly insofar as they are more youthful, are less disciplined, in the classic management sense of accepting of what the boss says is right, more demanding of their rights and

[3] James Kuhn, "The Immense Generation," *The Columbia Forum,* Summer 1973, p.11.

[4] Cf Harold Wool, "What's Wrong with Work in America—A Review Essay," *Monthly Labor Review,* March 1973, pp. 38–44.

[5] One of the best reviews of current European experimentation with job enrichment is provided by the new journal *Organizational Dynamics.* Its editor, William Dowling, did the field work and wrote, "Job Redesign on the Assembly Line: Farewell to Blue Collar Blues?", Vol. 2, No. 2 (Autumn 1973) pp. 51–67.

privileges as citzens and human beings, but we are much less sure about their wanting more demanding, fulfilling work. Even with the "old breed," it was hard to simply "hire a hand" and management would be naive to think that the number of challenges to its authority would decrease with more self-fulfilling work.

What we do know is that employees don't like being glued to one spot, doing one small job, in a precisely prescribed manner for endless (or what must appear like endless) periods of time—whether they are typists or assemblers. And there is not much new in repeating what Walker and Guest found in the late 40's: workers prefer the jobs off the assembly line and those with less mass production characteristics.[6] Or do we learn much when we rediscover what students of fatigue and monotony have been saying for almost half a century: repetition is boring and leads to fatigue.[7] (And is it surprising that some workers trade-off money for working conditions?)

Releasing Worker Energies

It would be difficult to find a job enrichment enthusiast who did not trace his ancestry through the Maslow-Herzberg family tree. The genetic material is a good deal less complicated than biological chromosomes. Its nucleus is the now very familiar need hierarchy. The oft-cited conclusions are that motivation is only derived from relatively unsatisfied needs. Thus, the catechism that in our relatively affluent society, only the more subtle "ego" needs are a potential source of motivation at work. The physicals can cause grievances, but only the psychologicals can create motivation.

The criticisms of this dogma are many, and this is not the place to subject the need hierarchy theory to a thorough review, deliciously tempting as that may be. In passing, I will just cite the decade-old criticism of my co-author George Strauss who showed that employees, in fact; continuously make trade-offs among physical, social and ego needs and further that old fashioned monetary incentives are often as much ego as stomach fulfilling.[8] Thus, the basis of motivation does not shift inexorably "upward." A further critique is provided by the work of the psychologist Charles Hulin. He demonstrates the significance of individual differences for who gets motivated by what and when.[9]

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[6] Charles Walker and Robert Guest, *Man on the Assembly Line,* Harper & Row, New York, 1952.

[7] S. Wyatt and J. Langdon, *Fatigue and Boredom in Repetitive Work,* Industrial Health Research Council, Report #77, H. M. Stationery Office, London, 1938.

[8] George Strauss, "Notes on Power Equalization" in Harold Leavitt, editor, *The Social Science of Organizations,* Prentice-Hall, Englewood Cliffs, New Jersey, 1963, pp. 45–57.

[9] Charles Hulin, "Individual Differences and Job Enrichment—The Case Against General Treatments" in John Maher, editor, *New Perspectives in Job Enrichment,* Van Nostrand Reinhold, New York, 1941, pp. 159–191.

My own criticism is one based on parsimony, that one doesn't require the paraphernalia of the "need hierarchy" to cope with much of the phenomenon analyzed by the job enrichment movement. Back in the 1940's Douglas McGregor, seeking to improve the quality of supervision, noted the inevitable industrial tension—and even conflict—produced when managers controlled and manipulated rewards and punishments to obtain worker performance. In his "means control" terminology, which we students of McGregor learned in those heady postwar MIT classrooms, the ideal situations was one in which employees themselves obtained satisfactions from their on-the-job experiences rather than having to have these bestowed by a beneficent boss or threatened by a tyrannical one.[10] The managers job was to provide the conditions under which this was possible.)

McGregor's views on leadership really had two components. Minimize the power differences between the leaders and the led and allow positive reinforcements to "pull" rather than using managerial "pushes." (Of course, the latter also relates to the now famous operant conditioning studies of Skinner and the path-goals type of analysis favored by Professors Porter and Lawlor.)

I don't think there is any need to question the desirabilty of work becoming its own reward (unless one happens to be married to the professional). But as the economist in George Strauss noted in the above cited article, at what cost and for whom.

Job Enrichment is all of Organizational Behavior

I have tried to read a number of the experiments and descriptions of company adoptions of job enrichment techniques. One is forced to the conclusion that the term has become a "code word" for most, if not all, of the recommendations and research findings of the organizational behavior field since Western Electric days. In other words, job enrichment in practices does not simply imply broadened job responsibilities that will provide a greater sense of personal worth, challenge, and fulfillment on the job. Instead JE typically also includes:

1. Building smaller, more cohesive work groups, some of which encourage integration by job trading, but all of which have improved inter-worker communication, more clearly defined boundaries and a stable organization.

2. More careful use of feedback mechanisms to insure that employees know not only what is expected of them, but know almost continuously how well they are performing, how close to target. (Obviously

[10] Douglas McGregor, "Conditions of Effective Leadership in an Industrial Organization," *Journal of Consulting Psychology*, Vol. 8, No. 2 (March 1944) pp. 55-63.

at times this feedback is combined with monetary as well as these "ego" incentives of being "successful").

3. Seeking to make work group boundaries coterminus with unit work flow boundaries so that the group includes all those operations necessary to maintain its own internal regularity and stability—in contrast to the use of functional specialization.[11]

4. Greater use of straw bosses, that is, informal leaders with some management recognized supervisory responsibility and status.

5. Greater managerial attention and recognition given to work areas and jobs which had formerly been ignored or neglected. (This, of course, is often the core of the so-called "Western Electric" effect.)

6. Related to #5 is the increased likelihood that management will be responsive to employee requests, complaints and interests and that employees feel that legitimate concerns they have will be responded to by management rather than being ignored.

7. Changing the balance between initiations to workers and accepting initiations from workers. Often old fashioned increased employee participation in decision making is called job enrichment.

8. Increased recognition that extreme specialization increases coordination costs, particularly the managerial costs of insuring adequate mutual responsiveness among work stations. The JE movement has sensibly caused management to rethink its trade-offs between specialization and coordination. (In the past, too many managers assumed that Adam Smith's pin makers were the ideal standard and they neglected—not only the boredom—but the coordination costs.)

Thus, my quibble is not that these eight elements are wrong, far from it, but that calling them job enrichment adds confusion to fields which already have a number of language and semantic problems. It is not easy to communicate on management and organization problems given the absence of unambiguous, operational terminology. It further inhibits research and training if broad, global terms are used to encompass a number of identifiable, and conceptually discrete structural elements. Note also that none of the eight elements have anything to do with job challenge or breadth or inner satisfactions; rather they all have something to do with relationships: among workers and between workers and managers.

Further most correlational studies that endeavor to demonstrate the impact of job enrichment upon worker satisfaction or performance are flawed seriously by the fact that the research data are con-

[11] We didn't call this job enlargement when we first recommended this as a major criterion for designing the organization structure in 1960: Eliot Chapple and Leonard Sayles, *The Measure of Management,* New York, Macmillan, 1961.

founded by the presence of one or more of these eight elements. While the JE researcher finds it easy to conclude that it is the "enrichment" that has *caused* some improvement in employee reactions, I am just as willing to believe that it is a change in one of these other uncontrolled elements that is responsible. Can one find studies where only the intrinsic nature of the individual job has changed?

On a more anecdotal level, I should just like to refer to the most highly motivated, most productive and perhaps proudest work group I have ever observed. For many years, I have been engaged in organizational field work, and some years ago I studied several hundred work groups in a wide variety of industrial settings.[12] One in particular sticks in my memory because both the workers themselves and their managers confirmed their extraordinary morale and productivity. They were a five man metal bending crew making the frame for folding chairs. Each did a short cycle, repetitive, manual job involving one of the bending and spot welding operations and then passed the part on to a colleague who did a similar, but slightly different bend and weld. The frame was completed in what must have been no more than a minute or two, and to the naked, neophyte eye it looked as though the metal just flowed among these ten hands. They earned more incentive pay and were faster and higher paid than any team in the factory. Everyone knew their reputation and they would work like proverbial greased lightning for perhaps an hour and then take whatever break they felt like because they were always ahead of the standard. They were so independent and so perfect a physical team that they insisted on having a veto over any changes in team membership should there be illness or turnover.

No job interest or complexity or ego challenge here, just a good old fashioned, cohesive work group that had gotten a great piece rate for itself.

Conclusions

Our review has emphasized hat job enrichment is neither a unitary theory nor a homogenous set of recommendations to management for work organization. Rather it is a mishmash of ideas, many good and relevant although hardly logically consistent. Further, this jumble of ideas is hardly new or revolutionary. In fact, what is called job enrichment has a distinguished heritage going back to those early experimental industrial psychologists who first looked at fatigue, monotony and boredom after World War I.

It thus becomes interesting to ask why all the sudden excitement.

[12] Leonard Sayles, *Behavior of Industrial Work Groups*, John Wiley, New York, 1958.

The temptation is strong to provide an historical explanation of why job enrichment has suddenly come into vogue although many of its varied components have been around for a generation. As should be obvious, I have little patience with cliches, but maybe there is something to the one about ideas whose time has come.

Lordstown and the Arabs' oil blockade may represent a similar phenomenon, and, if this were more a social occasion than an intellectual one, I would ask you to "guess" what they have in common. But rather obviously I am simply saying that both represent shocks which served to identify long standing trends. The Arabs didn't create an energy crisis and the young Turks at Lordstown (to keep this a Middle Eastern analogy) didn't suddenly discover worker aspirations. Management has known, or should have known, for decades that some of the earliest work in scientific management was seriously flawed. Extreme specialization for workers has a number of costs associated with it stemming from the well established observations that human beings are not machines nor do they essentially become extensions of machines. Thus, jobs which require them to do precisely the same simple motions, constantly and endlessly—the typical automobile assembly line, but not the typical industrial job—create boredom and fatigue and even inefficiency. Auto workers have been wildcatting ever since strong unions allowed them the freedom to protest.

But somehow, Lordstown triggered the rediscovery of a great many things social scientists had been saying about work organization. In fact, job enrichment became a new, glamorous "code word" for all of those separate, and even unrelated findings about job design, work group organization, feedback and leadership techniques that we listed earlier.

As we've already noted, while the long assembly line is not the sole or typical form of industrial work organization, it obviously fascinates social critics and social researchers because of its machine-control of human beings and the constraints on autonomy in use of time or motion. Few have doubted for decades that the absence of small work groups, of the opportunity to adapt one's own timing and motions was perceived as undesirable by workers and even injurious of their will to produce. However, breaking up this long line and introducing less rigidity of timing and job has little to do with what most students of job enrichment talk about when they refer to higher order needs.

Additionally, and here the attribution must go to the ecologists and other economists who sought to measure secondary effects, as a society we've begun to explore social costs that the price system may measure only imperfectly.

I fear that too much of the enthusiasm for "job enrichment" is just another of a long line of examples of naive management looking for panaceas: the one big idea that will solve all their personal problems.[13] Further, as we've already said, job enrichment can also represent the temptation to find solutions in the hearts of workers rather than in the minds of managers. Productivity, for the most part, is really not a work motivation problem. Managing people will continue to mean doing a lot of small things involving work organization, leadership and grievance handling and doing them tomorrow again, just as they had to be done today. That's the curse of administration, and there's no Garden of Eden to return to in which contented, mature workers work autonomously. That was the utopian dream of those who first looked at the Relay Assembly Test Room data, too, not unlike my chair benders.

My overall conclusion: the job enrichment movement has performed a major service for the management and industrial relations fields by refocusing our attention on *job design.* However, for my part, I do not accept as a unifying principle their emphasis on self-actualization and worker motivation. Such concepts satisfy our commendable Jeffersonian values, and I am pleased they exist, but I don't think they explain much of organizational behavior.

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[13] For other evidence of this consistent management frailty see my article, "Whatever Happened to Management—or Why the Dull Stepchild?", *Business Horizons* Vol. XIII, No. 2, (April 1970) pp. 25–34.

Task Enrichment and Wage Levels as Elements in Worker Attitudes

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Just how true is the statement, "If you really want to enrich a worker's job, just pay him more money," a statement which has often been made by some critics of efforts to redesign job tasks for the sake of increasing worker satisfaction and/or job performance?

Or this statement: "Bribing a worker to stay in a lousy job by paying him more money will not buy him out of being dissatisfied with that job." ("Lousy" is defined here in terms of poor levels of intrinsic task attributes, such as degree of variety, autonomy, and skill challenge.) Just how true is *that* statement often made by some advocates of "job enrichment?"

Or, "Job enrichment is only another new gimmick — like the old 'human relations' movement in industry — to keep down wage demands, and to blunt or prevent unionism." Just how true is *this* remark so often heard, in one form or another, in some union circles?

These issues are part of the main focus of this paper. Some answers to them are based on an analysis of data based on 1970-71 interviews with white male blue-collar union members, from four urban areas in Pennsylvania, and one urban area in Michigan.[1] In most cases, what I have done is to classify these workers into three wage categories *and* by two "task-itself" levels in order to test out *empirically*— as opposed to "arm-chair" guessing — some of the issues surrounding the wages-job enrichment controversy.

One of the basic outcome measures used is a measure of "Job Satisfaction Frequency," as one of the ways to shed some light on these issues.[2]

[1] See *Where Have All the Robots Gone?* by myself and Neal Q. Herrick (New York: Free Press—Macmillan, 1972), for other findings, some of which have a bearing on the issues discussed in this paper, especially Chapter 5, "Economic Factors and the Impact of Meaningless Work." The book also provides details of task-level measurement, i.e., levels of job enrichment.

[2] There is, of course, the well-known position—a highly respected one—which poohpoohs the use of the simple question I have used to tap that mysterious phenomenon that we occasionally label as "job satisfaction." In last year's IRRA meetings, I presented a paper in which I showed that in my data at least, the use of the *Job Satisfaction Frequency* question (as opposed to a *degree* of job satisfaction question) was an excellent proxy for what others have deemed a more sophisticated "battery" of survey items that should be used to tap this phenomenon. I won't present those findings again, except to repeat what I have just said: that the one single measure of Job Satisfaction Frequency is highly correlated to an index based on a battery of so-called indirect measures (and thus presumably acceptable to the high priests of job satisfaction methodology and hair-splitting).

If it *is* true that high wages is the simple and single solution to gaining and assuring high satisfaction among white male blue-collar union members (at least those in the four urban areas of Pennsylvania and the one in Michigan), and that the qualitative nature of their job tasks is *irrelevant* to the issue, we would expect to find that among the workers earning high wages — over $4.50 an hour — differences in their task levels[3] should make no difference when it comes to how frequently they are satisfied with their jobs. Money is what counts, not the job itself — right?

TABLE 1
Task Enrichment and Wage Levels as Elements in Worker Attitudes

	A		B		C	
	Over $4.50 per hr.		$3.51–$4.50 per hr.		Under $3.51 per hr.	
	High Task Level	Low Task Level	High Task Level	Low Task Level	High Task Level	Low Task Level
% Satisfied with Job "Most of the Time"	79%	45%	53%	30%	51%	28%
No. of cases	(43)	(29)	(77)	(69)	(51)	(64)
	$\chi^2 = 9.18$; 1 degree of freedom; $p < .002$		$\chi^2 = 7.73$; 1 degree of freedom; $p < .01$		$\chi^2 = 6.29$; 1 degree of freedom; $p < .02$	

Part A of Table 1 indicates that from an analytical, statistical point of view, this expectation of *no* relevance of job task levels to job satisfaction among highly paid wage earners turns out to be false.

What is one of the lessons to be learned? Want to improve satisfaction among white male blue-collar union members in high wage categories? *Enrich* their jobs. Try to redesign those jobs so that they contain a modicum of variety, autonomy, and skill challenge.

How about the workers earning *less* than $4.51 but more than $3.50 an hour? And those earning $3.50 an hour or less? Parts B and C of Table 1 show once again the difference it makes *within* each wage category to be in low task levels vs. high task levels, as far as job satisfaction frequency is concerned.

In each of these two lower wage categories, as in the case of the workers in their highest wage-level, the nature of the job tasks makes a difference as far as frequency of job satisfaction is concerned. Once again, the suggested conclusion should be clear: *within each level of wages,* workers whose jobs provide greater variety, autonomy, and skill challenge are much more frequently satisfied with their jobs than those whose jobs have *less* variety, autonomy, and skill challenge.

[3] Task levels here are defined in terms of the workers' *own* perceptions of degree of variety, autonomy, and skill challenge associated with their jobs. Such perceptions have been found to be closely related to "objective" observations of job tasks (by Turner and Lawrence, Lawler, and in a current study, by myself)

The data can be organized in another way, to check out the argument that the "enrichment level" of jobs is unimportant as long as workers are getting high wages. If this is correct, among the low-level task workers, the higher the wages, the greater should be the job satisfaction frequency. But this is *not* exactly what we find, although the findings are in the expected direction as examination of the Low Task Workers in Table 1 reveals: The differences are not statistically significant, although a larger sample might prove otherwise.

Wage levels actually do make a difference as far as job satisfaction frequency is concerned, make no bones about it. *But only among workers engaged in high-task-level jobs.* The statistical analysis of the data leaves no doubt that among workers engaged in more enriched jobs, the higher the *wage* level, the greater the frequency of job satisfaction. (See Table 2)

TABLE 2
Frequency of Job Satisfaction Among High-Level Task Workers, by Wage Level

	$4.51+	$3.51–4.50	Under $3.51
% satisfied with job "Most of the time'	79%	53%	51%
No. of cases	(43)	(77)	(51)

$\chi^2 = 9.89$; 2 degrees of freedom; $p < .01$

It should be common sense logic that for workers earning very low wages, they can hardly be expected to be concerned about how much variety, autonomy, and skill challenge their jobs provide. How in the world can we expect many low wage earners to be satisfied "most if the time" with their jobs — even if in "enriched" jobs?[4] The main point here is that I am *not* claiming that wage levels make no difference regarding job satisfaction. That would be an inaccurate proposition, let alone a foolish one, to make. The amount of wages workers receive is a critical correlate to frequency of job satisfaction. But as Table 1 shows, the group of workers with by far the greatest frequency of job satisfaction are those fortunate enough to be in jobs with high wages *and* in *enriched* jobs. In other words, high job satisfaction is not a matter of task enrichment *or* decent earnings. It is a function of *both* — not either/or.

"Human Relations" vs. "Job Enrichment." A quarter of a century ago, in a dissertation written under the direction of Selig Perlman at the University of Wisconsin's Department of Economics, I dealt in

[4] Among the few (17) workers in high tasks but earning *under* $2.51 per hour, only 44 percent are satisfied "most of the time."

part with the implications of the Elton Mayo school of "human relations in industry" as far as unionism and the wage issue are concerned. For T. N. Whitehead — an associate of Mayo's at Harvard — unionism contributed to the depersonalization of relations between the employer as master and his employees: "Human relations" would remedy that ailment, according to the Mayo-ites.

As for the wage issue, another Mayo colleague, Roethlisberger in his *Management and Morale,* expressed the view that preoccupation with wages and related matters was misplaced. In discussing disputes over wages, hours of work and physical conditions of work, he posed a question that contained the nature of his "solution" in terms of the human relations approach:

> . . . is it not possible that these demands are disguising, or in part are the symptomatic expression of, much more deeply rooted situations which we have not as yet learned to recognize, to understand, or to control? (*Management and Morale,* p. 25)

For the human relations group, grievances such as wage demands were actually nothing but verbal manifestations of a pathological social situation in which people live in a "social void" and without social function — manifestations of some ill-defined "psychic discontent." But when workers could be made to feel — through such human relations techniques as counseling and warm-emotive supervisory elites in the workplace — that they are "an integral part of the social situations in which they work, a legal contract is not of the first importance," the social void would thus be filled.

It is understandable, then, why unions have been wary of anything —such as "humanization of work" — that reminds them of that school of "human relations in industry" which viewed unions as an unnecessary obtrusive alien agent in what otherwise could be a utopian and harmonious work atmosphere in which distracting worker concern over earnings levels and physical working conditions would wither away once and for all. But "humanization of work" should not be confused with "human relations in industry." And job enrichment should be viewed as just one specific component of any work humanization. Needless to say, the history of unionism is in part a history of organized efforts — through collective bargaining and legislation — to humanize the workplace and workers' lives.

Satisfaction with Wages. There is a serious, but possibly unexamined, concern on the part of many critics of "job enrichment" that enriching a worker's job through such measures as building into it more variety, autonomy, and skill challenge is part of managerial ef-

forts to evade or "solve" the problem of adequate wages. This conjures up, once again, the "human relations" view of workers' wage demands. I have heard of rumors to the same effect, and know of at least one seminar given for managers with an explicit anti-union theme — which carried with it the expressed or implied implication that job redesign could soften workers' demands for higher wages.

Using the data in my own sample, are workers in high task levels—*holding wages constant—really* more satisfied with their take-home pay than those in the low-level tasks (or less enriched jobs)? Among the low-wage workers, those earning *less* than $3.51 per hour, are those in the *high*-level tasks more satisfied with their take-home pay than those in the low task jobs? Defining satisfaction with wages as agreement that take-home is good enough to take care of family bills and expenses, we find the fears of some trade unionists and the hopes of some employers are unfounded: "enriching" the jobs of low-paid workers through imbuing them with variety, autonomy, and the like, makes *no* difference in wage satisfaction. (See Table 3) Such satisfaction is — believe it or not — a function of wage level, regardless of how "enriched" the job is!

TABLE 3
Satisfaction with Take-Home Pay, by Hourly Wage and Task Level

	$4.51+		$3.51–4.50		Under $3.51	
	High Tasks	Low Tasks	High Tasks	Low Tasks	High Tasks	Low Tasks
% agreeing that take-home pay is good enough to take care of family bills and expenses	95%	93%	71%	67%	50%	49%

Low-paid workers in the *high* task level as well as in the *low* task level have a low proportion accepting their take-home as adequate. And naturally, the higher the wage scale, the higher the proportion satisfied with take-home pay. But in each wage level there is *no* difference in take-home pay satisfaction between high and low task level workers.

If these findings can be generalized, they mean that job enrichment alone will *not* increase workers' satisfaction with a given level of earnings. They also suggest that job enrichment (if defined in limited terms of certain "intrinsic" job tasks) should be pursued for more defensible reasons than those having to do with holding down wages.

A more *broadly* enriched job must also carry with it (1) a safe

working environment; (2) immunity from health hazards (not identical with safety); (3) employment security: (4) income adequacy — measured both "objectively" and in terms of employees' own evaluations — and (5) satisfaction with the nature of the work itself. Here I want only to discuss the *combined* items of 4 and 5 above.

To bring this all back into the main focus of this paper, what proportion of workers — holding wage and task levels constant — are (1) satisfied with their jobs most of the time *and* judge their take-home pay as adequate, or (2) are satisfied with the job *less* than "most of the time" *and* judge their take-home as *not* adequate? There are other possible combinations of these two variables, as shown in Table 4. The relevant question is, once again: within each wage level, does *task* level make any difference with respect to the distribution of these two types of workers, along with the other two possible types?

TABLE 4
Frequency of Satisfaction with Job *and* Satisfaction with Take-Home Pay, by Wage and Task Level

	$4.01+		Under $4.01	
	High Task	Low Task	High Task	Low Task
Satisfied with Job "Most of Time" *and* with Take-Home Pay	60%	34%	39%	17%
Satisfied with Job "Most of Time, but *not* with Take-Home Pay	7	5	16	12
Not Satisfied "Most of Time" with Job, *but* Take-Home Pay is Adequate	28	52	27	36
Not Satisfied "Most of Time" with Job, *nor* with Take-Home Pay	5	9	19	35
	100%	100%	100%	100%
No. of cases	(75)	(56)	(96)	(107)

$\chi^2 = 58.47$; 9 degrees of freedom; $p < .001$
(χ^2 required for p of .001 is only 27.88)

NOTE: Different wage cut-off points used in this Table and Table 5 to simplify presentation.

Table 4 shows that the "best" kind of job — as measured only in terms of job satisfaction frequency and acceptance by the worker of his take-home pay as adequate — is clearly to be found in the *high task or "enriched" jobs* which pay *high* wages. Conversely, the "worst" type of job — a job with which the worker is *not* satisfied most of the time and whose take-home pay is judged by him as *not* adequate—is naturally to be found disproportionately in the *low*-paid, *low* task-level category.

Job Enrichment and Unionism. Within each wage category, workers in enriched jobs are slightly more likely to rate their unions *better* (in terms of how helpful the worker believes his union is to its members) than those in low-task jobs. At the very least, the evidence argues *against* the notion that enriching blue-collar jobs may lead to weaker union loyalty. This is contrary to the feared or hoped-for results from introducing some version of "human relations" in the workplace. Table 5 indicates that lesser-paid workers in the low task levels give their unions a "very" or "fairly" helpful rating of only 53 percent, and as you move up the wage-task-level scale in the table the rating goes to as high as 68 percent among workers in the high-paid, *and* high task-level jobs.

TABLE 5
Union Ratings, by Wage and Task Levels

	$4.01+		Under $4.01	
	High Tasks (A)	Low Tasks (B)	High Tasks (C)	Low Tasks (D)
% stating union "Very" or "Fairly" helpful to members	68%	63%	61%	53%
No. of cases	(69)	(54)	(92)	(107)

p. for difference between (A) and (D) is below .001

Politico-Social Psychological Tendencies and Job Enrichment. The issue of the nature of job tasks may take us beyond the walls of the office or factory. Is there, for example, any relationship between the perceived task levels of these white male blue-collar union members and two measures, of "personal alienation" and "political efficacy," based on items containing *no* references to the job? The findings provide an argument for looking into the nature of the quality of worklife for reasons *other* than productivity, turnovers, absenteeism, or quality defects — problems that are primarily restricted to the enterprise level.

Workers characterized by low personal alienation and high political efficacy also:

1. were less authoritarian (for example, rejected the statement that "A few strong leaders could do more for this country than all the laws and talk.");
2. showed the lowest discrepancy between their aspirations and actual achievements;
3. accepted more than other workers *politics* as a legitimate sphere of activity in our society;
4. were *less* prejudiced against blacks;

5. participated in elections to a greater extent, and if they voted, had the lowest proportion voting for George Wallace in 1968.

These and other findings, to repeat, warrant more than a "profit-and-loss" approach to the issue of the quality of working life. Table 6 shows that holding wage levels constant, it makes a difference whether the worker is in a high or low job task level — especially in the jobs paying below $4.51 per hour — when it comes to a measure based on the ratio of workers with low alienation-high political efficacy to those with the opposite politico-social psychological tendencies.

TABLE 6
Summary Scores of Alienation-Political Efficacy, by Task and Wage Levels

	High Tasks			Low Tasks		
	Over $4.50	$3.51–4.50	Under $3.51	Over $4.50	$3.51–4.50	Under $3.51
	2.92	2.74	1.50	2.43	1.58	0.82
No. of cases	(43)	(77)	(51)	(29)	(69)	(67)

NOTE: The greater the summary score, the greater the tendency toward low alienation and high political efficacy. Score is derived by dividing percentage of each group with low alienation–high efficacy by percentage with high alienation–low efficacy.

Within each task level, the summary score of alienation and political efficiency is related to wage levels. Within each of the two task levels, the higher the wages, the more likely that the workers will have these politico-social psychological tendencies that I have arbitrarily defined as tendencies which should be considered desirable.

The *joint effect* of wages and task level may be critical in *off*-the-job phenomena, as well as in the workplace itself. From this standpoint, poorly paid workers employed at low-quality job tasks have the *least* desirable politico-social psychological tendencies, while well-paid workers employed at enriched or high-quality job tasks have the *most* desirable of such tendencies.

An "enriched" job—defined in terms of variety, autonomy, and skill challenge—is certainly a significant correlate to a number of selected on-the-job phenomena. Nevertheless, as Table 6 points out, the white male blue-collar union members in such jobs but earning only $3.50 per hour or less, have a ratio of persons with the desirable tendencies vs. those with the least desirable, which is lower than workers in lower level task jobs earning *more* than that low hourly wage of $3.50. Just as I have already tried to make clear in the section of this paper dealing with frequency of job satisfaction, working at low

wages cannot be "compensated" very easily by endowing the job with high variety, autonomy, and skill challenge, at least as far as important politico-social psychological tendencies are concerned. These tendencies may be of more critical importance to the broader society than "job satisfaction" alone.

The Union's Role in Job Enrichment Programs

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For the last couple of years, I have been involved in many programs like this one and have been advocating the involvement of unions in the planning stages of job enrichment programs instead of after the job was done. This position was contrary to the opinion expressed by many other participants in these meetings. Of course, our interest in job enrichment is to improve working conditions for our members—our definition of job enrichment is therefore much broader than others.

In the early discussions of this topic, many academicians claimed that unions and collective bargaining had no part to play in job enrichment programs. Further, some of them claimed that labor unions had completely neglected making improvements in the way work was performed, concentrating instead on economic matters. Such a position represents a complete lack of knowledge of what has happened in collective bargaining.

Incidentally, we plead guilty to having expended a lot of effort on improving the economic provisions of our contracts. One of the first requirements of any employe is security. Yes, we do plead guilty to having concerned ourselves with those mundane matters—all of the fine economic provisions which exist today were proposed and bargained into the agreements by our Union. Without job security, an enriched job isn't much help.

Many union leaders reject the idea of becoming involved in efforts to improve the quality of work. Some feel, with justification, that these programs are intended as either speed-up schemes or just plain old anti-union devices. Although the actions of some consultants and some company representatives would support their reasoning, I do not believe this justifies the rejection of the whole idea of job enrichment.

Of course, many management representatives felt that unions should mind their own business (whatever that is) and were not to be considered nor consulted about programs designed primarily to improve productivity or quality. In some instances, the attempts to keep the unions out of such programs may indicate the real motives of the company agents involved.

We in the UAW have long been concerned that not only the union as the representative of the workers, but the workers themselves should be involved in the planning of experimental programs of any kind concerning the methods of performing work or the conditions under which it is performed.

In the last couple of years, job enrichment, humanizing the workplace or improving the quality of work life have become the hottest discussion topics in labor-management circles.

Recently, Leonard Woodcock, speaking to a group like this one said:

> "If we in the labor movement sometimes appear unmoved by the 'sound and fury' created in this discussion, it is because we are simultaneously amused and annoyed with the way in which this topic has now become fashionable. To us, changing the world of work is the very reason for our existence, and we feel that we have scarcely been given the credit due for the blood we have shed in its cause."

He then went on to say,

> "The lack of recognition of the UAW's long-standing efforts and contributions to hard-won progress in changing the world of work is keenly felt, but we persevere nonetheless."

Before we look at what can be done if we work together on these problems, let's first review a few of the obstacles we must overcome if we are to have a real joint effort to improve the quality of work life.

First of all, our system of labor-management relations doesn't lend itself to working together. Under the present system, management and the union first meet each other in a bitter organizing campaign. Some well-known people in the field of organization development run seminars advising management how to stay non-union. If they followed their own title of "Making Unions Unnecessary" it would be one thing but when they stress the ways to beat the union by using all the loopholes and technicalities of a poor law you must wonder about their sincerity in saying they will take care of grievances, benefits, etc. so the people don't need a union. This consultant and others like him talk about giving workers meaningful participation but want to prevent the workers from having the only organization that can give them meaningful participation in decision making, a bona fide labor union. I want to talk more about Sweden later but for now I should remind the audience that everyone talks about the Swedish pioneering experiments in work reorganization but few mention that almost 100% of Swedish workers belong to labor unions.

If the union somehow survives the bitter organizing campaign, made unnecessarily so by this expert advice, the parties then go through a tough bargaining session to get a first agreement.

This is not the end of the expert's advice, however, as they have on the agenda the topic "Union-Management Cooperation." Under these circumstances, if the union is cooperative, it will probably face a de-

certification vote a year later, again with the advice of experts in making workers happy.

Another problem we face here in America as contrasted to most other countries of the free world is the inadequacy of public provisions for health care, pensions, disability insurance, etc. Contrary to our preference, most of these benefits are now job related. When we were not able to get legislation on these matters, we were forced to bargain with employers to get them to provide the benefits as a second best solution. One of the many problems this has created is that it inflicts a very heavy penalty on people for changing jobs. Thus, it becomes much more difficult for a worker to improve himself. Certain types of plants like the automobile assembly plant I come from, have very limited promotional opportunities. The feeling of being trapped at a meaningless task with no chance of upward mobility causes many of the problems in these kinds of plants. I believe the great rank and file support for the "30 and out" pension plan we negotiated in the Big Three was caused by this feeling of being trapped. Together, management and the unions must find answers to this problem. We must look at our pension programs and possibly even our seniority structures to try to find new and improved approaches that encourage or at least do not penalize workers for trying to improve themselves.

Another area of concern to unions which may surprise a lot of people is the quality of the products we produce.

Last year we ran a joint Union-Management Conference on job enrichment at our Family Education Center in northern Michigan. Mr. Shepherd was a participant. After the joint session, I met with all the Local Union presidents to get their reaction to the conference. Although all thought the program was worthwhile, no one was too excited until the matter of quality came up. One after the other, they mentioned incidents which caused their members to lose pride in their jobs. Here are just two examples:

1. An inspector in a car plant who rejected some cars because of defects only to find they were shipped anyhow.
2. An engine plant assembler who found chips in an oil pipe and called the matter to the attention of his supervisor only to hear—"they aren't too bad."

The foreman in both cases was more worried about meeting production quotas than in the quality of the product. Whose fault is it if these workers are less concerned with quality in the future?

It is pretty hard to have any interest in turning out inferior products. Aside from the matter of personal pride, we as workers are also concerned with competing with foreign car makers even if the auto com-

panies are not. As a union, we are taking steps to have our members notify us when they are forced to turn out unsafe or poor quality products so we can call the matter to the attention of higher management, and if necessary to the attention of the public.

A little earlier I referred to the Swedish experiments. There is no question that Saab and Volvo are pioneers in this field. Last year, speaking to your IRRA conference, Hal Shepherd quoted Mr. Gyllenhammer of Volvo as saying Swedish unions were more sophisticated than others. I would like to add to that by saying Swedish management is also a little more sophisticated than most American managements.

Recently, I visited several Swedish plants—engine, truck, foundry and automobile stamping and assembly. In every one, our group, an international group of trade unionists from the metalworking industries—was briefed by management and the union *together* on what they were trying to do in the area of improving the quality of work life.

In Sweden, management consults with the union before starting experiments and even before starting to build new plants. Much has been written about the new Volvo assembly plant being built in Kalmar, Sweden. The union had people involved in the planning and layout of that exciting new plant for the assembly of automobiles.

Also unusual to us was the reason Volvo is building the plant in Kalmar. The government was planning to close a plant employing 600 people so it asked Volvo to build a plant employing a comparable number. We in America certainly could benefit from following that example.

The final sessions on this trip were internal union discussions held in a local union hall. However, Mr. Gyllenhammer of Volvo joined us for lunch and then discussed the whole range of job reorganization projects being tried. He also acknowledged the weaknesses in their system and the need to continue to try to find answers through joint efforts. Can you picture that event taking place here in the states?

Everything here is not bad, however. As a result of our recent auto negotiations, we will for the first time have joint participation in handling health and safety problems at both the plant and the corporation-international union level.

Our joint administration of benefit plans took a giant step forward with the establishment of a system for an impartial medical decision to resolve sickness and accident disputes. Who could be more alienated than an ill worker not receiving his benefits while he is off work?

Our new agreement on voluntary overtime is not perfect but it does give the worker a little more control over his own life. The agreement also provides for joint discussions at the local and top levels to handle problems. Here again, we have introduced some worker participation in decision making—an important element in making work more meaningful.

Of course, in the field of job enrichment the most exciting development was the establishment of joint committees to work at improving the quality of work life. I have the privilege of serving as a member of the committee at General Motors along with our GM Department Director, Vice-President Irving Bluestone.

Let me read a little from the document establishing the committee as I think it says very plainly what the union's role should be in the job enrichment programs.

"This Committee will meet periodically and have responsibility for:

> "Reviewing and evaluating programs of the Corporation which involve improving the work environment of employes represented by the UAW.
>
> "Developing experiments and projects in that area.
>
> "Arranging for any outside counselling which it feels is necessary or desirable with the expenses thereof to be shared equally by the Corporation and the Union.
>
> "The Corporation agrees to request and encourage its plant managements to cooperate in the conduct of such experiments and projects, and recognizes that cooperation by its plant floor supervision is essential to success of this program.
>
> "The Union agrees to request and encourage its members and their local union representatives to cooperate in such experiments and projects, and recognizes that the benefits which can flow to employes as a result of successful experimentation is dependent on the cooperation and participation of those employes and the local union representatives."

We have high hopes for the success of this committee at all the Big Three companies.

Another area in which we are involved in some experiments is the whole field of compensation, mainly some variety of profit or savings sharing. We have Scanlon plans in a number of contracts already and we are involved in negotiating trying to set up participative management-Scanlon type plans in some other companies with whom we have contracts. Incidentally, although there is no union at the Donnelly Mirror Company, Mr. Richard Arthur of that company, who is an expert in this field, feels their kind of program will work as well or better in an organized plant *if* the union is involved from the beginning.

That is the key, *involvement.* We should discuss these problems as joint problems and give the workers a chance to have in-put in the planning of any experimental programs. As the representative of the workers, it is the union's legal and moral responsibility to be involved in any discussions of working conditions including job enrichment programs.

VIII. HUMAN CAPITAL THEORY—ITS IMPORTANCE TO LABOR ECONOMICS

Potential Problems In Human Capital Theory

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Human capital theory is *economic* theory. It is the application of principles of utility maximization, profit maximizaton and market clearing mechanisms to the determination of wage levels, the distribution of earnings and flows of labor. There is no competing theory that is both consistent with rational behavior *and* contains, as a good theory must, specific refutable predictions. Although radicals and dual labor market theorists object that the theory fails to explain things they would like explained, it does appear to predict very well in areas it deals with. If a radical economist wishes to demonstrate its flaws, he should develop further implications of the theory, test them and find them inconsistent with the data. One can thus view what follows either as an agenda for research for radical labor economists who view economics as a science or as pointing out areas where the theory has not been properly tested.

In this discussion of the current status of human capital theory I restrict myself to the main corpus of the literature, particularly to the theory of investment in formal and informal training. Since such investments are seen by human capital theorists to be crucial determinants of both geographical and industrial mobility, I also discuss these phenomena. By potential problems I have in mind difficulties that I see with the theory and interesting untouched problems. While the potential trouble spots I discuss have not been examined in enough detail to produce any serious questioning of the theory, sufficient research could cast doubt on parts of the theory. One new area for research is in the application of human capital theory to trade union effects on training.

* William Haley, George Johnson and Michael Taussig provided several helpful suggestions to clarify the arguments in this paper.

FORMAL EDUCATION AND LABOR PRODUCTIVITY

The crucial questions here are whether and how education raises the productivity of labor. If it only provides information on the character traits of potential hires, I doubt that rates of return to schooling can be interpreted in the same way we interpret rates of return to investment in physical capital. The possibility also arises then that investment in education could be channeled elsewhere to provide more efficiently the same information about potential employees.

Past work dealing with this problem has taken two approaches. One, exemplified by the work of Welch (1966), measures quality of schooling (and thus productivity effects of a year of schooling) by examining variations in rates of return to individuals with the same educational attainment and ascribing the differences to variations in the quality of the schools attended. This is a convenient, clever approach that is probably the best one could do in the absence of data on educational inputs and the cognitive effects of schooling. Nonetheless, this quality adjustment is perfectly consistent with a model that views schooling as an investment that demonstrates to employers desirable traits of character.

More recent work deals with the problem by gathering detailed data on individual background, "innate ability," exclusiveness of the school attended and performance in school to explain wage differences among individuals with the same experience and schooling. (The best example of this genre is Wise (1973).) Even here, though, only a true believer in human capital theory could think that positive effects on wages of performance in school, as measured by grade point average, really measure the effect of increased productivity. A skeptic could argue just as easily that as between two people who are identical except for grade point averages in college, the one with the higher average receives a higher wage because he has demonstrated his patience and willingness to accept discipline.

There is no easy way to resolve this problem; further attempts to specify additional measures of individual ability and background can only clarify the difficulty by indicating the magnitude of the effect of the component whose cause people disagree about. What are needed are two distinct strands of research. The first one that economists alone can handle, must specify a theoretical model of employers' use of the educational system as a screening device. Important beginnings have been made here by Taubman and Wales (1973) and Spence (1973), but neither model is rich enough to give refutable predictions differing from those of the human capital model and its emphasis on the enhancement of productivity. The second requires a collaboration

between economists and psychologists. Until we know the cognitive effects of education beyond the inculcation of basic skills, we cannot have a direct test of the alternative theories. Only then would we have the clearest measure of the extent to which screening or productivity enhancement provided by education increases wages.

Depending on political biases one will attribute the effect of schooling on wages to productivity enhancement or to the provision of information about individual character. Since the proponents of the screening hypothesis have yet to devise a complete and testable theory, most economists will be led *faute de mieux* to accept the human capital approach. That would be premature, because a compelling alternative with vastly different policy consequences has not been properly developed and may be important.

Empirical Problems with Post-Schooling Investment

The model of Becker and Chiswick (1966) and Mincer, (1970) and (1972), is an ingenious edifice rich in empirical implications. Not only does it predict the life cycle of earnings; it also succeeds a predicting differences in earnings profiles across individuals with differing educational attainment. Despite these important successes there are empirical anomalies that require further development of the theory. Particularly disturbing are the unusually high estimates of the parameter k_0, the fraction of time an individual spends investing in himself on the job during his first year after formal schooling. Estimates of $k_0 = .5$ are produced from earnings equations based on the model. Only if one adds variables describing occupational and industrial attachment do the estimates of k_0 fall to levels around .15. (Cf. Hamermesh (1974) and Oaxaca (1973).) Since their addition does not follow from theory, the theory should be judged on the basis of results produced using the simpler equations derived directly from it.

There are no theoretical restrictions on k_0, but we can examine the empirical implications of investing half the first post-schooling year in on-the-job training. The theory implies that the individual has the option of not investing and instead receiving his gross earnings, an amount that must be twice the earnings we observe for him. (This choice is clearly not the maximizing one, for he does invest, but in the context of the model it must be a possibility.) Since a new college graduate earns roughly $10,000, we conclude that he could choose a non-training option and earn instead $20,000 during his first year (but less thereafter due to deterioration of his education). I find it hard to believe that such an option exists; if it does not, then how can we say observed earnings profiles reflect a conscious choice

to invest in training? If there is no choice, then the "investment" is qualitatively different from firms' decisions to buy new capital equipment. This problem, like many others in the area, results from our current inability to observe the process under consideration; we cannot tell directly when the worker is learning rather than producing on the job.

Another serious difficulty with the post-schooling model is its inability to provide sufficient restrictions to enable us to estimate all the structural parameters simultaneously. Generally we cannot produce independent estimates of the rates of return to schooling and informal training and are forced to assume these are equal before obtaining the other parameter estimates. The assumption of equal rates of return is arbitrary, although its validity has been tested *indirectly* by comparing rates of return to experience, using people with the same schooling but different experience, to returns to schooling estimated over individuals with the same experience. This is satisfactory only if years of schooling and the fraction of time spent in on-the-job training are independent; if not, one must devise a scheme to estimate the two rates of return jointly. Since the true values of these rates are likely to differ (schooling, i.e., preparation for work in general, is probably a riskier investment than time spent learning a particular job), we cannot now separate out the returns to one activity from those to the other.

A final problem is the identification of time spent investing in OJT with earnings foregone. A linear production function for human capital produced through OJT, having as its only argument the fraction of time spent, is implicit; but linear production does not appear to characterize other goods, and its application to training is dubious. Replacing this assumption with standard ones would be reasonable and might help produce equations that do not result in the empirical anomalies we have discussed.

Specific vs. General Training

This distinction is to me the most beautiful part of the apparatus of human capital theory. Students presented with the Becker (1964) model appreciate its simplicity and cleverness. Its main use has been in predicting turnover rates, Oi (1962) and Pencavel (1970), and it is a good way of rationalizing a negative relation between quit rates and wages. There is, however, a serious problem in using the theory of specific training for this purpose. We observe fairly large negative effects of increased wage rates on quit rates. How much larger, then, is the effect we wish to measure, the response of quits to

differences in embodied specific training? Since general and specific training are probably joint products, a large part of wage differences resulting from differences in accumulated training is due to general training. Because of the correlation of investments in general and specific training, and because general training cannot affect quit behavior, the response of quits to wage differences produced by specific training must be much greater than to wage differences generally.

The relevance of this point depends on how important firm-specific costs are relative to total training costs. Except for processing new hires, it is very difficult to argue that much of on-the-job training is firm specific. If this is reasonable, three alternative conclusions could be drawn: (1) Workers are so sensitive to slight wage differences resulting from investment in specific training that the theory can predict a large part of variations in quit rates; (2) *Hiring costs* are large, firm specific, and affect wages so as to cause variations in quit behavior. If true, the analysis would be the same as before, but the causes and the implications would differ; or (3) The negative partial correlation between quits and wages is produced by some phenomenon other than differences in accumulated specific training.

There is no way of knowing which conclusion is correct. The problem here is cut from the same intellectual cloth as the problems considered above: there is no current method for observing the phenomenon on which the theory is based. No one has been able to record the relative specific and general components of on-the-job training. There is a need for collaboration with time-and-motion experts and cost accountants to produce estimates of these relative magnitudes for different jobs.

Since general informal training is a public good *par excellence,* it may be that its production is not at the optimum rate. Only through an accounting study can we discover how much general and specific training is being produced and what the distribution is across occupations and industries. Having done so we can see if the estimates accord with predictions about the distribution and, if not, analyze the discrepancies. The output of this could be programs of taxes and subsidies to encourage training, and unlike most such programs these would rest on a firm theoretical and empirical foundation.

Migration and Distance

The major policy issues in the economics of migration are the effects of manipulating interarea wage differentials on flows of labor and of non-economic variables on this type of mobility. The most important theoretical concern is that the estimated per-unit effects of

nonmonetary variables be consistent with those of income variables. If not, human capital theory, while predicting the signs of the income terms, would fail to account for much of the variation in migration.

Comparing the income and distance terms in equations "explaining" migration, we should observe, if information is perfect and people are risk neutral, that a one-mile increase in distance has the same negative effect on migration as a r·d increase in income in the receiving area. (r is the private discount rate and d the travel cost per mile.) Since r may be .20 and d is roughly $.10, this implies that an income differential of $.02 would have an effect equivalent to one extra mile of distance. In fact, the better studies, Sjaastad (1962) and Vanderkamp (1971), suggest the effect ranges upward from an equivalence of $.50 in wages to one extra mile. This huge discrepancy indicates either that individuals are strongly risk averse (a conclusion that implies the futility of migration policy) or that information is quite imperfect (and disseminating information would produce changes in migration flows).

For purposes of policy it is thus important to know which of the two alternatives produces the huge effect of distance on migration. A recent study by Schwartz (1973), the first to explore this question, finds that the distance elasticity is lower for people with higher education and thus concludes that differences in the availability of information produce the large effect. Unfortunately, one could also argue that education reflects increased willingness to assume risk, and thus that the decline in the inhibitory effect of distance on migration with increased education results from taste differences.

I do not believe the problem can be solved by estimating models using Census data. Any variable that is a good proxy for risk preference will also be a good proxy for information. What is needed is an experimental study that measures directly the amount of information available to potential migrants. By examining the responses of individuals receiving varying amounts of information but having identical economic and demographic backgrounds, we can isolate the role of information. Until this study is produced, one can conclude that the theory has helped us to expand our knowledge, but that there are anomalies that may be inconsisent with it.

Unionism and Human Capital Theory

An interesting theoretical question concerns the effect of unionization on the mix of training options offered by the typical firm. We assume the firm is in equilibrium before unionization and has determined the amounts of specific and general training, S^* and G^*, it offers by maximizing some profit function. Assuming that the direct eco-

nomic effect of unionization is to raise the average wage rate, what are the firm's new optimizing inputs of S* and G* per man? The answer depends on the relative complementarity of on-the-job training with newly hired labor as opposed to physical capital. Although the trainee's time and that of potential instructors is more costly under unionization, if training is complementary to physical capital but a substitute for newly hired labor we could observe an increase in the amount of on-the-job training per worker along with the expected decrease in employment. The conditions for this to occur need to be worked out so that we know what parameters interact to determine this effect. After the theoretical possibilities are examined, a good way to estimate the relative magnitudes of the various effects is to examine the quit behavior of unionized and non-unionized workers. If more specific training relative to general training is given in the unionized firm, we should observe larger negative elasticities of quits on wages among unionized workers, *ceteris paribus*.

Work by economists on unionism *per se* seems to have slowed in recent years, with the exception of the new interest in analyzing union behavior in the public sector. I suppose this is natural—a breathing spell must occur—after the many advances of Lewis (1963) and his students. Nonetheless, there are important questions whose examination can provide a useful outlet for the energies of human capital theorists and whose answers would increase our understanding of the economic effects of trade unions.

Conclusions

Human capital theory is amazingly alluring to economists. Its simple elegance, powerful implications and successful predictions make it easy to sweep under the rug problems that may produce answers incongruous with the theory. It would have been easy (although not very interesting) for me to have spent the last twenty minutes singing hosannas to the work of Becker, Mincer, and their followers. Certainly, their critics have yet to lay a glove on them. I have tried instead to indicate those areas where there are apparent or possible inconsistencies between the theory and empirical results and how some of these might be resolved. If nothing else, I hope my remarks will spur students of the theory to examine its implications in ways that have been ignored, and induce its antagonists to take it seriously if they wish to provide an acceptable alternative.

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Labor Supply and Labor Demand Over Business and Life Cycles*

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Human capital focuses upon more or less durable skills that, at a cost, can be implanted in man. That this process of human skill acquisition is important in accounting for economic growth was clearly evident in the work of Schultz (22) and Denison (4) when they reported that 20 to 40 percent of economic growth in the United States this century is attributable to increased per capita schooling accompanied by increased real resources (primarily students' time) devoted to each year of schooling. That human skill acquisition is important for understanding income distributions was evident in the work of Mincer (16) when he reported that a larger fraction of income inequality is attributable to individual differences in schooling and on-the-job training than to differences in ownership of physical capital That investments in man compete favorably with investments in machines is evidenced in the work of Becker (1) and Hansen (10) where they report the considerable rates of return associated with schooling. My task here is to summarize some of our knowledge of the structure of labor supply and demand that has resulted from this emphasis on human capital.

Demand

From the perspective of human capital, emphasis on demand has naturally focused on skill composition. Long term trends seem differentially favorable to higher levels of skill. Evidence of this long run bias is contained in the observation that rates of return to schooling or what is essentially the same thing, wages of more schooled relative to less schooled workers, have not declined as per capita schooling levels increased. With regard to the short term structure of labor demand, variations in aggregate employment over business cycles have resulted in disportionately large variations in employment for less skilled workers. Since there appears to be a pro-skill

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bias in labor demand in both the long and short run, explanations of underlying determinants of the skill composition of demand are clearly in order.

Long Run Demand

Why has demand for more skilled workers grown relative to demand for less skilled workers? The evidence reported by Becker (1) that rates of return to schooling did not decline between 1940 and 1960, and Griliches' evidence (9) that relative wages of more as compared to less schooled workers did not decline as per capita schooling levels increased is the point of departure. This phenomenon could easily be explained if laborers with differing amounts of schooling were perfectly substitutable in production. But, I have shown (26) in the cross-section that this is not the case. Among states of the U.S., relative wages between schooling classes are sensitive to factor ratios. The higher the ratio of more relative to less schooled workers, the lower is the relative wage of more schooled labor.

Nor can this phenomenon of biased growth in demand for skilled labor be dismissed by reference to neutral technical change. Consider an aggregate production function that consists of three inputs, capital, skilled, and unskilled labor. Both capital and skilled labor are intermediate factors produced by auxiliary processes using the same inputs as the final process. Neutral technological change that equiproportionately enhances the productivity of all inputs in the final process offers no incentive to divert inputs to intermediate processes. True, the product of the intermediate stages is more valuable but costs, the opportunity cost in final production, of factors used in intermediate production will have increased in proportion to returns. Thus technical change in final production that is neutral between inputs will not increase the demand for skilled relative to unskilled labor.

Technical change in production of skilled labor, i.e., increased quality of schooling, is a possible explanation. There is clear evidence that publicly subsidized real resources devoted to each year of schooling have increased through time. If these resources are effective in increasing the productive capacity associated with schooling, then from the private perspective which sees these augmented resources as free, technical advance has occurred. This in and of itself is not sufficient to increase the demand for schooling. For to do so, it is also necessary that substitution elasticities between skilled labor

and other inputs be high enough for quality augmentation to enhance the productivity of skilled labor relative to other inputs.[1]

Two additional explanations for relative growth in demand for skilled labor have been offered.[2] One, the growth industries hypothesis, holds that the composition of industrial activity has shifted toward skill intensive industries. The other, the substitution hypothesis, holds that capital is non-neutral between skilled and unskilled labor. This second hypothesis is that growth in capital/labor ratios increases the productivity of more skilled relative to less skilled labor. There is empirical support for each view.

For industrial composition, Griliches (9) and Hashimoto (11) report positive correlations between industrial growth rates and employment. Tinney (25) has calculated that given initial (1948) industrial skill distributions and employment growth (to 1968) from one-third to one-half of the observed increase in per capita schooling in the aggregate workforce could have been absorbed holding schooling distributions constant within industries.

Evidence for the substitution hypothesis is less clear. Griliches (8) provides data showing capital inputs as more substitutable for unskilled labor than for skilled labor in U.S. manufacturing industries. Rosen (19) reaches a similar conclusion for Class-I Railroads. But, Fabozzi (5) estimates substitution elasticities for nine SIC one-digit industries and finds no systematic pattern, and I (26) find for U.S. agriculture that by increasing non-labor inputs on farms the productivity of less-schooled labor is increased proportionately more than for college trained workers.

With emphasis on managerial skills more than upon human skills in general, I (26) have argued that part of the return to education can be viewed as a return to allocative abilities. Within U.S. agriculture it appears that (about one-third of the) returns to college training are derived from the informational requirements generated from rapid technological change. For example, college trained farmers earn more in comparison to those who have not attended college in states where agricultural research is most active. In support of the hypothesis that allocative skills are an important product of schooling, both Khaldi (13) and Fane (6) report evidence, again for U.S. agriculture, of positive correlations between schooling and the accuracy of cost min-

[1] In the case of only two inputs, an increase in the quality of one will increase its productivity relative to the other only if the substitution elasticity between the two inputs exceeds unity. If th substitution elasticity is unity, demand for the inputs is similarly affected, and if the elasticity is less than one, enhanced quality of one input increases the relative demand for the other.

[2] Welch (26) and Griliches (9).

imization decisions. Huffman (12) reports positive correlations between schooling of farm operators and the speed of response to reductions in nitrogen fertilizer prices. Evidently part of the return to allocative skills is a product of the complexity associated with increased levels of development. Of course the role of allocative abilities is obvious within agriculture and it is a natural laboratory for identifying these effects. Just how well these results translate to the larger economy is uncertain, but we are not totally ignorant on this score. Michael (15) reports that for given income, the household composition of expenditures among families headed by more educated parents are skewed toward commodities with higher income elasticities. If education enhances allocative abilities within the household, then effective income per unit nominal income is an increasing function of education and we would expect to observe the consumption composition biases Michael reports.

The human capital approach has naturally led to an emphasis on the skill composition of labor demand. Many puzzles remain in understanding long run trends, but the discussion has become more sharply focused in the past decade and this, I think, is an important contribution of human capital theory of labor economics.

Short Run Demand

Skill biases in short-term employment fluctuations are well known: employment is more stable for more skilled workers. There are a number of partial explanations for this phenomenon ranging from unionism to minimum wages, but the two most common and probably most powerful explanations are (1) the substitution hypothesis that unskilled workers are more substitutable for short-term/fixed capital inputs than are skilled workers and (2) the quasi-fixity hypothesis which notes that due to hiring, firing, and training cost labor is itself partially fixed in the short run and posits that labor fixity is a positive function of worker skill.

The substitution hypothesis is the same as for the long run case. It holds that increased capital increases the productivity of skilled relative to unskilled labor. Since capital is presumably fixed in the short run, temporary reductions of output are associated with higher than normal capital/output ratios. If this increased use of capital augments the relative productivity of skilled labor, then employment contractions (barring more than compensating differences in short run supply) will be biased toward less skilled workers. The evidence for this differential substitutability between capital and various labor skills is described in the earlier section. In analyzing short-term fluc-

tuations in railway employment, Rosen (19) argues that the substitution hypothesis has credibility.

The quasi-fixity argument was popularized by Oi (18) where he distinguished between fixed and flow components of worker cost. The fixed components (hiring and training costs) occur early in a worker's career and returns accrue subsequently as rents denoting the excess of worker productivity over flow or wage costs. A firm will optimally invest in workers to the point where marginal costs equal present value of anticipated future periodic rents. Although in competitive equilibrium it should be true that expected returns to fixed investments equal costs, a firm experiencing reductions in labor demand will find it profitable to retain all workers for which the anticipated value of future periodic rents is not negative. If business recessions were neutral among skill classes, we would then expect firms to "hoard" those workers for whom fixed costs account for the largest proportion of full cost. If fixity is positively related to worker skill, employment fluctuating for skilled labor is dampened relative to fluctuations for unskilled labor. Oi argues that this is generally true and offers evidence for one company (International Harvester) showing hiring and training costs to increase sharply with worker skill.

There are, of course, compelling *a priori* reasons to expect this positive association between fixed cost and worker skill. If skill is defined inclusive of firm specific skills, it is, of course, a tautology. But if skill is defined instead in terms of labor's wage, it remains true that a firm that has vested capital in labor has an incentive to bribe these workers to stay with the firm by raising wages above earnings in alternative employment. This is an essential ingredient of Becker's (2) discussion of firm specific investments in human capital and is central to recent discussions of male-female differences in earnings.

Rosen's work (19) on employment fluctuations offered an ingenuous approach for ascertaining the validity of the fixity argument without direct evidence of fixed cost. He notes that the effective labor input used by a firm is a function not only of the number of workers, but of hours worked as well. A firm can increase its labor input either by adding workers (the extensive margin) or by increasing hours per worker (the intensive margin). Fixed worker costs, the hiring and training components, do of course vary with number of workers hired but not with hours per worker. Wage or flow costs vary both with number employed and hours per employee. The composition of a firm's workforce between number of workers and hours per worker will be sensitive to labor cost at the intensive margin as compared to costs at the extensive margin such that as the fixed cost component rises

relative to the flow component, hours should increase relative to employment. As with Oi's model once a worker is hired and trained, once these costs are sunk, he will be retained as part of the firm's workforce so long as the anticipated value of future periodic rents is positive. But, as labor demand slackens, as it would in a recession, the firm would have an incentive to reduce hours worked even though employment might not be reduced. By drawing this distinction between labor employment and utilization rates, Rosen permits assessment of the empirical import of fixed labor costs, for if these costs are non-existent there is no prediction of cyclical patterns of hours and employment. Rosen's prediction is the more important are fixed labor costs in total labor cost, the greater will be the cyclical variation in hours relative to employment and, with reference to adaptive expectations, the longer the lead between cyclically related turning points in hours per worker as compared to employment. Rosen (19 and 20) examined data for employment fluctuations in railway employment through time as well as industrial differences in wages and hours at a point in time, and concluded that they support the notion that labor should be viewed as a quasi-fixed factor and that fixity is a positive function of skill level.

It is trite but true that fixed investments in labor are, from the firm's perspective, investments in human capital, and recognition of these fixed components has added to our understanding of the skill structure of employment variations.

Supply

By far the larger part of the research effort that has proceeded from the vantage of investments in human capital has focused on labor supply, concentrating on individual incentives for migration and for assimilation of skill or health capital. The fundamental idea has been that an individual will invest in himself so long as marginal returns on these investments exceed costs where costs are broadly defined to include supply prices of investable funds and costs of alternatives foregone.

Since the work of Friedman and Kuznets (7) that compared discounted lifetime values of earnings of physicians and dentists, we have been aware of the power of this approach for explaining occupational choice. In particular, because schooling and occupation are closely correlated and because the bulk of the empirical work on returns to investments in human capital has been directed toward returns to schooling, we could argue that most of the human-capital-based research has been directed toward determinants of occupational

choice. As I noted earlier, available data suggest that over the past two or three decades incentives for investing in schooling have been maintained such that average internal rates of return over most ranges of school completion exceed or at least do not fall appreciably short of returns to alternative investments. This may in fact be one of the more important reasons for the upward secular drift in average schooling levels and, if it is, it may be an important explanation of long term changes in occupational distributions.

While the human capital approach may have contributed importantly to an understanding of longer term trends, I personally do not think it has contributed very much to our understanding of choice within a cohort. The framework is there, and it is inconceivable to think of any serious analysis of occupational choice that ignores life-cycle earnings. But we have not progressed very far in developing powerful explanations of the formulation of expectations. In explaining, say, entry into engineering professions it seems reasonable to expect potential entrants to be concerned with lifetime earning opportunities. But in deriving predictions of lifetime earnings based on available data, it is not clear that one can improve upon estimates based only on observations of the experiences for the most recent entrants.[3] The human capital tradition has been to calculate earnings for life-cycle data imputed from the cross-section, and recent evidence suggests that observations for older workers are so confounded by vintage effects that they may be of little use for explaining earnings behavior of current entrants into the work force.[4] Certainly potential graduate students of economics are unlikely to be comforted by the strong demand enjoyed by students of a decade ago.

Again, while high returns through time may have accounted in part for secular increases in average schooling, it is not clear that the human capital approach has contributed importantly to our predictions of individual differences within cohorts. For the human capital approach to contribute here it would be necessary to determine individual differences in costs of investable funds, and we remain largely ignorant on this score.

The human capital approach has, on the other hand, contributed importantly to our understanding of life-cycle skill assimilation and to the associated supply of labor over the life cycle. The importance of career opportunities for augmenting earning capacities was recognized by Mincer (17) when he reported that roughly as much human

[3] See the evidence presented by Maurizi (14).
[4] For evidence of vintage components in the return to schooling, see Welch (27).

capital was produced by learning on the job as in the isolation of formal schools. The theoretical structure for analyzing this career investment process was formed in the work of Mincer (17) and Becker (2) and extended by Ben-Porath (3) and Rosen (21). More recently, the work of Smith (24) has built upon the life-cycle implications of labor supply as it responds to concave career wage functions that we observe empirically and that are predicted by theories of optimal life-cycle skill assimilation.

Reasonably accurate predictions of individual labor supply response are prerequisite to estimates of costs for various welfare programs (negative income taxes, wage subsidies, etc.) now on the policy agenda. As a result, numerous studies have been produced in the last few years. The full life-cycle perspective that is central to human capital theories has done much in contributing to our understanding of labor supply estimates, not so much for interpreting traditional income and wage effects as for interpretations of the effects of such factors as age and education for which the traditional theories are silent.

The human capital perspective has focused attention on the price of human time. In fact, Schultz (23) has argued that rising values of time represent one of the most fundamentally important changes experienced in this century not only in the U.S. but in many countries. Information of behavioral consequences in terms of population growth and the allocation of time between competing uses, particularly between home and market, will be derived in large part from perspectives that addresss the full life cycle. As I see it, this means human capital.

Summary

Human capital theories focus upon individuals' careers and explicitly recognize interrelationships among the various phases of workers' life cycles. My impression is that this recognition has contributed importantly to our understanding of factors relevant to the skill composition of labor demand, both in the short and long run. Recognition of investment incentives in skill assimilation has also offered a basis for understanding labor supply over a worker's career. Thus I think human capital theories have contributed to the state of the arts of labor economics. I do not want to overstate this contribution. New approaches omit many questions and many new questions emerge from those questions that are addressed. It is clear, for example, that we have proceeded under the assumption that because wages and schooling are correlated, schooling enhances earning capacity, and we have not given adequate

attention to questions of root causes for the earning power associated with schooling. We also have not adequately addressed questions of interrelations between different kinds of ability and investments in human capital. Many of these omissions are refinements that await empirical effort and better data, but for the present, the impact of human capital theories on labor economics is clear.

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Human Capital and the Internal Rate of Return

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That the theory of human capital has made a significant impact on the practice of modern labor economics is hardly subject to debate, at least judging from the sheer volume of research that has been devoted to it in recent years. Assessing the quality of that research and the possible impact of the theory on future research are subjects on which debate might be more heated. With respect to a program of specific future research problems, I can do no better than to point to the one outlined in Becker's *Human Capital,* which is and will remain for many years to come the landmark work on the subject. The problem of past accomplishments is more difficult. The frame of reference is not clear and it is difficult to formulate a criteria on which to base judgement. At a very broad and general level, the concept of human capital has obvious appeal for its simplicity, analytical power, and relationship to economic theory. It provides a neat conceptual framework for a wide variety of problems, ranging from economic development and technical change to the short-run incidence of unemployment. Yet many advocates of the theory have not, in my view, undertaken great pains to spell out its detailed structural hypotheses and a great amount of empirical human capital research has not in any sense tested these hypotheses.

The fundamental problem in labor economics is the determination of wage rates and earnings, and the essential contribution of human capital concepts has been to focus attention on *lifetime* earnings as the empirical observations of primary importance. Human capital is first and foremost a theory of lifetime earnings determination. However, much of the theoretical and empirical literature on the subject has been directed toward the rate of return. Perhaps the ease with which modern day computers can calculate rates of return has been a contributing factor in their mass production. But rates of return provide very little information about the empirical consequences of human capital constructs, because very few restrictions of the theory are used in the computations. Furthermore, discussions of rates of return cloud the important fact that human capital is really a theory of "permanent" labor income. What we ultimately want to know is how indi-

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viduals' earnings get generated over their lifetime. In what follows, I will attempt to show by way of example that the theory has a great deal to say about this important question and that internal rate of return computations, if not carefully interpreted, contribute little toward understanding the underlying earnings generating mechanism.

In sum, it is my contention that the time has come to turn attention away from simple discounted earning measures and internal rate of return computations and focus instead on the entire life-earnings function. Earnings are a directly observable consequence of the theory, whereas rates of return are synthetic constructs that have few desirable properties. Furthermore, by concentrating on directly observable earnings, it is possible to spell out what can and cannot be estimated from the data and how these estimates relate to maintained assumpions.

My critique of rate-of-return methods is based on the simplest possible assumption that skills are acquired only in school and not in the labor market. Under these circumstances the observational content of the theory of human capital lies mainly in an empirically meaningful decision rule of when to stop school and enter the labor market, an "optimal stopping rule" if you will. This formulation lends itself to a very familiar interpretation in terms of a Wicksellian form of optimal capital accumulation: The decision to cease school becomes formally similar to the optimal harvesting age of trees and wine. While something is gained in laying out one essential aspect of the problem, something is also lost in terms of "realism." All I can do here is assert that this essential element carries through to more complex models in which learning in the labor market is not precluded [see Rosen (1973)].

One clarification is necessary before proceeding with the analysis. Two methods are available for imputing rates of return from earnings data. The equal present value method finds the rate of interest that equates discounted earnings in the absence of investment to discounted earnings with investment [see Becker (1964)]. Another method has been recently proposed by Mincer (1970) and involves regressing the log of earnings against schooling. Mincer has shown that the two methods presumably yield similar results in a model such as the following and I shall discuss the theory in terms of the regression method rather than the present value added.

Consider the simplest possible case in which all learning takes place in school. Let k index the amount of knowledge and skill (i.e., "labor in efficiency units") possessed by a person. Assume employers perfectly arbitrage labor markets and the efficiency price of "labor" is a constant, R, independent of the amount of skill possessed by any worker. Earnings are denoted by y and $y = Rk$. Knowledge is acquired in school according

to the production function $k = f(s,A)$, where s is length of time spent at school and A is a measure of the person's ability to learn. $f(s,A)$ is itself derived from a more ultimate learning function: Learning depends on previously acquired knowledge, ability and other aspects of the learning environment: $dk/dt = E(k;A)$, with $E_k, E_A > 0$. Integrating $dk/dt = E(k;A)$ over the time interval [0,s] yields $f(s,A)$.

The first derivatives of $f(s,A)$ are positive. Schooling is productive and more ability increases efficiency with which a given school experience is transformed into productive knowledge. There may be an initial phase during which schooling exhibits increasing marginal effects on marketable knowledge, though diminishing marginal returns are expected for sufficiently large *s*. Also, school quality could easily be incorporated as an argument in f, but is ignored here. Substituting for k in $y = Rk$ yields a function relating earnings, schooling and ability: $y = Rf(s,A) = g(s,A)$. The relevant properties of $g(s,A)$ are the same as those of $f(s,A)$: schooling and ability have positive marginal effects on earnings because they both increase embodied knowledge. In this model, individual age-earning profiles are step functions, with the location and height of the step determined by *s*, conditional on the amount of A possessed by the person.

As an aside, it should be noted that it makes no difference for the behavioral content of human capital theory whether education is privately productive in terms of real knowledge or whether it also serves as a signaling device as well [Spence (1973)]. From the private point of view signaling capital has the same consequences on earnings as other kinds and the positive implications for observable earnings-schooling relationships are identical. What is really necessary to resolve this issue is further empirical research along the lines recently provided by Welch (1970) and Griliches (1970) in which education is directly related to production activities.

It is easy to demonstrate that a rational investor should concentrate schooling at the initial phase of his life [see Ishikawa (1973)]. Using that result, the individual chooses *s* to maximize discounted lifetime earnings, $V = \int_s^N g(s,A)\, e^{-rt} dt$, where *r* is a fixed rate of discount and *N* is the length of life. Little violence will be added to this model by assuming *N* is infinite. Under those circumstances the integral in the definition of V becomes $V(s,A) = g(s,A)\, e^{-rs}/r$. Hence, choosing the optimal length of schooling is exactly analogous to determining the age at which trees are to be harvested. The problem is equivalent to the following: Maximize $\ln V = \ln(y) - \ln(r) - rs$ with respect to *s*, subject to the constraint $\ln(y) = \ln[g(s,A)]$. The necessary condition is the

familiar rule d (ln[g]) /ds = r. Second order conditions reveal that g (s,A) may exhibit a limited degree of increasing returns (with respect to *s*) in the neighborhood of equilibrium. If N is finite, the marginal condition becomes dln[g (s;A)]/ds = r/ (1 − exp (r[N − s])), and the interest rate must be adjusted by a finite life correction factor [e.g., see Weiss (1971)]. So long as $N - s$ is large the adjustment factor is near unity and can be ignored to a very close approximation. My real purpose in making this approximation is to enable use of the geometry employed below, but the basic arguments carry through whether N is finite or not.

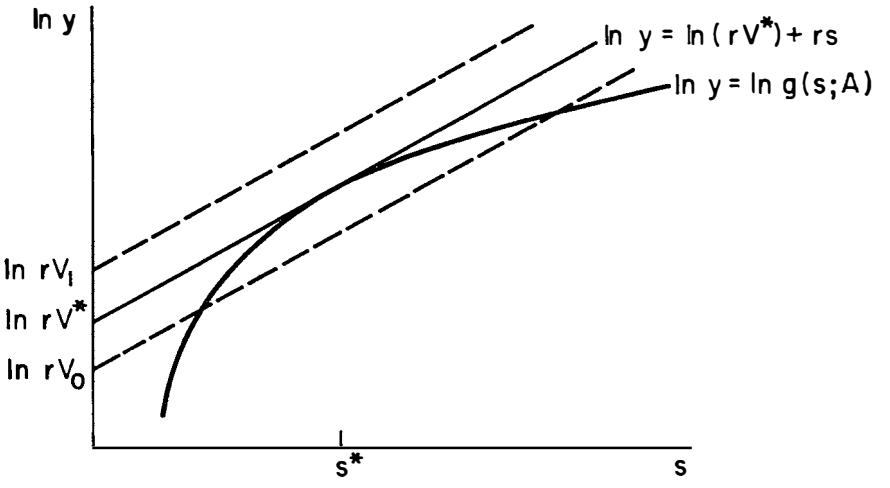

Figure 1

The solution is shown in figure 1. The straight lines have slope *r* and indicate values of ln (y) and *s* that are consistent with alternative values of *V*. The constraint is represented by the single curved line, since A is a parameter for the individual in question. The largest value of *V* attainable occurs at the tangency point, and the optimal stopping point is given by *s**. The person's ability and *s** determine labor market earnings thereafter. The stopping rule can be characterized very simply as follows: Equate the *marginal* rate of return with the rate of interest.

The empirical difficulty of identifying the "true" rate of return or properties of g (s,A) from cross-section observations of earnings and schooling across individuals stems from existence of economic rents. The tree analogy can be applied. Not much is learned about the value-growth process of trees from comparing cutting age and tree value across different varieties. Oaks and maples have their own optimal cutting ages depending on their particular and unique growth

characteristics. In the present case, if all individuals were identical, there could be no differential rent among them. There would be one unique pair of points (s^*,y^*) in the data and no association between schooling and earnings could be observed. Furthermore, as long as the knowledge-schooling production function is nonlinear and there is a single efficiency price of labor (e.g., a man of given skill is equivalent to two with half as much), long run equilibrium is not consistent with exactly equalizing differences in earnings and schooling on the supply side of the market. Individuals cannot be indifferent as to how much schooling they choose, and market forces cannot cause the two functions in figure 1 to coincide. Earnings cannot be a purely exponential function of schooling in actual data.

But individuals really are different and these differences are crucial for observing variance in earnings-schooling data. Even if access to capital markets is the same for all, individuals with greater ability earn rents. The variable A is a shifter in the income-schooling structural relation and individuals with different values of A rationally choose different values of s. In distinction to physical capital, a second source of individual differences arises from interpersonal variance in r, since human capital assets are nontradeable. Now if it could be assured that individuals exhibiting different values of s were equally able, the realized values being provoked by different interest rates, earnings-schooling regressions would identify one relevant portion of $g_s(s,A)$. However, there is nothing to guarantee such easy identification of the schooling gradient of $g(s,A)$ for in general the data reflect variations in both A and r. The scatter of observations relating earnings and schooling are generated by a process better described in figure 2; tan-

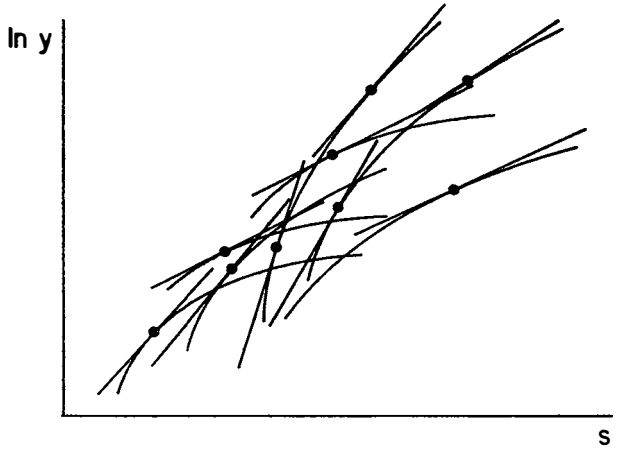

Figure 2

gency between shifting investment return and cost functions. Clearly, nothing is identified from regressing the log of earnings simply on years of school completed across individuals. Though the dimensions of the schooling regression coefficient are the same as those of a rate of return, the estimate has no causally significant interpretation.

An alternative to rate of return estimation presents itself. We have arrived at the following recursive, structural model

$$y = g(s,A)$$
$$s = h(r,A)$$

We have thus derived a theoretical justification for the path-type recursive models used by Bowles (1971) and Griliches and Mason (1972), in which IQ scores, family background and social economic status variables serve as proxies for A and r. How well these proxies truly index their theoretical counterparts is another question in need of much further research. For example, IQ and related tests have been designed to predict school performance and accomplish that task fairly well. They have not been designed to predict economic success. In any event, the simple model above has an important implication that has been ignored in the literature and that carries over to more complex models: *The functions g(s,A) and h(r,A) in the recursive model are not independent.* s is determined endogenously and crucially depends on the properties of the structural earnings-schooling relation g(s,A). The functional form of g(s,A) automatically dictates a number of restrictions on h(r,A) by way of the optimal stopping rule. These restrictions yield precise empirical hypotheses of the theory that are capable of refutation by observation. I am unaware of any tests of these hypotheses in the literature.

I should point out that Becker's (1967) analysis is similar in many ways to the one presented above. However, since only a very select number of the results implicit in his treatment have found their way into the literature, it is worthwhile to reconsider them. The method followed here is much more direct and obvious than the one followed by Becker, because it ties into directly observed variables (earnings) rather than unobserved rates of return. Finally, the above geometry can be converted into a "demand and supply" framework in rate of return and schooling coordinates simply by taking the schooling derivatives of the functions depicted in figures 1 and 2. dln(g)/ds considered as a function of s (conditional on A) represents the incremental demand for additional schooling, while a horizontal line of height r represents supply. Variations in r and A shift demand and supply and the same conclusions as in figure 2 above follow.

In conclusion, it has been demonstrated that internal or other rates

of return are not crucial to the empirical content of human capital theory and can lead to misleading conclusions if not carefully interpreted. Intuitively, the result above can be put very simply as follows: A rate of return estimates the value of an incremental investment to an individual. However, for purposes of empirical implementation, it is necessary to compare two individuals, one who invests and another who does not. Now in actual data, it is necessary to ask the question, "why didn't the second person invest?" If the two individuals were strictly identical, both would have invested the same amounts and no differences between them could have been observed. If differences are observed, it must mean that the *ceteris paribus* assumptions underlying the conceptual experiment have been violated! No amount of ad hoc "ability adjustments" to estimated rates of return can completely surmount this difficulty. But such adjustments are unnecessary, for the theory can be cast in terms of directly observable earnings with no greater requirements or demands on actual data. The theory implies a decision ruling that makes statistical comparisons among dissimilar individuals possible and meaningful. Some very tentative and preliminary life-earnings investigations along these lines have been done by Brown (1973), Haley (1973), Heckman (1974), Lillard (1974), Johnson and Stafford (1973) and myself [Rosen (1973) and Rosen (1974)], and it almost goes without saying that much further research is necessary. My own hunch is that human capital constructs will be an important element in ultimately understanding the generating mechanism of lifetime earnings, but the theory will have to be integrated with a genuinely stochastic theory and some better empirical measures of individual motivation and ability.

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The Importance of Human Capital Theory to Labor Economics—A Dissenting View

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I interpret my assignment here as one of presenting a dissenting view in what would otherwise be a generally appreciative session on human capital theory.[1] I will begin with basic definitions, first of labor economics and then of human capital. For me, labor economics is an applied field of economics. It is applied because it is concerned with a list of specific problems, and it is distinguished from other applied fields by the particulars of that list. There is room for some disagreement as to the exact content of the list. My own consists of problems related to employment, wage inflation, income distribution, industrial peace and job satisfaction.

Were a human capital theorist to define labor economics in terms of a list, the list would I imagine be somewhat shorter. It would probably exclude industrial peace and job satisfaction. But human capital theorists would not define their endeavor in these terms. Instead they tend to define themselves in terms of a set of techniques. [This you will note is what Mr. Hamermesh has in fact done.] The difference is the difference between applied theory and what I will call for want of a better term, applied economics. In the former, the theory dominates, and the exercise is one of defining the problem in such a way that the theory can be applied to it. Explanations based upon variables which lie outside the domain of the theory are frowned upon. In the latter, it is the problem which dominates: any tool, whatever the discipline from which it is drawn and whatever the level of abstraction, is admissible so long as it elucidates the problem. And the cardinal sin which an analyst can make is to distort the definition of the problem out of relationship to the social concerns which gave rise to it in order to fit a solution.

There is something very messy and unsatisfying about applied fields. At their worst, they tend to be completely ecclectic, explaining phenomenon on an ad hoc basis with pieces of theory which, at some level at least, are in complete contradiction. Labor economics has tended in this direction. The principal practitioners, especially in the 1940's and 1950's, felt free, for example, to develop explanations

[1] In so doing, however, I have used Mr. Hamermesh's paper, which arrived very early, as something of a strawman, and, for this, I must begin with an apology to him.

of wage behavior which mixed together institutional and psychological factors with competitive models whose assumptions these factors completely contradicted. This is one thing for practitioners, who are primarily concerned with the development of public policy and the resolution of specific industrial disputes. Such a practice is an art where people operate at a level of understanding which is beyond the grasp of logic. But art does not *build.* Artistic understanding can be passed on from one generation to the next. It can change, but it does not grow. And because it does not, it has a very limited capacity to enhance man's control over his environment. For that, one must turn to a different approach: one which tries to arrange what artists understand intuitively in some kind of logic; to seek out, explore and ultimately resolve the seeming contradictions of that intuition. In my judgment, the kind of intuitive understanding which grew out of the NLRA and the wartime control experience reached its limit in the 1950's. I hear much in the words of contemporary industrial relations specialists which duplicate the wisdom of that decade, but very little that exceeds it. There is thus, I think, clearly a place in labor economics for the rigor which human capital has attempted to bring to it. And I would have considerable sympathy for that endeavor if this were indeed the place its adherents were seeking to fill. But, in fact, the major adherents of human capital seem completely unaware of the earlier tradition of thought and draw their inspiration not from intuitive labor practitoners but from neoclassical theory.

Human Capital Theory: Thus, when one turns to define human capital theory, one must indeed define it in terms of the techniques of neoclassical economics, and these are, as Mr. Hamermesh points out . . . "the principle of utility maximization, profit maximization and market clearing mechanisms." One must also add, however, that in order to get its principal result, that differences in relative wages of individuals can be explained by the decisions of employers and workers about investments in education and training, one must make a number of additional assumptions. These include the assumptions that training and education are costly and that there is a certain relationship between the cost of these processes and the productivity of individuals, which can be known. One also assumes that there are alternative techniques of production employing workers with varying levels of education and training in different proportions and that employers examine the alternatives, classified in this way when planning production. Finally, one must assume that relative wages are flexible and respond to variations in supply and demand. I mention these assumptions here because I plan to return to them below.

In sum, then, I see the enterprise of human capital and the endeavor of labor economics as fundamentally distinct. The one is an applied field concerned with the solution of particular problems; the other is applied theory concerned with the application of certain principles. The central issue in the relationship between them is whether the principles with which human capital is concerned will yield a solution to the problems which concern labor economists in the terms in which these problems have been generally posed by the society at large. In my judgment, that issue was joined in the manpower policies of the last decade. And I think the answer is generally a negative one.

The Manpower Experience: U.S. manpower policy did not originate in human capital theory. The two developed simultaneously in the early 1960's. But that manpower policy, in its initial almost exclusive emphasis on education and training as instruments for raising the income of disfavored groups, was the policy which the theory would have suggested if it had come first. And policy makers did look to human capital theory, as it developed, for suggestions as to how the effectiveness of manpower programs could be improved. The overall results of the decade of manpower policy are still a matter of dispute. What I think is not disputable is that the attempt to cull improvements out of the theory of human capital have proved disappointing. If the effectiveness of manpower programs has been enhanced, it is through programs which dealt with individual and organizational discrimination and which drew their inspiration from theories of political science, organizational behavior, sociology and social psychology, not from the constrained maximization of utility and profits. Particularly disappointing in that regard have been efforts to induce business enterprise to invest in training by subsidizing the employment of disadvantaged groups.

The failure of human capital theory to provide an adequate foundation for manpower policy is, I believe, immediately attributable to the inappropriateness of certain of the specific behavioral assumptions upon which the theory rests. But it is more fundamentally a reflection of the underlying approach to theorization.

The immediate failings of the theory derive from its characterization of the nature of training as it occurs both in educational institutions and on the job. On the whole, what the manpower programs have taught us is that, at least in that broad band of industries and occupations over which these programs have operated, training and education are not essentially economic processes.

Training on the job appears in its essential characteristics to be a process of socialization. An important part of the productivity of the

worker in the work place is directly attributable to the way in which he relates to his fellow workers, and the social groups into which they form. The process of adjustment to a new job is therefore one in which the individual accommodates himself to the work group and learns to conform to its norms and mores.[2] The acquisition of individual job skills, i.e., skills which have an existence independent of the context in which they are displayed, is dependent upon the success of this socialization process, and involves psychological mechanisms such as imitation and habit formation which are similar to, if not precisely the same as, those involved in socialization. Both learning and socialization frequently precede movement into the jobs whose performance is dependent upon them. The costs of these processes are small. They seem, in fact, often trivial compared with the effects of the processes of adjustment on different jobs on worker productivity. It is not clear that relative costs bear any relationship to relative productivities in these jobs; and in any case, such costs are rarely accounted by employers, a fact which makes it difficult to believe that if they exist they play a functional role in the determination of the wage. On the other hand, the dependence of on-the-job training upon the processes of socialization makes it very sensitive to prejudice and discrimination in the work group. This seems to explain why success is much more responsive to the treatments suggested by social psychology than by human capital theory.

The apparent insensitivity of the employer to the effects of adjustment upon productivity and wages seems to imply that either employers fail to maximize profits or workers fail to maximize utility. If this were not the case, then the relationship between productivity and wages posited by human capital theory would be achieved either by workers who were willing to sacrifice current for future earnings, bidding down wages for positions which led to high wage jobs or by employers substituting high productivity for low productivity workers until the returns to the employment of the former fell (as the law of diminishing returns assures us they must) to the cost of the socilization process. The world in which socialization is the dominant element in on-the-job adjustment, however, is one in which relative wages for different types of workers are quite rigid,[3] and decisions about the proportions in which different types of labor are employed in production are dominated by variables other than their relative

[2] Cf. Leonard M. Davidson, *The Process of Employing the Disadvantaged,* unpublished doctoral dissertation (Massachusetts Institute of Technology, June, 1973).

[3] Michael J. Piore, "Fragments of a 'Sociological' Theory of Wages," *American Economic Review,* Vol. LXII, No. 2 (May, 1973).

costs.[4] It is possible to relate these two last characteristics of the system to the nature of the socialization process and that relationship provides, I believe, the clues to a new theoretical approach which promises the coherence and rigor of human capital theory. But it would take us too far afield to develop that relationship here.

The failures of formal institutional training appear to derive from somewhat different factors than those of training on the job, but their import for the viability of the theory of human capital are similar. There is not space to explore this problem here. For me, it is underscored by the fact that employers seem not to know — and not to care about — the content of the curriculum taught in the schools from which they draw their employees. This is true despite the fact that employers express very great interest in the educational attainment of job applicants in those same schools. This apparent paradox suggests either that educational attainment is used as a proxy for some other variable or, as appears in the light of the dependence of on-the-job adjustment upon successful socialization, that in situations where labor flows regularly between certain types of schools and certain types of jobs, school norms and job norms become so meshed that workers who have not passed through the one have trouble adjusting to the other. Neither explanation bodes well for a theory predicated upon the assumption that the educational process is governed by its payoff in the marketplace and both have, I think, proved a richer source of improvements in policy and program.

The Approach to Theorization: These particular failings of human capital theory in applied labor economics are symptomatic, I believe, of the more fundamental failings of the underlying approach to theorization as a base for applied economics of any kind. That approach is completely deductive, and involves a virtually total indifference to any correspondence between theoretical assumption and the actual behavior of real economic agents. That indifference is, I think, only understandable in terms of the methodology essay of Milton Friedman in which he argues that the sole test of a theory is its ability to predict.[5] That theory cannot, therefore, be evaluated in terms of its underlying assumptions. It is not, to use his example, important whether or not firms actually maximize profits, so long as they behave *as if* they maximize profits. I have never been able to follow the logic

[4] See, for example, Michael J. Piore, "The Impact of the Labor Market upon the Design and Selection of Productive Techniques within the Manufacturing Plant," *Quarterly Journal of Economics,* Vol. LXXXII (November, 1968), pp. 602–620.

[5] Milton Friedman, *Essays in Positive Economics* (Chicago: The University of Chicago Press, 1953), pp. 3–46.

of this argument. It seems to me that its appeal is derived by playing upon a confusion between *abstraction from* and *correspondence to* reality. Theory derives its power through abstraction by emphasizing those aspects which are critical to the problem at hand, and suppressing the details which simply confuse and obscure the central issues. Indeed, abstraction in this sense is what theory is all about, and to the extent it abstracts, it cannot be a faithful representation of reality. But that is quite another thing from building a theory upon assumptions which *contravene* reality, which it seems to me is what human capital theory has done. However, I make no claims as a philosopher of science, and it would not surprise me if, at some level which I follow, Friedman's argument has a logic which I cannot see.

But however appropriate such an approach is to theory in general, it is I think not a viable approach to applied economics, which is concerned with changing behavior through policy. This is so for at least two reasons. First, policy works through institutions, and those institutions reflect the processes through which decisions are actually made. Unless the policy is conceived of in terms of these institutions and processes, it is virtually impossible to control their behavior. One may thus be able to predict very well in a statistical sense so long as one keep one's own hands off the economy, but be completely unable to forecast the effects of policies designed to intervene and change predicted behavior from what it would otherwise be. It is a philosophy admirably designed to support Mr. Friedman's own policy predilections, but is not a general solution to the policy problem.

Second, intelligent policy is based upon data which indicate what is happening in the economy, and a good theory has to provide a guide to the collection and interpretation of data. But, since the only accurate data are those generated by economic agents as part of their own decision making processes, a theory which deviates from reality will never be good in this sense. I was reminded of the importance of this point by Mr. Hamermesh's plea for the collection of data to distinguish "the relative specific and general components of on-the-job training" so as to establish the validity of his theory. In my own terms, the fact that such data do not exist and the economy apparently operates without it, is a prima facie case against a theory built upon the suppostion that this distinction is important in economic behavior. Suppose he manages to get a research grant and hires "time-and-motion experts and cost accountants to produce" it. What will it mean? How will you interpret it? What kind of policy are you going to base upon it?

The conclusion which I draw from this, then, is that one will do

better in applied economics through an inductive theory which attempts to trace the actual decision making process. One wants to know what rules are used to make decisions, how these decision making rules arise, how they are related to each other and how they change.[6]

Ultimately, of course, this will not be enough. There are indeed different levels of economic reality. Actual decision making rules are probably the most superficial level of this reality. They are shorthand reflections of more fundamental processes, appropriate to a narrow range of time and space when certain parameters of the basic economic problem are fixed, but which will be abandoned when those parameters change. An applied field, in concentrating upon actual decision making rules, can miss the change. Perhaps it is the attempt to get at the deep structure of the economic problem that *haute* theory is all about. Even here, however, I believe in the inductive approach—an approach which in this particular case attempts to identify and explain changes in the decision making rules.[7] It may turn out that "profit maximization, utility maximization and market clearing mechanisms" are what that deep structure is all about, but I doubt it.

Human Capital as Economics: I have concentrated upon the relationship of human capital to labor economics. I want to conclude by saying something about the relationship of human capital and labor economics to economics. Let me do so by picking up Hamermesh's assertion that human capital theory is economic theory. In this, of course, Hamermesh is wrong. Economics, like labor economics, is a study of "problems"—the problem of scarcity and of how society organizes the production, distribution and consumption of goods and services. The principles of utility maximization, profit maximization and market clearing mechanisms lead to one set of theories for the analysis of these problems. But there are other economic theories, and a part of the conflict in labor economics over human capital theory really has nothing to do with labor economics at all, but reflects a broader conflict over economic theory in general. Many people have interpreted that conflict as one over Marxian economic theory, but I think that the real issues are with Keynesian economics.

My erstwhile colleague, Duncan Foley, once explained to me in a discussion we were having about how I managed to survive in the MIT economics department, doing the kind of thing I do, that it was because of the *neoclassical synthesis.* That "synthesis" which made

[6] This is essentially the approach of Richard M. Cyart and James G. March in *A Behavioral Theory of the Firm* (Inglewood Cliffs: Prentice Hall, 1963).

[7] A neat example of this is Paul Joskow, "Inflation and Environmental Concern: Structural Change in the Process of Public Utility Price Regulation," October 25, 1973, MIT mimeo.

it possible to live with a tremendous gap between Keynesian macro and neoclassical micro economic theory, was achieved, Duncan said, by pushing all of the contradictions into the labor market. The labor market was the one market which was not neoclassical. Obviously, therefore, one studied it in a different way and, in fact, it was best all around if one studied it in a way which was incommensurate with the rest of the work in the profession, for that was the best way to prevent the contradictions from escaping and infecting the whole edifice. The contradictions have nonetheless escaped. The neoclassical synthesis turns out to have been good only for a moment of time. One might ask why it appealed at all. I think it was because the impact of the Great Depression upon those who lived through it was so strong that it bridged the logical gap in the theory. For my generation, which did not live through the Depression, the gap between a macro and micro theory is not acceptable. And, outside of labor economics, the attraction of human capital theory is that it brings the labor market back into the main body of neoclassical thought. The cost, however, is to completely destroy the neoclassical synthesis and to undermine professional acceptance of Keynesian economics. The macro economic implications are not so clear in the context of human capital theory itself, but are, I think, apparent in the job search models of wage inflation which are an extension of the same principles upon which human capital economics rest.

In this context, therefore, it seems to me very important to note that the world whose characteristics seem to rebut the human capital assumption about the relationship between wages, training and productivity, also supports the Keynesian assumptions about fixed factor proportions and the rigidity of relative wage rates. This suggests to me that the "correct" resolution of the logical contradictions created by the Keynesian revolution lies in revising micro-economics to fit macro theory and not vice versa, and I believe that if one could understand how it was that these characteristics fit together, not in the sense that they are all logically necessary to escape the neoclassical world, but in the more positive sense that they all derive from a common set of more fundamental principles of human behavior, one would be able to do so. It is toward this end which I believe theory should be working and it is because it points in the opposite direction that I think human capital theory is a *cul de sac* not just for labor economics but for the whole economics discipline.

IX. A DISCUSSION OF GROWTH IN LABOR ORGANIZATIONS*

Creeping Unionism Revisited

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Some two or three years ago one of the authors prepared a paper on faculty unions for a Carnegie Commission book under the title of *Creeping Unionism.* In searching for a title for this paper it was impossible to avoid the temptation to use *Creeping Unionism Revisited.* In the intervening period, faculty unionism has continued to spread, but at something less than breakneck speed. The prognosis is for a continuation of growth, but it is clear that the raising of the cry of "Professors Unite" has not touched off a runaway social movement.

After almost a decade of experience with academic unionism in higher education, enough experience has been accumulated so that some patterns can be identified and some educated guesses about the short-term future can be made.

The Faculty Unionism Project at Berkeley has been attempting to keep records on the expansion of this area of organization for several years. Primarily in order to keep the measure of the level of organizing activity current, the definition of unionization used has been the achievement by an employee organization of formal, exclusive recognition as the bargaining agent for a group including the faculty of an institution of higher education.

The problems of definition posed by even that simple sounding statement are formidable and some of them have been dealt with in detail elsewhere.[1] Although strictly speaking the logical unit of measurement would be the bargaining unit, we have found that most interest attaches to the data for "instituions of higher education." This should not cause much difficulty as long as the reader remembers that some institutions have more than one bargaining unit, that some units contain as many as two dozen institutions, and that units are now being

* The paper presented in this session by William J. Moran, United Steelworkers of America, is not included in the published Proceedings.

[1] See B. Aussieker and J. W. Garbarino, "Measuring Faculty Unionism: Quantity and Quality," *Industrial Relations,* Vol. 12, No. 2, May 1973.

created that include only part of the faculty of an institution. In numerous instances, press reports or the reports of elections conducted by the administrative boards contain information on the size and composition of the unit, but where this information is not available, our usual practice is to use the figure for the total faculty in the institution. This amounts to assuming that the inclusion of part-time faculty more or less offsets the exclusion of nonteaching professionals from the data as reported.

Table 1 clearly demonstrates that calendar 1973 is not going to go down as one of the boom years for faculty unionism. A large part of the jump in organization in 1971 reflects the addition of the State University of New York (26 institutions with some 15,000 unit members) to the ranks of the organized. Similarly, the organization of the City University of New York (19 units and another 15,000 members) accounted for a large portion of the gain in 1969. Even allowing for these massive discontinuities in growth, there is no doubt that 1973 will see the smallest absolute growth in numbers of institutions and faculty covered since 1967. During the year only 27 new institutions were organized and these included only about 3,200 faculty. The drop was particularly severe in the community colleges, the most mature section of the movement, where only seven new institutions with about 400 faculty were added. On the other hand, during the previous year 55 institutions with more than 12,000 unit members were organized at all levels. It would be premature to conclude from these data that the faculty unionism movement has reached a point of stagnation on the basis of this one year's experience, but the rate of growth portrayed suggests that while the typical college administration may not be an immovable object, neither is the typical faculty union organizing campaign an irresistible force.

In an effort to measure the degree of penetration of the eligible population, we have made a number of comparisons for different pop-

TABLE 1
Unionization in Institutions of Higher Education 1966–1973

Year	Total Institutions	Faculty	Four-year Institutions	Four-year Faculty
1966	11	3,000	1	200
1967	24	4,300	2	300
1968	65	12,200	10	3,100
1969	128	32,100	23	17,500
1970	162	42,800	40	25,600
1971	232	67,300	85	47,300
1972	287	79,500	103	56,000
1973*	314	82,700	123	58,800

Source: Faculty Unionism Project: Institute of Business and Economic Research. Data are as of December 31.

ulation groups. Briefly, about one-eighth of all the institutions of higher education have been organized, including one-quarter of all the community colleges but only one in twenty of the four-year institutions. Of all professional staff in higher education, about ten percent are represented by unions. The degree of organization is greatest among the full-time, regular faculty teaching in higher education, about one-sixth of whom are organized.

These figures suggest that faculty unionism has a substantial foothold in the higher education sector, and that it will persist as a permanent part of the academic scene. The uneven incidence of organization indicates that an analysis based on more detailed study of the overall data presented in Table 1 would be helpful. The data have been segmented by level of institution and type of control and also by the location by state. The geographical criterion illustrates our belief that the legal environment of bargaining, particularly as reflected in state bargaining laws, is a critical variable explaining the incidence of organization.

Where the Unions Are

Table 2 summarizes the material on the distribution of full-time faculty among two-year institutions and two different types of four-year institutions, as well as between the public and the private sectors. The table also presents our best estimates of the percentage distribution of the full-time faculty in organized bargaining units for the same institutional categories. The manner of presentation is designed to permit easy comparison of the two percentage distributions; for example, 64 percent of all organized faculty compared with 86 percent of all organized faculty are to be found in four-year institutions. (Column 1, row 2). The principal points illustrated by Table 2 are:

TABLE 2

Distribution of All Full-Time Faculty and of Unionized Full-Time Faculty by Level of Institution and Type of Control (Percentages)

	Total	Public	Private
All institutions	100/100	89/63	11/37
Four year only	64/86	53/51	11/35
Universities	(26/42)	(21/29)	(5/14)
Other four year	(38/44)	(32/22)	(6/21)
Two year only	36/14	36/12	1/2

Numerators of fractions = Full-time faculty as of November 1973. Control total = 57,490.

Denominators = Full-time senior staff for resident instruction and departmental research employees as of 1967. Control total = 301,000.

The differences between the two sets of percentage distributions are significant at the .01 level.

(1) Although almost two-thirds of all the organized institutions are community colleges, their small size means that only one-seventh of all faculty are found in this level of institution. The one-seventh of total faculty, however, amount to more than one-third of all bargaining unit members in higher education.

(2) It is clear that faculty unionism is a phenomenon of public higher education. Although fewer than two-thirds of all faculty are in public institutions, about 90 percent of all unionized faculty are in the public sector. Faculty in the public community colleges contribute about three times as many bargaining unit members as their proportion in the faculty population would lead us to expect. The only other category that contributed more than the expected proportion is that of the public four-year colleges when unit members are about 50 percent more numerous than predicted by the population distribution.

Private institutions as a whole contribute less than one-third the number of unit members than would be expected on the basis of their proportion of the total population.

Since faculty unionism is so heavily concentrated in the public sector of higher education, we turn now to an analysis of the relevant legal environments.

Measured by the number of persons in the bargaining units, the four states of New York, Pennsylvania, New Jersey, and Michigan account for about three-fourths of all the faculty in bargaining units. The distribution of units by size is markedly skewed. New York is the faculty collective bargaining capital of the United States by a huge margin. Higher education in the state is almost completely organized and contains about half of all the unionized faculty in the country. Two units, the State and City Universities, alone contribute almost 40 percent of the national total. The great bulk of the faculty involved in New York are in public institutions covered by the Taylor Law.

These four states all have strong state laws supporting the right of teachers in higher education to organize and bargain collectively and each provides an administrative agency and an administrative procedure to implement that right. Although the absolute numbers involved are too small for them to loom large in terms of absolute size, Hawaii and Rhode Island also have strong laws and their public higher education sectors are highly organized.

Some other states such as Wisconsin and Washington have supportive laws covering only their separate two-year colleges. As a result, these states have 37 two-year bargaining units (with only two four-year units) with enough faculty in them to put them in fifth and sixth place, respectively, following the Big Four.

If the states with a high level of organization have strong laws, the

next question is whether there are states with supportive laws, but with a low degree of organization. In general, the answer is negative; the major possible exceptions being Massachusetts where a substantial part of the public sector is not organized.

Finally, is there any state in which significant organization and bargaining has occurred prior to the passage of a supportive law? The Chicago City Colleges have negotiated four two-year contracts in Illinois, a state in which there exists no legal support for bargaining in higher education. These community colleges achieved their status by old fashioned direct action.

This impressive demonstration of the vital role played by the law in explaining the incidence of bargaining unfortunately suffers from one serious flaw. The National Labor Relations Act is the prototype of the supportive collective bargaining law, and since 1970 virtually all faculty in private institutions have been covered by its provisions. Yet the 37 percent of the faculty population in private institutions provides only 11 percent of the unionized faculty, and most of the rejections of unions in bargaining elections have occurred in private schools.

The most important conclusion to be drawn from this preliminary analysis is that the faculty unionism movement faces to different barriers to further growth. The market is far from being saturated and the factors that seem to be responsible for the introduction of unionism have not lost their force.

Two Barriers to Growth

One block to expansion that seems to be temporary is the barrier to further extensive growth into new geographical areas that will be eliminated by the adoption of supportive laws by other states. Faculty unionism to date has been largely a by-product of the growth of public employee unionism generally. In the states with strong public employee bargaining laws, the easy victories (and some not so easy) have been won, and in some of them the public higher education sector is effectively saturated. A necessary condition for further extensive expansion of organization is the passage of strong bargaining laws covering higher education in other states. The most important single state in which legislation is pending is California. A strong collective bargaining law covering all education was passed in 1973, but was vetoed by the governor. If Governor Reagan leaves office in 1974, and California enacts a public employee or an education bargaining law of the type that has been proposed, the state college system would probably opt for collective bargaining in short order. The gargantuan

community college system has been operating under a "meet and confer" negotiating council form of bargaining for several years. The community college system, or at least major segments of it, would probably change the form, if not the substance, of its relationships enough to quality for inclusion as unionized institutions.[2]

If these two systems were to organize, they would add close to 30,000 unit members to the total, the actual number depending on the vagaries of unit determination. Whether the 8,000 faculty members of the University of California would choose to organize is much more questionable with the issue hinging in part on the unit determination question and in part on the objective situation existing at the time of the election.

A new collective bargaining law went into effect in Oregon in October 1973, and there are strong indications that a law covering higher education may well be enacted in Washington in 1974.

The other major arena of possible change seems to be the mid-west. Minnesota has changed the applicable legislation recently to a more supportive version and elections are in prospect. The only southern state with any visible organizing is the state of Florida where the legislature has been directed by the courts to provide a public employee system of public employee bargaining. Missouri is reported to be near to passing a public employee law.

Overall, it appears that within the next year or two there is an excellent change that several states will pass legislation that will open up new opportunities for the extension of academic unionism. If the forecasts of developments in California alone are borne out, the size of the union movement could increase by some 40 percent.

The second barrier to growth may be more difficult to overcome. It is the problem of moving faculty from opinion to action, of converting generalized support for collective bargaining among faculty into support for a specific bargaining agent in a specific bargaining election. As early as 1969 the Carnegie Commission found that a substantial majority of faculty at all levels (59 percent overall) queried in its survey of faculty opinion were favorably disposed toward collective bargaining in higher education. That figure increased to 66 percent overall in the 1972–73 survey, and even in the universities, the sector with the lowest proportion of favorable replies, the percentage reached 62 percent.[3]

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[2] At present the law does not permit exclusive recognition of a single agent, require collective bargaining in good faith, or permit the execution of written contracts. For an assessment of faculty bargaining on the west coast generally, see the articles in *Industrial Relations*, February 1974.

[3] Alan E. Bayer, "Teaching Faculty in Academe: 1972–73," *ACE Research Report*, Vol. 8, No. 2, American Council on Education, Washington, D.C., August 1963.

The unions have obviously not been very successful in transforming this backing for collective bargaining in theory into support for their local bargaining agent in practice. A particularly important problem is the difficulty the unions have had in organizing the institutions in the upper tier of the prestige ranking of American institutions of higher education.

We are reluctant to make much of the elusive variable of the "quality" of institutions as a causal influence in explaining the incidence of academic unionism. In the article cited earlier,[4] we reported that according to one ranking system, no organized units were found among the high quality universities, that five of the organized institutions were in the medium quality university category, that four were classed as high quality colleges and that eleven were classed as medium quality colleges. Seventy-three organized institutions were found in the low quality college classification. Eleven of the total of twenty medium and high quality institutions organized are part of SUNY or CUNY.

Three Factors Favoring Future Expansion

The inevitable effect of the discussion to this point has been to paint an unduly gloomy picture of the future of academic unionism. The prospects for future growth are greater when a longer view is taken. In addition to new legislation the factors favoring expansion are:

(1) Improvements in the organizational and legal environment. One of the reasons for the slow growth of organization has been the shortage of funds and personnel in the unions, coupled with keen competition between the rival organizations in elections. Some local mergers and combined campaigns have recently occurred, and more may take place as a result of the merger talks between the AFT and the NEA. Union history is replete with disappointed expectations of mass organizing triumphs that were supposed to follow from merger efforts, but this seems to be the first step needed to convert the theoretical support for bargaining into election victories for a real live union. Winning elections may require the creation of SOO (Some Other Organization), that would combine the AFT's organizational energy with the AUUP's prestige and the NEA's money.[5]

Another factor that has slowed growth is the propensity of the parties for long drawn-out hearings and court cases involving issues

[4] Aussieker and Garbarino, op.cit. p. 123. Quality rankings are calculated for the undergraduate divisions of four-year institutions and are not relevant for the community colleges.

[5] The acronym SOO is due to Lavern Graves, former officer of the Senate of the California State Colleges.

such as the composition of the bargaining unit. Precedents are being set continuously and these issues should be dwindling in importance.

As an offset to these developments, one must note the growing sophistication of administration efforts to hold off unions following the Michigan State pattern.

(2) The continuing depression in higher education. After several years, higher education has not yet completed its adjustment to a new era. Demographic changes, new patterns of student interests, new managerial approaches, new public attitudes toward post-secondary education and new roles for coordinating agencies and the federal government are examples of forces that may not have made their major impact on the structure and content of higher education. As the group most concerned with the process and content of education, as well as with the conditions of employment for the professional labor force, faculty have a legitimate vested interest to protect. Many of them will find that formal bargaining and contractual relationships will be the only way they can have any real influence on events. In modern society, unions are the institutional form that kind of relationship takes.

(3) The strongest force working for faculty unionism in the future is the continuing vigorous attack on job security and tenure. It is commonplace to point out that substantial job security is found in most sectors of modern industrial society and that tenure is the academic version of job security. In fact, however, as tenure has operated in the past, it has been an exceedingly strong form of job security, and, like other types, it creates problems for management. Tenure places restrictions on the exercise of managerial control of current operations in areas such as work load, class assignments, and other areas of day-to-day operations. The boundaries of the area protected by tenure will continue to be probed under the pressures for managerial cost effectiveness and accountability. Tenure will be eroded at the top by early retirement schemes and will wither at the bottom as faculty are retained beyond the probationary period on term contracts. The resulting uncertainty will be felt throughout the faculty as a whole, and it is hard to imagine any factor more likely to stimulate faculty organization.

The slow but steady rate of expansion of unionism in the past has matched the rate of adjustment of the system of higher education to the external pressures it faces. Faculty unionism is the most visible form of faculty reaction to change, and its future growth rate will depend directly on the rate and extent of institutional change that takes place. Given the range of problems that higher education faces in the next few years, the changes that can be anticipated ought to be sufficient to guarantee that faculty unionism has a future.

Strategies for Union Growth In Food Manufacturing and Agriculture

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The labor force and employment conditions in agriculture differ considerably from those in food manufacturing. Furthermore, unionization in agriculture is at an embryonic stage, while in food manufacturing it is well established. Because of these dissimilarities prospects for union growth are not the same and the two industries are treated separately below.

Agriculture[1]

Until recent years meaningful union activity among agricultural workers was virtually nonexistent in spite of numerous organizing drives sponsored by established trade unions. Barriers inhibiting union organizing in agriculture include the extreme poverty of the workers, the lack of job securty, and the migrant nature of the work force. Compounding these problems, agriculatural workers are not protected by federal labor laws.

The United Farm Workers of America (UFWA), the outgrowth of a community organization started by California farmworkers in the early 1960's, has proved to be a proficient organizer of agricultural labor. The potential for union growth in agriculture rests with the UFWA. A look at the reasons for the UFWA's success provides a set of guidelines for further organizing among agricultural workers. Based on recent experience it is reasonable to assume that the Teamsters, the only other union active in agriculture, also benefit from UFWA organizing activity.

UFWA Strategies and Alliances

The UFWA signed its first contract in 1966 and expanded steadily until the spring of 1973, when 42 thousand agricultural workers in three states and a variety of crops were covered by UFWA contracts. Sixty thousand additional workers have signed union authorization cards but the UFWA has not yet been officially recognized as their bargaining agent.

[1] The following discussion of union activity in agriculture is based in part on Richard Hurd, "Organizing the Working Poor—the California Grape Strike Experience," *Review of Radical Political Economics*, forthcoming.

The UFWA's organizing success among low income agricultural workers derives from its dual status as both a union and a community organization. Rather than being concerned solely with work-related problems, the UFWA concentrates on satisfying all of the needs of its members. The union performs service work, assisting members with welfare and food stamp applications, social security and income tax forms, legal problems, and difficulties encountered with landlords and creditors. In addition the union operates several health clinics, a credit union, a cooperative store, a cooperative service station, and a child care center, and provides low cost medical and life insurance. Because agricultural workers are members of the poverty class, involvement in the satisfaction of non-work-related needs is mandatory if a union of these workers is to be viable.

The UFWA's union activity has also demonstrated a primary concern with the needs of the workers. Its insistence on limitations of pesticide use because of workers' health delayed settlement of the widely publicized table grape strike for a full year until growers finally agreed to far-reaching pesticide restrictions. Another important provision of all UFWA contracts is the union hiring hall. This is especially important because it undermines the labor contractor system through which agricultural workers have traditionally been employed. Under this system the grower arranges for a labor contractor to supply the required workers. The contractor hires the workers and possesses an all-pervasive control over them, frequently providing transportation, housing, and food for migrants, then subtracting inflated costs for these services from the workers' paychecks. By requiring a union hiring hall the UFWA has been able to eliminate this system and insure fair and equitable treatment for all workers.

By combining community and union organizing, the UFWA has been able to both achieve grass roots participation and attack the cause of the workers' poverty. However, because of the poverty of the workers and the resulting economic weakness of the union, support from outside sources was a prerequisite for the UFWA's success. An important tactical decision was to rely on consumer boycotts as a means to gain economic power. To assure the success of the boycotts, a number of important allies have been cultivated. As a union, employing union tactics and allying itself with established union organizations (most notably the American Federation of Labor and Congress of Industrial Organizations [AFL-CIO] and the United Automobile Workers [UAW]), the UFWA has secured the cooperation of unionized working class people nationwide. The UFWA's reliance on the methods of the civil rights movement, its association with left leaning members

of Congress, and its image as a champion of the poor have led political liberals to participate in boycott activity. The UFWA has also emphasized its role as a Chicano union, aligning itself with other minority group organizations and receiving support from minority group members.

The Teamster Incursion

In the summer of 1970, as the table grape strike and boycott drew successfully to a close, the UFWA launched an organizing campaign among California's lettuce workers. Shortly after the campaign began, most of the lettuce growers announced that they had signed contracts with the International Brotherhood of Teamsters (IBT). Then in the spring and summer of 1973 when the UFWA's three year table grape contracts expired, the IBT signed with a majority of the grape growers. These two sets of contracts represent the extent of IBT involvement in agriculture.

The IBT did not win these contracts by organizing the workers, who by all indications favor the UFWA, but by "organizing" the growers. In fact, the IBT's willingness to sign contracts covering agricultural workers was welcomed, if not encouraged, by the growers who faced the alternative of recognizing the UFWA as bargaining agent. Although wages and benefits are approximately the same under the contracts signed by the two unions, there are two important differences in the agreements. The IBT contracts do not contain the extensive pesticide restrictions included in the UFWA contracts, nor do they call for union hiring halls. To the UFWA, with their commitment to the subordination of production to the needs of the workers, these two provisions are the most important clauses in their contracts. To the growers, these provisions are unacceptable because they hinder their ability to control production.[2] The growers clearly prefer the cooperative IBT over the antagonistic UFWA.

In the fall of 1973, with George Meany serving as a mediator, the UFWA and IBT reached a tentative jurisdictional agreement which would have brought an end to IBT union activity in agriculture. However, the IBT recently announced that they would not honor the agreement.[3]

Potential for Growth

With over two million agriculture industry employees who do not

[2] For a more detailed discussion of the importance of control over the production process see Andre Gorz, *Strategy for Labor* (Boston: Beacon Press, 1967).

[3] "Meany Details Record of Teamster Farm Raid," *AFL-CIO News,* XVIII (December 1, 1973), p. 1.

belong to unions,[4] the UFWA and IBT have barely scratched the surface. The most promising approach for organizing low income agricultural workers is the UFWA's combination of community and union organizing. UFWA organizers are currently active all over California and in Arizona, Oregon, and Washington. Support is so widespread that UFWA officials have forewarned that a general strike in California agriculture is possible for next summer. Because community organizing is most effective where there are workers in year around residence, the greatest potential for UFWA type organizing east of the Rockies lies in Texas and Florida, the originating points for the Midwestern and Eastern migrant streams respectively.

Unless they shift from their "organize the growers" approach, the IBT's opportunity for expanding membership in agriculture lies with the UFWA. Where the UFWA has successfully organized the workers, most growers will turn to the IBT as a lesser evil.

The IBT's incursion into agriculture is unfortunate. Their presence will undoubtedly slow down union growth, since much of the UFWA's time and energy will necessarily be spent trying to regain contracts lost to the IBT. However, there is no indication at this time that the IBT will break the UFWA, especially with the extensive financial support being provided the UFWA by the AFL-CIO.

In recent years there has been substantial support in Congress for an amendment to Taft-Hartley extending its coverage to include agricultural workers, and there is a good possibility that such an amendment will be approved within the next few years. Coverage under Taft-Hartley, with agricultural workers' rights to choose a bargaining representative thus protected, would no doubt lead to an expansion of UFWA membership, in some cases at the expense of the IBT. However, the Taft-Hartley prohibition of secondary boycotts would inhibit the UFWA's economic power, and the prohibition of union hiring halls would limit the UFWA's contract demands.

Due to steady advances in mechanization, agricultural employment declined almost 40 percent from 1960 to 1970.[5] Employment reductions are expected to continue, which will eat into union membership in areas where workers are already organized. At the same time, however, mechanization will increase the potential for unionization among the workers who remain because they will be more highly skilled and less transient.

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[4] U.S., Bureau of the Census, *Nineteenth Decennial Census of the United States: 1970. Population,* I, p. 798.

[5] *loc. cit.*

Food Manufacturing

Food manufacturing is made up of several distinct industries (meat packing, baking, breakfast cereal, etc.), with market conditions and the extent of unionization varying considerably from one industry to the next. To further complicate the picture, 25 different unions represent food manufacturing employees.[6] In spite of the diversity some general observations can be made concerning the potential for union growth.

Food manufacturing is one of the more highly organized industrial sectors, with approximately two-thirds of production workers unionized.[7] The one food industry with considerable promise for union expansion is fruit and vegetable processing, which is for the most part unorganized except on the West Coast. Employees of food processing plants face some of the same conditions as agricultural workers, namely low wages and seasonal work. Because of these similarities food industry unions active among processing plant workers should consider adopting the UFWA model, combining union and community organizing.

Another relatively unorganized group of workers consists of southern food manufacturing employees. The organizing problems which arise in the south are well known and affect virtually all industries. Most food industry unions have used traditional organizing techniques in the south, stressing the improvements in wages and benefits which unions deliver, with little success. A notable exception is the Retail Wholesale and Department Store Union (RWDSU), which represents the primarily black work force in several Alabama food processing plants. RWDSU involvement in the civil rights movement in Alabama laid the groundwork for this organizing accomplishment. Following the RWDSU example, other food industry unions should consider going beyond typical organizing and should concern themselves with the particular needs and problems of southern workers, black and white, in order to erase their fear of unions and their distrust of "yankee" union organizers.

Impact of Mechanization on Union Growth

The most important problem facing unions in food manufacturing is mechanization. From 1960 to 1970 employment declined almost

[6] U.S., Bureau of Labor Statistics, *Directory of National Unions and Employee Associations 1971,* Bulletin No. 1750, 1972, p. 80. The unions with more than ten thousand members in food manufacturing are the Bakery and Confectionery Workers, the Distillery Workers, the Grain Millers, the Meat Cutters, the Retail Wholesale and Department Store Union, and the Teamsters.

[7] *ibid.,* p. 81

25 percent in the food industry compared to a seven percent employment *increase* in manufacturing as a whole.[8] This employment decline is expected to continue. In spite of losses due to mechanization major food industry unions have been able to maintain fairly stable membership levels through actively organizing the unorganized.

The prevailing attitude of union leaders is to accept mechanization in the food industry as a fact of life. They have responded with an attempt to soften the impact of mechanization on individual union members by bargaining for increased separation pay, early retirement, shorter work weeks, and in some cases retraining programs and transfer rights. This approach is aimed at forcing food manufacturing firms to bear the social costs of mechanization (namely the unemployment which results) and is understandable in the framework of orthodox economics.

The non-resistance of unions to mechanization derives from the prevalent attitude that mechanization is the natural result of technological change and is merely a reflection of the efficiency orientation of business. This narrow view has clouded the total picture, for behind these efficiency incentives lie power incentives. Union leaders and economists need to look beyond efficiency and consider the impact of mechanization on the social relations in production.[9]

Mechanization clearly weakens workers (and unions) vis-a-vis capital (and management). As Baumgartner and Burns observe, "While management is in a position . . . to create an alternative to labor in the form of machinery, . . . labor is generally unable to establish an alternative to the means of production controlled by management. This inequality in options assures employers dominant power over labor."[10] The most important part of the social relations between management and unions is control over the production process. Mechanization increases management's control.

With rapid mechanization the work rules negotiated by unions are eliminated. Unions are forced to concentrate their efforts on reducing the negative effects of technological change on employment. As a result it is not until mechanization stabilizes and unions are able to adjust to new job descriptions and work assignments that attention is again focused on establishing work rules in order to adapt production to the needs of the workers.

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[8] U.S., Bureau of the Census, *op. cit.*

[9] For a discussion of the historical evolution of the social relations of production see Stephen Marglin, "What Do Bosses Do?" (Cambridge, Mass.: Harvard University, August 1971). (Mimeographed.)

[10] Tom Baumgartner and Tom Burns, "Employer/Employee Power Relations, Capitalist Institutions, and Wage Levels" (Durham, N.H.: University of New Hampshire, Novmeber, 1973), p. 11. (Mimeographed.)

Typically food industry unions have conceded to management the right to make decisions regarding mechanization, trading control over production and employment for higher wages. As a result workers sacrifice what little influence they have over their jobs. Furthermore the relative power position of unions is worsened as management authority increases. If food manufacturing unions are to increase their membership and expand their power, they must develop a more aggressive strategy. This is not to say that unions should attempt to halt technological change. Rather, mechanization should be more carefully planned and, because they are profoundly affected, workers should participate in the decision-making process.

It is obvious that management will not grant workers an equal (or even subordinate) voice in mechanization decisions, for by making such a concession they would sacrifice their dominant position in the socal relations of production. Currently, unions in food manufacturing (with the possible exception of the Teamsters) do not have the necessary power to force such a change, and thus must find ways to improve their position. As a first step they should fight for restrictive work rules in order to regain parity in the power relationship with management. Furthermore, these unions should consider merging, or should at least establish formal cooperation.

Potential Advantages of Union Mergers

During the 1960's most of the organizing efforts of food manufacturing unions were wasted on raiding and jurisdictional disputes. Three recent horizontal mergers in meat packing (Meat Cutters and Packinghouse Workers), baking (Bakery and Confectionery Workers, and American Bakery and Confectionery Workers), and brewing (Brewery Workers and Teamsters) have eliminated most of the needless and divisive competition among food manufacturing unions. This should result in more effective organizing of the unorganized since resources have been pooled and competition has been replaced by cooperation. Future horizontal mergers would have a similar impact.[11]

As important as horizontal mergers are, however, vertical mergers (from the farm to the retail store) would contribute more to union power. With vertical integration, coordination of union activities at different stages of food production and distribution would be facilitated, and unions could make para-legal use of secondary strikes and

[11] Jerry Wurf, vice-president of the AFL-CIO, is a strong proponent of mergers because of the organizing gains which would result. Jerry Wurf, "Labor's Battle With Itself," *The Washington Post,* October 14, 1973, p. C1.

secondary boycotts.[12] These weapons would greatly augment the arsenal of food manufacturing unions and would make the erection of restrictive work rules and the acquisition of a voice in mechanization decisions attainable objectives.

Most unions in the food sector support the principle of mergers. However, further mergers among major food industry unions are unlikely in the near future because of political differences between unions and because union leaders seem unwilling to sacrifice their own power and prestige even in the interest of a stronger trade union movement.

Because merger prospects are not especially bright, attention should be focused on the formation of closer alliances. Mutual aid pacts, coordinated bargaining, joint organizing campaigns, and no raid agreements would promote organizing of the unorganized and would reenforce the power of individual unions vis-a-vis management. The Meat Cutters and Teamsters have long worked in such a cooperative way, and both have benefited. Other food manufacturing unions should set petty differences aside and follow their example.

[12] The Teamsters have successfully used such leverage techniques for years. For a detailed discussion of the bargaining power thus created, see Estelle James and Ralph James, "Hoffa's Leverage Techniques in Bargaining," *Industrial Relations* III (October, 1963), pp. 73–93.

The Emergence of Urban Low-Wage Unionism*

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This is an exploratory examination of the newly-emerging unionism among low-wage workers and among workers in traditionally low-rated jobs. The development is interesting and important because low-wage workers have been outside of the union orbit to a much greater degree than the higher paid. The problem we are addressing is: How does trade unionism enlarge its established orbit to encompass the low paid?

In the decade of the 1960's the Service Employees have increased their reported membership by almost 60%, the Laborers by 31.2%, Retail Clerks by 76.9%, the AFSCME by 111%, Retail, Wholesale and Department Store Union—which includes District 65—by 22.3%.** These compare to the general increase in union membership during this period of 12.5%.[1]

American unionism is evidently most closely associated with the middle range of the earnings distribution. In 1970 "nonunion workers tended to cluster more at the extremes of the earnings scale than union members.[2] Eighty-six percent of low-wage workers compared with 61% of all workers, were employed in nonunion establishments. . . ."[3]

This emergence of viable unions of the traditionally low paid reflects underlying changes in what I call union proneness. The low union proneness of the low paid has been due to (1) small-scale marginal employers with "relatively limited possibilities for producing higher wages,"[4] (2) a fragmented labor force hard put to maintain cohesive organization, and (3) the high cost of organizing under these

* The research reported here was supported by funds granted to the Institute for Research on Poverty at the University of Wisconsin pursuant to the Economic Opportunity Act of 1964. The opinions expressed herein are the author's alone.

** See Glossary for full titles

[1] Derived from *Directory of National and International Labor Unions,* U.S. Dept. of Labor, Bureau of Labor Statistics, 1961, 1963, 1965, 1969, 1971 incl.

[2] USDL, BLS, *Selected Earnings and Demographic Characteristics of Union Members, 1970* (Report 417. Washington: Government Printing Office, 1972), p. 2.

[3] S. Sternleib and A. Bauman, "Empolyment Characteristics of the Low-Wage Workers," *Monthly Labor Review* (July, 1972), p. 19.

[4] Ray Marshall, "Ethnic and Economic Minorities: Union's Future or Unrecruitable," *The Crisis in the American Trade Union Movement, (The Annals,* November, 1963), p. 69.

constraints. The low-wage condition is thus possibly a cause rather than a result of the low incidence of unionism.

Changes in union proneness are marked by major collective bargaining break-throughs in the low-wage sector, including retail trade and hospitals in the private sector, and correctional and mental institutions, hospitals, sanitation, custodian-janitors, and laborers in the public sector. Within the decade or so the Retail Clerks, Hospital Employees developing out of Local 1199, AFSCME nationally and in District 37 in New York, the Service Employees, Laborers, and Sanitation Workers have become important unions of workers normally at the bottom of the job scale. District 65 has been an important union of traditionally low-wage workers in trade for a much longer period. What appears to be in the making is a new breed of low-wage unionism populated in substantial part by black and Puerto Rican workers. Much of this new unionism is situated in New York with enough exceptions, however, to suggest that this is not altogether a New York phenomenon.

Collective bargaining has accelerated in the low-wage sector because, as we view it, some of the terms of union proneness have been altered. First, the scale of employer operations has increased; in retail trade RCIA notes "the increasing trend toward bigness and concentration."[5] Something more than half of the employees in private hospitals work in institutions with more than 500 employees. Large cities represent hospital employee concentrations ranging from 70,000 to 118,000.[6] For union organizing all of this means that concentrated employment makes for more economical organizing and servicing. The larger enterprise is likely also to be a more forthcoming bargaining partner.

Second, union prospects in the low-wage field have improved because state and local governments have become major sources of employment for lower-rated jobs. The stability of the government as employer thus contrasts with the characteristic marginality of the private low-wage employer. The opening up of state and local government as a market for union membership is in turn related to the legitimation of public-sector bargaining by law and custom and the "softness" of political managements in collective bargaining.

The cohesiveness of the black low paid has been strengthened by the morale effect of civil rights militancy. According to a survey of union organizing "many union leaders credit the Negro rights move-

[5] Retail Clerks International Association, *Proceedings* (Washington: 1967), p. 136.
[6] Walter J. Gershenfeld, *Labor Relations in Hospitals,* Paper, Temple University, March 28, 1968.

ment with motivating blacks to assert their rights in the workplace. There is much more 'stand up and fight' among Negro workers."[7] A. H. Raskin of *The New York Times* reported: "Part of the spur for the special pressure of those at the foot of the ladder comes from the revolution the civil rights and anti-poverty movements have brought in the attitudes and aspirations of many Negroes, Mexican-Americans, Puerto Ricans and others long excluded from equal opportunity."[8]

The final term of union proneness is the effectiveness of the union performance. First of all these newer unions in low-wage employment are all industrial unions, which makes them more receptive to the low paid. Indeed, the Laborers (which used to be a kind of craft union) with membership in construction, modular housing, bluecollar public employment, is beginning to look more like a general union of the low paid.

To be more specific about individual unions: the Laborers'—it has always been a union of unskilled and semiskilled—more aggressive organizing coincided with a decline in the construction industry share of its membership in the early to mid-1960's. Something like 40% of the Laborers' members are blacks, Chicanos, Puerto Ricans, so the public-sector low paid is a "natural market" for its organizing effort.[9] Local 1199, originally a pharmacists' union, hurting from the deteriorating economic situation of New York City drug stores, was quick to respond to a proposal in 1959 to organize hospital workers.[10]

The Service Employees also has expanded in the fields it has always been in. Earlier known as the Building Service Employees, this union has been traditionally the union of the building janitors and elevator operators. "We don't organize anybody . . . who isn't in the poverty class. Everybody that we touch with a union card is in this poverty group and needs a union to get out of it."[11]

Leadership of these union has been take over by dynamic activist types. Reporting on the changes in AFSCME during his incumbency Jerry Wurf said, "We have taken giant steps to change the tone and nature of this organization and to make it a real trade union with marrow in it bones and blood in its arteries."[12] Gotbaum took over

[7] "Where Unions Win New Recruits," *Business Week*, Nov. 2, 1968, p. 120.
[8] A. H. Raskin, "Two Way Pull in City's Wages," *The New York Times*, July 1, 1968.
[9] Sterling Spero and John M. Capozzolla, *The Urban Community and Its Unionized Bureaucracies* (New York: Dunnellen Pub., 1972), p. 22.
[10] Abraham Nash, "Labor Management Conflict in a Voluntary Hospital" (Unpublished Ph.D. Dissertation, New York University, 1972), p. 53.
[11] David Sullivan, "Labor's Role in the War on Poverty," presented by Thomas Donahue to Seminar on Manpower Policy and Program, USDL Manpower Administration, Washington, April, 1967, p. 19.
[12] Jerry Wurf in *AFSCME Convention Proceedings* (1968), p. 19.

from Wurf in New York and continued the latter's hard-driving, innovative, articulate and high-pressure brand of unionism. Membership in New York's AFSCME has tripled since Gotbaum took over.

In the Retail Clerks, James Suffridge who presided over the union during its great growth period has been described as "aggressive, competent and able to seize upon the possibilities which the development of the industry afforded."[13] David Sullivan, and George Hardy—his recent successor as president of the Service Employees—have both been activists, in contrast to the traditional laissez-faire attitude to the locals characteristic of this national union. During his tenure as head of the California organization of SEIU Hardy was known as "our District 50 leader of the Mine Workers in SEIU," implying free-wheeling organizing; "organize first and then ask later."[14]

The major ingredient in the new unionism in the low-wage sector is the attention paid to organizing as a specialized function. In the national union this is likely to mean the establishment of well-manned organizing departments, assistance in money and manpower to local organizing activities and public relations, research, legal aid and staff training to back up the organizing effort.

Low-wage workers are normally not self-organized. Almost all of the low-wage organizing situations examined here became viable only as the result of external aid from an outside union, often a national union. To be sure, the external effort is based on internal discontent. But it took the organizational and financial resources of the outside union to convert discontent into unionism. The Montefiore Hospital workers "were unable to develop their own leadership and their own ideology" until Local 1199 appeared on the scene.[15] In a Laborers' organizing drive of black manual workers employed in a large southern city even the threat of strike couldn't get the large city council to listen to the workers' demands until a national union representative spoke with the authority and prestige of the national organization.[16]

The relatively large numbers of black workers among the low paid has prompted the interlocking of civil rights and trade unionism—as in Memphis, Charleston and the New York paraprofessionals. The Memphis local of city employees had been chartered by AFSCME in 1964 but the 1968 strike was ignited by an isolated incident of discrimination which escalated into a racial confrontaton and a "rallying point for airing the deeper dissatisfactions of the Negro community." Looking back on the events, two scholars concluded that "the coalition

[13] Michael Harrington, *The Retail Clerks* (New York: Wiley, 1962), p. 82.
[14] Service Employees International Union, *Convention Proceedings* (1968), p. 212.
[15] Nash, p. 70.
[16] Interview (1973), p. 12.

of the civil rights movement and organized labor was a significant element leading to the dispute."[17]

Charleston, South Carolina, was the staging area for what Ralph Abernathy called "the marriage of the SCLC and Local 1199."[18] The 1968 strike of 500 black hospital workers in Charleston lasted for 113 days and became an all-encompassing civil rights struggle. After the strike, *The Charleston Post* pointed to "the growing power of elements of the community who have hitherto been relatively voiceless."[19]

The background for UFT's organizing of paraprofessionals, i.e. teachers' aides, was the earlier massive confrontation between the black activist forces seeking to assert an overriding interest in job and union security. UFT "took a special interest in the new school personnel as an opportunity to strengthen the community-teacher alliance to provide the schools with additional personnel and to further integrate the teaching staff."[20]

Organizing of workers in hospitals and sanitation has been accompanied by "brinksmanship" in strike tactics and related sanctions. "Do we encourage these people to go out on strike," a Service Employees officer asked, "knowing we are not going to have an ounce of community support when we go?" His answer—our "union is community-related and community-interested, but it has never subjugated its own goals to the whims of the community."[21]

Local 1199 has fallen in with the temper of civil rights militancy and confrontation, "imprisoning hospital executives in their offices while black delegates 'tell it like it is,' and staging 'high noons' at which all union workers walk out in a show of strength."[22] Gotbaum has said, "If you don't go to jail you don't have credentials."[23] Strikes by sanitation employees, "usually among the lowest paid public workers in a community," are exceeded only by teachers. There were no hospital strikes in 1960 but between 1966 through 1970 more than

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[17] W. Ellison Chalmers and Gerald W. Cormick, *Racial Conflict and Negotiations* (Institute of Labor and Industrial Relations, University of Michigan-Wayne State University and others, Ann Arbor-Detroit, 1971), pp. 77–100 *passim.*

[18] A. H. Raskin, "A Union with a 'Soul.'" Reprint from *The New York Times Magazine,* March 22, 1970, n.p.

[19] Jack Bass, "The Charleston Strike," Reprint by Local 1199 from *New South* (Summer, 1969), p. 9.

[20] Velma Hill, "A Profession with a Promise," *American Federationist* (AFL-CIO, July, 1971, pp. 20–22 *passim.*

[21] Sullivan, pp. 25, 33.

[22] Raskin, March 22, 1970.

[23] "City Strike Leader: Victor Harry Gotbaum," *The New York Times,* June 8, 1971, p. 16.

100 strikes broke out.[24] In lieu of striking, employees calling in sick and sit-ins in hospitals have not been rare.[25]

Brinksmanship in the union view is frequently essential to bring their managements to the bargaining table. "The union's headache (according to Raskin) is that it cannot win recognition without demonstrating more clearly than it has up to now that it can cripple the hospitals."[26]

The low-wage unions, both old and new, find legislation and politics as necessary as collective bargaining. Minimum wage legislation by raising the wages paid by unorganized employers makes the competitive position of the unionized employers more tolerable. Labor relations laws protecting unions and collective bargaining have undoubtedly been the single most important influence in the advance of unionism in the public sector.

AFSCME and SEIU had much to do with the enactment of an amendment to FLSA making its wage and overtime provisions applicable to employees of schools and hospitals. The NLRB decisions extending jurisdiction over proprietary hospitals arose out of cases initiated by SEIU and AFSCME. (168 NLRB 53) "Following these landmark decisions," the SEIU reports, "many of our locals immediately instituted intensive organizing drives."[27] Other legislative aims enlisting virorous union activity include a Wagner Act-type federal labor relations law for state and local government and removal of the NLRB exemption of nonprofit hospitals.

Power and influence in government derives from political power. For public-sector unions this operates doubly because government is also employer. The Sanitation Workers Union has been described as "more political machine than union."[28] Gotbaum observes that many issues are resolved by "political agreements with the mayor rather than agreements worked out through normal collective bargaining:"[29]

Training has become important for unions of the low paid as a way of building a passageway between secondary and primary labor markets. Training serves as an inducement for the low-wage employer to accept the union as a constructive force in the advancement of the

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[24] USDL, BLS, *Work Stoppages in Government, 1958–1968* (Report 348. Washington: GPO, 1970), pp. 5–6.

[25] John Sibley, "City's Hospitals Hit by Job Action," *The New York Times,* April 20, 1972.

[26] A. H. Raskin, "Hospitals: Both Sides are Firm," *The New York Times,* May 24, 1959.

[27] SEIU Convention, 1968, p. 243.

[28] A. H. Raskin, "Politics Up-Ends the Bargaining Table," *Public Workers and Public Unions,* ed. Sam Zegoria (Englewood Cliffs, N.J.: Prentice-Hall, 1972), p. 133.

[29] Victor Gotbaum, "Collective Bargaining and the Union Leader," in *Public Workers and Public Unions,* p. 86.

enterprise, as in the case of the Laborers.[30] New jobs require that the worker "have special skills (which) can best be attained through training."[31] The Laborers rate training highly enough to negotiate training funds through collective bargaining as well as federal subsidy—which measures in some degree the importance which the union attaches to the demand.

Training for upgrading serves to stabilize union membership in the otherwise high-turnover employment in low-wage industry. "The union is not well served if there is a large turnover, low-paid membership. . . We just can't have this revolving-door type member."[32] Nor is the union served well as an institution with a membership permanently and hopelessly consigned to inferior job status, especially if color and race become the badge of inferiority.

Gotbaum's objective in creating an ambitious upgrading program "has been and will continue to be to wipe out dead-end jobs."[33] District 37 sponsors a program for high school equivalency which will prepare graduates to "climb the Civil Service promotional ladder to positions requiring the High School Diploma."[34]

More recently the District set up a D.C. 37 campus with credits leading to a degree approved by the College of New Rochelle. The college will "maintain a program of flexibility geared to the specific needs of working adults and responsive to the career aspirations of the workers in the many titles now represented by the union."[35] The purpose "is to upgrade workers, not to make them better employees: to make a typist a secretary, not a better typist. Patricia Sexton judges that District 37 in this and other activities "has probably done more to lift up the poor than programs specially designed for that purpose. It has raised wages, pensions, medical and dental care, though many public workers are still over the poverty line. It has trained leaders and organized people to influence their own lives."[36]

Administrators in hospitals organized by Local 1199 agreed that the union has helped to reduce turnover and raised the status of blue-collar workers. They perceive the blue-collar employees as having enhanced the hospital workers' self-esteem and their status generally—accordingly, employees are treated with more respect. The union has

[30] Interview (1973), pp. 5, 6.
[31] Laborers' International Union of N. A., *Laborers' Education and Training* (Washington: The Union, n.d.), p. 1.
[32] Interview (1973), p. 2.
[33] Interview (1969).
[34] "Union College: City Worker's Dream Come True," *Public Employee Press* (District Council 37, AFSCME, September 15, 1972), p. 13.
[35] *Ibid.*, p. 11.
[36] Patricia Cayo Sexton, "Organizing a Labor College," *Dissent* (Summer, 1973).

also facilitated upward mobility. Negotiated seniority has made it possible for workers from inside to be given preference for the better jobs. Workers now find it easier "to move from a low-status department (housekeeping) to a higher-status department (nursing)."[37]

An established white leadership must give ample recognition to the power and ideological interests of diverse ethnic groups that are likely to be the major membership base of the low-wage union. Local 1199 has been "enterprising . . . in seeking out, developing and utillizing leadership potential among its black and Puerto Rican rank and file."[38] Almost alone among the New York City unions it supported the forces of "community control" in the great black confrontation with the UFT. District 65 reorganized its union structure, in the words of its president, "to more fully develop the multi-racial leadership of the union."[39] AFSCME developed an internal training program for prospective staff "to offer an avenue to upward mobility for some of our members because prospective AFSCME organizers will be recruited from our members."[40]

The unions of the low paid seek to mean something more to their constituents than to increase the price of labor. An 1199 brochure says, "Our union is more than a contract, a few dollars in our pay envelopes, a better welfare or a bigger pension."[41] Programs carried on by unions of the low paid include training for upgrading and literacy; health care, e.g. comprehensive negotiated plans, health education, and union pharmacies; activities for members' children, e.g. college scholarships and summer camps; and a variety of personal services including legal aid, credit unions, counseling and neighborhood centers.

Effective unionization of the low paid is associated wth a strong social justice interest on the part of the union. Social justice in this context means: (1) the degree to whch the union goes beyond the negotiation of a simple price of labor, and (2) the degree to which the union goes beyond its own constituency in calculating the impact of its actions and policies. The union utilization of training to lift workers out of their structural low-wage condition illustrates the first criterion, and the association of trade unionism with civil rights aims illustrates the second.

What we have done here is to offer a concept of the union proneness of low-wage workers in assorted public and private employments.

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[37] See Nash, pp. 282, 284.
[38] Raskin, March 22, 1970.
[39] James Barnett, "Trade Union Social Justice in Action" (Unpublished paper, University of Wisconsin, 1971), p. 8.
[40] *AFSCME Convention Proceedings* (1970), p. 431.
[41] Local 1199, *Fact Sheet*, New York, Dec. 8, 1970.

The low-wage worker, we argue, has become more union-prone because: (1) Government is a more stable employer of the low paid and can be more responsive to union demands than are private sector low-wage employers. (2) Low-wage workers have achieved a larger measure of cohesiveness due in some degree to civil rights consciousness. The union conditions of union proneness have been realized through (a) dynamic leadership, (b) militant and efficient organizing, (c) infusion of union activities with a strong civil rights and ethnic temper, (d) innovative social justice programs, and (e) aggressive legislative and political support for union bargaining goals.

GLOSSARY

ACWA	Amalgamated Clothing Workers of America
AFL-CIO	American Federation of Labor-Congress of Industrial Organizations
AFSCME	American Federation of State, County and Municipal Employees
BLS	Bureau of Labor Statistics (U.S.)
FLSA	Fair Labor Standards Act
ILGWU	International Ladies' Garment Workers' Union
Laborers	Laborers' International Union of North America
NLRB	National Labor Relations Board (U.S.)
RCIA	Retail Clerks International Association
SCLC	Southern Christian Leadership Conference
SEIU	Service Employees International Union
UFT	United Federation of Teachers
USDL	Department of Labor (U.S.)

X. IRRA ANNUAL REPORTS FOR 1973

IRRA EXECUTIVE BOARD SPRING MEETINGS

May 2 and 5, 1973, Kingston and Montego Bay, Jamaica

The Executive Board of the Industrial Relations Research Association met from 7 p.m. to 10 p.m., May 2, 1973, and from Noon to 2:30 p.m., May 5, 1973. The meetings were attended by President Douglas Soutar, Secretary-Treasurer David Johnson, Editor Gerald Somers, incoming Secretary-Treasurer Richard U. Miller, Board Members Arvid Anderson, Joseph Goldberg, Wayne L. Horvitz, Philomena Marquardt Mullady and Leonard Sayles, Executive Assistant Elizabeth Gulesserian, IIRA President B. C. Roberts, Jim Weller of Jamaica Ministry of Labour, Local Arrangements Chairman R. B. Davison of Jamaica and Atlanta Local Arrangements Chairman Michael Jedel.

The meeting was opened by President Douglas Soutar who asked the Secretary-Treasurer to provide a financial report. Secretary-Treasurer Johnson distributed a financial statement, but indicated that the spring figures mean little because the receipts are determined by the timing of the mailing of notices to members. The December financial statements are more reliable for this reason.

The Secretary-Treasurer announced that the ballot count in the referendum on a dues increase was 305 in favor and 89 opposed. Thus the IRRA's Bylaws are officially changed to indicate an increase of annual dues for regular members to $15 and an increase in life membership payments to $200. Mr. Johnson also reported that all of those who had been selected by the Nominating Committee as candidates for IRRA office in 1974 had accepted the nomination. He also reported that the *Membership Directory Handbook* was in the final stages of completion and would be available for distribution to members shortly after the Spring Meetings.

Editor Gerald Somers reported that the *Proceedings of the 25th Anniversary Meeting* would be distributed to members in May. He indicated that all the papers for the 25th anniversary volume, *The Next Twenty-Five Years of Industrial Relations,* had now been received. The complete manuscript would be submitted to the printer in time for a fall publication. The Editor reported that George Strauss, chairman of the Editorial Board for the 1974 research volume, was making good

progress in the arrangements for that volume, tentatively entitled, *Research in Organization Behavior*. Serving with Mr. Strauss on the Editorial Board were Ray Miles and Arnold Tannenbaum. All of the authors for the volume had not accepted the invitation to contribute chapters and their drafts were to be received by the fall of 1973.

The Board decided that the research volume for 1975 would deal with the relationship of collective bargaining to productivity, performance standards and work effectiveness. The Editorial Board would consist of Arvid Anderson, Malcolm Denise, Nat Goldfinger, Wayne Horvitz, and Leonard Sayles, under the general coordination of Gerald Somers. Members of the Editorial Board were to send suggestions for chapters and authors to Gerald Somers as soon as possible; and these suggestions were to be circulated among the members of the Executive Board for their reaction before a final list of chapter titles and authors was determined.

The Board also agreed on the topic, "A Review of Labor and Social Legislation Since the 1930's" as the tentative title for the 1976 research volume. This decision would require confirmation by the Executive Board at the December meeting.

Douglas Soutar discussed local arrangements and program arrangements for the December meetings in New York City. He indicated that local arrangements were being handled by a committee under the chairmanship of Eileen Ahern. Plans were being made to conduct a separate registration for IRRA members at the New York meetings. The program committee was composed of 21 persons. Mr. Soutar noted that he planned to have more plenary sessions and fewer simultaneous sessions as compared with previous annual meetings. He also noted that there would be greater emphasis on practical subjects and that the program would include fewer "formal" discussants in order to provide more time for informal discussion. Among the topics being considered were: comparative international labor relations, the multi-national corporation, incomes policies, power blocs and the redistribution of income, the scope of collective bargaining, codetermination, recent developments in collective bargaining, labor costs, multiple bargaining, public employee bargaining, anti-trust legislation, pension legislation, minimum wage legislation, and collective bargaining, manpower and welfare policies, and the health of the free enterprise system.

After a report by Michael Jedel, there was some discussion of the Spring Meeting in Atlanta in 1974. Following an expression of views about which hotel should be used as headquarters, the Madison secretariat was instructed to proceed with appropriate arrangements after discussions with President-Elect Nat Goldfinger.

After some discussion of the need and feasibility of a board meet-

ing of the Executive Board in the fall, it was decided to leave this question for a later decision.

President Soutar discussed the need for establishing new local chapters, especially in the Northwest, and he asked Board members to assist in identifying likely locations for new chapters. He also indicated that the Board could serve a useful role in providing advice to federal agencies, as in the case of an earlier meeting with the Assistant Secretary of Labor.

After some discussion, it was decided that the Executive Board should ascertain the views of IRRA members on continuing ties with the Allied Social Science Associations at the ASSA meetings scheduled for December 1974, October 1975, September 1976, December 1977, and August 1978. Views were also to be obtained concerning the establishment of a $2 local chapter membership fee to be paid to the National IRRA. Members of the Executive Board were to receive a letter from the secretariat discussing the procedures and wording of a survey of membership views on these matters before any formal action was taken.

IRRA EXECUTIVE BOARD WINTER MEETING
December 27, 1973, New York City

The meeting was held at 7:00 p.m. Thursday, December 27, 1973, President Douglas Soutar presiding. The meeting was attended by incoming President Nathaniel Goldfinger, 1974 President-Elect and Editor Gerald Somers, Secretary-Treasurer Richard Miller, and Board Members Arvid Anderson, Malcolm Denise, Walter Fogel, Joseph Goldberg, Leonard Hausman, Graeme McKechnie, Philomena Mullady, Sylvia Ostry, Rudolph Oswald, Herbert Parnes, Jerome Rosow, David Salmon, Leonard Sayles, George Strauss, and Donald Wasserman. Eileen Ahern of New York and Michael Jedel of Atlanta represented their local arrangements committees at the Board Meeting.

Secretary-Treasurer Miller reported the results of the annual election of IRRA officers as follows: Nathaniel Goldfinger, President, Gerald Somers, President-Elect, and Walter Fogel, Graeme McKechnie, Jerome Rosow and David Salmon, Executive Board.

He reported that a comparison of the membership mailing list for November 1973 with that of November 1972 showed a decrease of 114. However, the precise magnitude of the decline as well as its cause was uncertain at this time because of differences in procedures adopted in 1973 compared with 1972, resulting from the change to a computerized mailing list. A more accurate determination of change in the membership would not be possible until later. He noted also that the com-

puter analysis of the membership composition confirmed earlier suspicions that relatively small proportions of women, young people and members of racial minorities are IRRA members. Further, the analysis of membership composition showed that only ¼ of those who were reported as local chapter members were also members of the national IRRA in 1972–1973. In addition, a substantial proportion of national members, (sixty-six per cent) are not members of local chapters.

The Secretary-Treasurer indicated that the financial report of November 1973 showed a deficit of $4265.33, attributable to general increase in the price level, the timing of expenditures for publications such as the 1972–73 *Directory,* the expenses incurred in the changeover to a computerized mailing system, and the cost of meetings. The major increases in expenses were those associated with items not likely to occur again for some time. It is anticipated that the dues increase enacted for 1974 will help to restore a favorable balance.

President Soutar announced that the survey of members concerning continued affiliation with the Allied Social Science Associations resulted in a substantial majority in favor of the affiliation. Consequently the IRRA would continue to meet with the ASSA at the annual winter meetings. Mr. Soutar also asked for and received approval of the admission of the following local chapters: Gateway (St. Louis), Central California Coast (San Luis Obispo), and Northwest (Seattle).

Mr. Soutar discussed the possibilities of promoting additional local chapters and referred to a list of inquiries which had been received from persons with an interest in forming local chapters.

Mr. Soutar and Mr. Miller discussed the responses of local chapter presidents to an inquiry about means by which the national IRRA might recoup the cost of providing services to the growing number of local chapters. Although the initial reaction of local chapter presidents was negative to the possibility of a per capita payment, the Board discussed alternative procedures for obtaining local chapter assistance or increasing the number of national members in local chapters. It was decided that the matter would be discussed further at the meeting of local chapter presidents as well as at the general membership meeting and that the IRRA president would appoint a committee to explore this question and make recommendations to the Board in time for action at the spring meeting in Atlanta.

Mr. Miller brought to the Board's attention a letter from Mr. John Waddleton, President of the Wisconsin IRRA Chapter, in which it was requested that the Executive Board approve a recent change in the Wisconsin Chapter bylaws. Since the Wisconsin Chapter did not accord voting rights to student members (who paid lower dues than

regular members), it was decided that the Wisconsin Chapter bylaws were not consistent with the national IRRA bylaws. The request was therefore rejected with the suggestion that the matter should be reviewed by the IRRA's general counsel, Fred Livingston.

Editor Somers called upon Executive Board member George Strauss to give a report of the 1974 research volume tentatively entitled "Research on Organization Behavior: Implications for Public and Private Policy." Mr. Strauss indicated that all of the final manuscripts would be received by March, in time for publication and distribution in 1974. There was discussion of possible chapters and authors for the 1975 research volume tentatively entitled, "Collective Bargaining and Productivity." The editorial board for the volume was to meet the following day and reach final decisions concerning the content of the volume.

The discussion of the 1976 research volume focused on two principal possibilities: Evaluation of the Social and Labor Legislation of the 1930's, and An Analysis of the Impact of Anti-Discrimination Legislation. Joseph Goldberg agreed to circulate a proposed table of contents for the first suggested topic, and Leonard Hausman agreed to circulate a proposed table of contents for the second proposed topic. Other possibilities were discussed, and Board members were urged to circulate a draft proposal for any topic which they wished to Board to consider at its next meeting.

In the absence of Phyllis Wallace who chaired a committee to recommend membership policies, Richard Miller reported on the small proportion of women, minorities and young people among IRRA members. The Board discussed procedures for increasing membership from these groups. It was indicated that the lower dues for student members were designed to increase the affiliation of young people. It was pointed out that the selection of topics and participants for IRRA meetings and research volumes was critical for the attraction of groups not now well represented in the Association's membership.

The Board accepted the invitation of the Connecticut Valley Chapter to hold the 1975 Spring Meeting in Hartford, Connecticut.

Incoming President Nat Goldfinger reported on his plans for the spring meeting in Atlanta. Two of the sessions would be concerned with regional issues and one would relate to national problems. Mike Jedel, of the Atlanta Chapter, discussed local arrangements. Arvid Anderson noted the conflict in the dates for the Atlanta meeting with those of the National Academy of Arbitrators in Kansas City in April 1974. The oversight was regretted by the Board, but it was decided that there should be no change in dates at this late stage of the arrangements.

Incoming President Nat Goldfinger indicated that he would establish a program committee for the Atlanta meeting as well as a committee for the San Francisco meeting to be held December 28–29, 1974.

Richard Miller presented a request from Professor Donald Schwab for endorsement of a study of the IRRA membership. Feeling that endorsement would establish an undesirable precedent, the Board decided that the research should not be officially endorsed by the IRRA.

President Douglas Soutar led a discussion of the role which the IRRA might play in advising government agencies and organizations concerning industrial relations research.

George Hildebrand presented the report of the nominations committee. The Board approved the nominations.

The meeting adjourned at 11:30 p.m.

IRRA GENERAL MEMBERSHIP MEETING

December 28, 1973, New York City

The meeting was opened at 5:00 p.m. by Douglas Soutar who formally transferred the Presidency to President-Elect Nat Goldfinger during the course of the meeting.

President Soutar summarized the major decisions and actions of the Executive Board at its meeting on December 27. He called upon Secretary-Treasurer Miller to report on the membership and the finances of the IRRA. The reports were similar to those indicated in the minutes of the Executive Board (preceding pages).

President Soutar indicated that the members had voted to retain affiliation with the ASSA, and he led a discussion on the relationship of the local chapter members to the national IRRA. Various alternative procedures for local chapter contributions to the national organization were presented, and Mr. Soutar reported that a committee was being appointed for further analysis of this problem before any action was taken by the Executive Board. Mr. Soutar also explained the decision of the Executive Board concerning the bylaws of the Wisconsin Chapter.

Editor Somers reported on the status of the 1974 research volume which was proceeding under the editorial chairmanship of George Strauss. He indicated the plans for the 1975 research volume, tentatively titled, "Collective Bargaining and Productivity," and he presented some of the suggestions that had been made for the 1976 volume. He urged members to submit suggestions for these volumes as soon as possible.

President Soutar announced that the Executive Board had rejected

a request for IRRA endorsement of a study of its membership by a faculty research investigator, and he reported on the Board's approval of the nominations presented by the Nominating Committee headed by George Hildebrand.

Mr. Soutar announced that the Executive Board had selected Hartford, Connecticut as the site for the 1975 spring meeting. He turned the meeting over to the incoming president, Nat Goldfinger, for a discussion of his plans for the 1974 meetings in Atlanta and San Francisco. Mr. Goldfinger sketched out some of his tentative plans for the Atlanta meeting and asked members to submit suggestions for that meeting as well as the winter meeting in San Francisco. The meeting adjourned at 5:45 p.m.

IRRA LOCAL CHAPTER REPRESENTATIVES MEETING

December 29, 1973, New York City

The luncheon for IRRA local chapter presidents was held at 12:30 p.m. on Saturday, December 29, 1973, in the Barbizon-Plaza Hotel. IRRA Secretary-Treasurer Richard Miller presided. The following were in attendance: Nathaniel Goldfinger, IRRA President, Gerald Somers, IRRA President-Elect and Editor, Eileen Ahern, New York local arrangements, and chapter representatives Mike Jedel (Atlanta), Marcia Greenbaum and Edward Sullivan (Boston), Sara Behman (Central California Coast), Peter Hebein (Chicago), Mark Kahn (Detroit), Gil Rutman (Gateway, St. Louis), Edward Herman (Cincinnati), Roy Adams (Hamilton), Cheryl Abramson and Linda Hochman (Michigan State), Donald Rock (New York Capital, Albany), Stuart Klein (Northeast Ohio, Cleveland), L. G. Harter (Northwest, Seattle), Gladys Gershenfeld (Philadelphia), Victor Fruehauf (Rocky Mountain), Ronald Weakley (San Francisco), Paul Prasow (Southern California), Thayne Robson (Utah), Morag Simchak and David Waugh (Washington), Gerald Tompkins (Western New York, Buffalo) and Robert Garnier (Wisconsin).

Secretary-Treasurer Richard Miller opened the meeting by discussing the relationship of local chapter membership to the national IRRA. Data from surveys conducted in 1972 and 1973 revealed that only a small proportion of local chapter members were also national members and that many national members were not affiliated with local chapters. He also reported on the financial status of the national IRRA along the lines indicated in the Executive Board minutes.

Following brief reports on their chapter procedures and activities made by Marcia Greenbaum, President of the Boston Chapter, and

Mike Jedel, President of the Atlanta Chapter, the remainder of the meeting was devoted to a discussion of the means by which a closer relationship could be developed between local chapters and the national IRRA. Chapter presidents and other representatives discussed the reaction of their membership to the possibility of a per capita payment to the national office and urged that there be local chapter representation on the committee to study this question. It was agreed by President Nat Goldfinger, who was charged by the Executive Board with the responsibility of appointing the committee, that local chapter representation would be forthcoming.

Among the suggestions made for improved chapter-national relations were the following:

(1) Schedule future chapter presidents' meetings so that they are held before the national Executive Board meeting, and the costs of the luncheon be paid by the individual chapter representatives attending

(2) The local chapters enclose national membership solicitations with their own mailings

(3) National publications should be displayed at local chapter meetings

(4) A national membership card be issued to national members to lessen the confusion in differentiating between national and local chapter memberships. Some chapters have issued their own chapter membership cards

(5) An increase of national dues which would cover local chapter membership

(6) Institutional memberships (government, union, etc) for as much as $300 which would cover a limited number of individual members of the institution, and

(7) Each chapter officer take home a personal commitment to increase national membership, and each chapter insure that their officers are members of the national IRRA in accordance with the constitutional provision.

President Goldfinger discussed his tentative plans for the 1974 meetings in Atlanta and San Francisco and urged chapter members to submit suggestions for topics and speakers at those meetings.

A question was raised concerning the methods by which Executive Board nominees are chosen, and in response a nominating committee reference packet was circulated for inspection by local chapter representatives. The reference packet included cumulative lists of members' suggestions for Executive Board nominations from 1967–1973.

EXECUTIVE BOARD, Industrial Relations Research Association:
We have examined the statements of cash receipts and disbursements, and cash and investments of the Industrial Relations Research Association for the year ended November 30, 1973. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the recorded receipts and disbursements and such other auditing procedures as we considered necessary in the circumstances.

In our opinion the accompanying statements referred to above present fairly the recorded cash transactions of the Industrial Relations Research Association for the year ended November 30, 1973, and the cash and investments at the beginning and end of the year.

December 12, 1973
Madison, Wisconsin

SMITH & GESTELAND
Certified Public Accountants

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION, Madison, Wisconsin
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
For the Years Ended November 30, 1973 and 1972

	1973	1972	Increase (Decrease)
Cash and investments—December 1	$12,629.12	$16,044.50	$(3,415.38)
Cash receipts			
Membership dues	$36,078.00	$22,394.16	$13,683.84
Subscriptions	3,665.00	6,070.00	(2,405.00)
Sales	4,866.76	5,231.27	(364.51)
Royalties	601.27	693.75	(92.48)
Mailing list	758.00	744.50	13.50
Travel, conferences and meetings	5,792.36	2,386.24	3,406.12
Interest income	627.36	745.18	(117.82)
Gain on sale of securities	542.77		542.77
Miscellaneous	73.90	34.50	39.40
Total cash receipts	$53,005.42	$38,299.60	$14,705.82
Cash disbursements			
Salaries and payroll taxes	$14,829.11	$14,622.24	$ 206.87
Retirement plan	1,779.47	1,814.64	(35.17)
Postage	2,152.42	1,403.17	749.25
Services and supplies	3,890.92	2,522.10	1,368.82
Publications and printing	26,952.86	17,810.04	9,142.82
I.R.R.A. Conferences and meetings	7,119.59	2,759.82	4,359.77
Telephone and telegraph	221.05	352.46	(131.41)
Miscellaneous	325.33	430.51	(105.18)
Total cash disbursements	$57,270.75	$41,714.98	$15,555.77
Excess of (disbursements) over receipts	$(4,265.33)	$(3,415.38)	$ (849.95)
Cash and investments—November 30	$ 8,363.79	$12,629.12	$(4,265.33)

STATEMENT OF CASH AND INVESTMENTS, November 30, 1973 and 1972

Cash		1973	1972
Checking account—First Wisconsin National Bank of Madison		$ 1,135.93	$ 1,096.24
Savings account—First Wisconsin National Bank of Madison		37.18	35.55
Golden Passbook—First Wisconsin National Bank of Madison		632.30	514.33
Corporate Bonds (at cost)	Bond Number		
$3,000 United Gas Pipeline Co. 5%—3/1/78 (market value 11/30/73—$2,603)	B 218	$ 2,419.62	$ 2,419.62
3,000 American Telephone & Telegraph 3-3/8%—12/1/73 (market value 11/30/73—$3,000)	119-898/900	2,663.88	2,663.88
8,000 Commonwealth Edison 3% 2/77			5,899.50
2,000 Commonwealth Edison 3% 2/77 (market value 11/30/73—$1,723)		1,474.88	
Total Cash and Investments		$ 8,363.79	$12,629.12

ALPHABETICAL LIST OF AUTHORS

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