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PREFACE

The question of the day at the 1982 Annual Meeting—and possibly the question of the decade—was "Is collective bargaining changing?" It was the topic of two of the New York sessions and a question that seemed to emerge over and over again in a number of the others—Challenges to Trade Unionism, Labor-Management Cooperations, and the Reagan Administration's Industrial Relations Policies.

Milton Derber, in his Presidential Address, asked a related question, "Are we in a new stage?" of industrial relations and concluded that, indeed, we are as the parties "continue to be confronted by strong external competition and conditions which represent threats to their very survival." He anticipates "some significant tilting in the mutualistic direction," but, at the same time, that unionism and collective bargaining will continue to function in major segments of American industry.

In his address, "Manpower Policy and Industrial Relations in Britain," the Distinguished Speaker, Thomas L. Johnston, concentrated on the role of the Manpower Services Commission in British manpower policy, describing in detail the development of its major activities—matching employment demand and supply through a network of employment exchanges and overseeing training programs for both youth and adults. He expects both activities to assist in bringing the parties to collective bargaining together to respond to the changing needs of the labor market for occupations.

Two meeting sessions were on comparative industrial relations—one on Canadian and U.S. federal-sector strike experience and another on similarities and differences between Japan and the U.S. Considered in other sessions were such current topics as comparable worth, implicit contracting, trends in discharge, and grievance mediation.

The New York Annual Meeting was the last that Betty Gulesserian attended in her official capacity as IRRA Executive Assistant, as she retired in March 1983 after 22 years of devoted service. Her contributions to the Association were recognized at the Presidential luncheon.

The Association is grateful to the New York chapter and to members of the local arrangements committee—Martin Ellenberg, Roy B. Helfgott, Kitty Coburn, Philip Harris, Miriam K. Mills, and Lois Rappaport—for their generous contributions to the success of the 1982 Annual Meeting, and to the National Office staff for their help in all facets of planning and management.

Barbara D. Dennis
Editor

You are invited to become 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. 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 multi-party 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 5,000 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 as well as industrial relations. 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 Meeting, Proceedings of the Spring Meeting,* a special research volume (*Membership Directory* every six years), and quarterly issues of the *Newsletter.*

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If you are not already a member, we invite you to join by sending your membership application and dues payment. Inquiries regarding membership, meetings and publications should be addressed to the IRRA Office.

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Sincerely yours,

Jack Stieber

IRRA President 1983

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I. PRESIDENTIAL ADDRESS

Are We in a New Stage?

MILTON DERBER*
University of Illinois

This paper deals with two interrelated questions: Are we in a new stage of industrial relations, and, if so, what should academicians and practitioners do about it?

Supporters of the new-stage theory fall into two opposing camps. One, reviewing developments in labor-management cooperation, quality-of-worklife programs, employee-owned enterprises, and, most recently, recession-based collective bargaining, has concluded that the long-time adversarial system is being significantly modified, if not replaced, by a more integrative, mutualistic approach. The other camp, hostile to the basic ideas of unionism and collective bargaining, argues that unions have been losing ground for over two decades, that unionized industries are declining while industries less susceptible to unionization are growing, and that the dominant trend of industrial relations is union-free.

In opposition to both of these new-stage theories are the supporters of what may be labeled the "rerun theory." These observers assert that the traditional collective bargaining system is fundamentally as vital as ever, that as in the past it is responding pragmatically to the conditions of the economic environment, and that when the economy regains its health collective bargaining will return to its former aggressive and adversarial self.

Whether any of these positions or some mixture is correct cannot be determined simply by examining the short-run contemporary situation. American society and the entire world by which it is increasingly

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*I am greatly indebted to my colleague, Martin Wagner, for provocative criticism and stimulating ideas.

influenced are so dynamic and volatile that short-run scenarios by themselves are likely to be unreliable bases for long-term prediction.

I therefore turn first to this country's historical experience with labor organization. The primary lesson is that significant growth and advance in union organization have come in short periods (rarely exceeding four to five years), followed by somewhat longer periods of consolidation or retrogression. The rapid-growth periods have invariably been the product of abnormal factors—war, economic crisis, or, as in the case of the most recent period involving the expansion of public-sector employee organization, a pervasive sense of inequity and discrimination within a major sector of the labor force. The subsequent longer plateaus or periods of decline appear to be partly a reflection of the need of institutions to digest and absorb the rapid-growth changes and partly a reflection of the countervailing forces at work in a pluralist society.

A second historical lesson is that in this vast, intricate, and variegated nation a uniform condition rarely prevails. Different types of industrial relations systems function side-by-side not only as among different regions, but also in the same regions and locations.

A third historical observation is that most American employers and managers have accepted unions and collective bargaining out of necessity rather than conviction, and have generally perceived union participation in decision-making as a burdensome infringement on their functions and rights. As a result, organized labor's status, as Selig Perlman noted 50 years ago, has remained fragile and vulnerable except for short periods.

A fourth proposition is the increased impatience on the part of both organized labor and employers with self-governance and the tendency to turn to public agencies for help. As a result, both parties have often been unwilling to engage in cooperative efforts unless confronted by an external common enemy (that is, competition) or when the enterprise or industry finds itself in economic jeopardy.

Finally, I find in labor relations history continuing struggle over the distribution of industrial power and influence. The struggle has revolved around varied ideas at different times—socialism, producers' cooperation, management rights, employee representation, collective bargaining, etc. Some of the struggle has occurred in the political arena, most in the industrial realm.

That collective bargaining has been the chief institutional survivor to date testifies to its vitality and adaptability in the American environment. That it has been a minority force overall (although not in specific sectors) indicates that it bears limitations and weaknesses. It is a well-known fact that since the mid-fifties the percentage of union members in the labor force has declined and that only the spectacular growth of unionization in

the public sector and the conversion of associations—in education, health care, police, and civil service—to union-like programs have prevented the union decline from being more precipitous.

What do these historical observations suggest about the current evolutionary process of unionism and collective bargaining? The answer is mixed. On the one hand, it is clear that significant changes have occurred over time and further change can be reasonably expected.

On the other hand, the ability of unionism to rebound from setbacks and the resurgent capacity of the collective bargaining system have been quite remarkable features of the past century. Unions are not institutions fixed in ideological concrete; they are pragmatic, realistic, flexible. They have modified their organizational structure, altered their functions, given ground as needed, and recovered as feasible.

If we turn our attention now to the contemporary scene, what evidence or arguments do we find to support either the "new-state" or "rerun" thesis?

The proponents of a more mutualistic collective bargaining system often rely on the following facts or propositions: (1) The widespread adoption of labor-management cooperation and quality-of-worklife programs. Autos, steel, communications, and clothing are illustrative, but numerous other less publicized cases can also be cited, ranging in concern from absenteeism, affirmative action, and alcoholism to productivity and protective legislation. (2) The large number of joint agreements freezing or reducing wages and benefits or making workrules more flexible in return for guarantees to stabilize jobs, to refrain from shutting down or relocating departments or plants, and to halt subcontracting. (3) The mounting interest of unions in the investment policies of pension funds and the growing belief that such funds should be used to foster collective bargaining and social objectives, not merely to maximize income. And (4) the growth of worker and union participation in company financial plans, such as profit-sharing, ESOPs, gain-sharing, and company ownership combined with self-management.

The proponents of the opposite polar position—that the union-free system is becoming predominant—typically rely on the following facts or arguments: (1) The sharp fall in collective bargaining coverage since the mid-fifties to between 20 and 25 percent of the labor force. (2) The shift of population and industry from the highly unionized Northeast and Midwest to the less unionized South. (3) The drastic job-displacement effects in unionized industries of foreign competition and the new industrial revolution expressed in robotics, microelectronic equipment, and other technological innovations. (4) The rising concern with individual rights in both unionized and unorganized enterprises, as reflected in

antidiscrimination legislation, sexual harassment regulations, and proposals to protect individual privacy and to assure due process in disciplinary matters. And (5) the rise of a sophisticated body of management practitioners and consultants whose principal objective is to ward off union organization and to keep enterprises union-free.

The response of the rerun school to both types of new-state theories is that similar phenomena can be found in the past, that they are either reactions to special conditions affecting particular industries or recurrent phases of familiar cyclical patterns. They assert that pay and fringe-benefit concessions have been a common feature of prior serious recessions and depressions and that strikes have typically declined in such periods. As to the so-called new industrial revolution, they contend that rapid technological change has frequently raised unwarranted fears of massive displacement and unemployment.

Fortified by these data and ideas, the rerun supporters reject the new-stage thesis and predict that when the economy recovers unions will regain members and bargaining power and collective bargaining will return to its traditional ways. Concession bargaining will be succeeded by catch-up bargaining.

Clearly, this is an issue that lends itself to persuasive arguments from a variety of perspectives. Each can turn to history for support. Each can detect in the current scene events and tendencies compatible with its position.

Let us therefore try to peer briefly into the future. In order to do so, we must consider some of the underlying environmental factors that help shape the ideas, values, and behaviors of the parties and, through them, the structure and processes of the system.

I start with demographic trends. We can be reasonably confident that the rate of increase in the labor force will decline in the nineties as the low-birth-rate cohorts of the sixties and seventies enter the market. But even that prediction assumes that the propensity of women to enter the labor force is approaching a saturation level, only a small section of the older workforce will prefer employment to retirement, immigration will be controlled, and automation does not displace labor more rapidly than in the past. If the labor force shrinks, stabilizes, or grows more slowly than the demand for it, we can anticipate enhanced bargaining power for labor.

Technological displacement of workers has periodically been a matter of widespread concern, as it was in the late 1950s. The specter of robotics has again arisen, with some predictions that microelectronics will reduce manufacturing employment to a tiny fraction of its current level by the end of the century. The traditional response of economists has been that

historically the fear of mass unemployment has been unjustified and that, instead of reducing the demand for labor overall, major technological innovation has led to reduced costs, increased demand for goods and services, and derivatively increased demand for labor. Nonetheless, serious industrial relations problems may arise out of technological advances because of the elimination of occupations or entire industries, necessary adjustments in compensation, and the need for retraining and relocation of displaced employees.

A third issue of potential significance involves the role of government. As long ago as 1948, in the first Presidential Address to this Association, Edwin E. Witte warned about the excessive growth of "governmental intervention in labor-management relations" and its adverse implications for industrial self-governance. As the chief draftsman of numerous Wisconsin labor laws as well as of the Social Security Act, Witte was by no means opposed to essential protective and regulatory legislation, but he was gravely disturbed by the increasing tendency of the parties to turn to government to achieve their goals.

Self-governance has not only been threatened by the actions of the parties themselves, but has also been challenged by the increasing tendency of individuals and minorities to seek protection of their interests in legislation and the courts. If this trend continues, the collective bargaining system will become increasingly legalized. There is the further likelihood that the unions and companies will divert more and more of their resources and talents from the industrial to the political and judicial arenas.

If increasing legalization poses a major threat to the current industrial relations system, spreading internationalism is a principal economic force for the future. Economic internationalism impacts our industrial relations system in several ways. One is the flow of jobs. So far, at least, it has probably shifted more jobs out of the United States than it has directed to this country. But some reverse flow is occurring, and this is likely to increase. Foreign competition within the American product market has grown substantially, with devastating effects on numerous industries. For the long run, it may stimulate American firms to become more efficient and innovative, although many enterprises and even entire industries may become permanent victims. Whichever way the economic pendulum swings, the internationalization process bears with it, as my colleague Adolf Sturmthal recognized long ago, a transfer and enrichment of ideas about industrial relations. We are less naive than we used to be about such transfers. In the fifties, many people seriously believed that a simple shift of the principles of the American industrial relations system would resolve the problems of developing countries. Today some believe that American

adoption of certain Japanese practices would resolve our problems. More realistically, there promises to be an enlarged sensitivity to ideas from abroad and a willingness to try them out cautiously and piecemeal.

These strategic factors lead me to the belief that although many of the changes resemble past events, the magnitude of the changes affecting so many of our major industries justifies the conclusion that we are, indeed, in a new stage. I am inclined toward a scenario of continued rapid technological advances powered by strong international competition, spot shortages of skilled labor, and little relief in the scale of governmental intervention. Should such a scenario materialize, I would anticipate some significant tilting in the mutualistic direction, partly out of increased trust between employers and union leaders, but mainly because in many industries the parties will continue to be confronted by strong external competitors and conditions which represent threats to their very survival. This development will be reinforced by irresistible pressures toward greater employee participation in decision-making. As in the past, a variety of forms or stages of industrial relations will continue to function at the same time, and unionism and collective bargaining will continue to be firmly entrenched in major segments of American industry.

But this is little more than guesswork. Who can gainsay the possibility of an international economic collapse, the outbreak of more warfare, the emergence of new OPECs, or (more optimistically) a new era of scientific and technological advance and economic prosperity?

The Challenge

I turn now to the second question: If there is, indeed, the possibility that we may be in a new stage, what can and should academicians and practitioners do about it?

For academicians, the challenge is twofold. First, in order to adequately explore the basic question, given the changing conditions and the factual uncertainties described earlier, there is need for more comprehensive and more reliable data.

However, while facts are essential, they are not sufficient. To give them analytical meaning and to develop them as useful predictive tools, effective general conceptual or theoretical frameworks are needed. This is a facet of industrial relations scholarship that has been neglected in recent decades in the United States—more so than in a number of other countries. I think that a large part of the explanation is to be found in the concentration of many of our most talented younger colleagues on sophisticated quantitative techniques and the emphasis on testing hypotheses of the middle range. While this approach is important, it fails to come to grip with more fundamental questions in a time of major change. In

such a time it is essential to subject to critical analysis the assumptions and values that are the foundation posts of contemporary thought. Fortunately, some shift in emphasis has been occurring recently, as is indicated by the writings of Jach Barbash, Tom Kochan, Roy Adams, Stanley Young, and George Lodge, among others.

Professor Kochan identifies and briefly discusses four broad approaches: the orthodox pluralist built around collective bargaining, the Marxist, the neoclassical labor market, and the consensus-based behavioral. He suggests the need for an expanded and revised version of the prevailing pluralist perspective.

It is not necessary to accept this formulation, or any one of the four approaches, to appreciate its utility. Its significance lies in the attention it focuses on the values and assumptions which every researcher, interpreter, or participant bears, consciously or not, and on the choice of variables and factors for empirical study and analysis. The validity of the decisions made in these respects is far more important than the precision of measurements or the accuracy of descriptive details.

Given the widespread adoption in university programs of courses in research methodology, and the voluminous literature on the logic of social inquiry, one would think that this subject hardly needs discussion. Yet in study after study we encounter either total neglect of the underlying values and assumptions and the omission of key concepts (particularly those that cannot be readily quantified) or a recognition of limitations in the introductory discussion of a report and a glossing-over of those limitations in the conclusion.

One of the chief contributions of Kochan's essay in the Winter 1982 issue of *Industrial Relations* may be a call for a broader and more comprehensive approach that borrows from other perspectives. This raises the further question as to how much integration is possible: Is there a basis for a single general conceptual framework replacing and integrating all the others, or must we assume the viability of competing approaches that differ in such fundamental ways as to preclude genuine integration?

The opposing values and concepts of the Marxist and pluralist perspectives are so pronounced that I would expect few to argue the integration case. The differences among the pluralist, labor market, and behavioral perspectives are more subtle. The market framework, for example, puts the spotlight on what Frank Knight called "the discipline of the market" and, as the current recession demonstrates, this can have a powerful impact on industrial relations. But market analysts pay relatively little attention to the process of decision-making and to the extent that they do, they tend to apply competitive market assumptions with respect

to knowledge, mobility, the maximization principle, marginality, and equilibriums. They typically ignore such central issues (from an institutional perspective) as conflict, accommodation, influence, power, and control and focus on such results of process as can be expressed quantitatively.

Behavioral approaches are much more diversified than the neoclassical market, but if we consider Kochan's "consensus-based" version, the elements of incompatibility with the pluralist also become evident. In particular, we find a clash of views as to the nature and role of conflict and the scope of relevant factors. On the other hand, if the boundary lines of organizational analysis are more narrowly defined than in the pluralist approach, there is the offsetting advantage of a sharper focus on sociopsychological elements. Much of the latter is quite consistent with the pluralist approach.

In brief, I conclude that for the foreseeable future it will be to the advantage of the industrial relations field if academicians pursue a variety of conceptual frameworks and tools, but do not ignore the perspectives of others. Clashes of ideas, challenges to opposing views, receptivity to possible borrowings are, in my judgment, essential for the benefit of all.

I turn finally and briefly to the practitioners (particularly major decision-makers and their aides) who are the principal actors of the field. If we are indeed in a new stage of industrial relations, how should such practitioners respond? Like the academicians, they must also respond to changing conditions; they simply cannot afford to assume that what worked in the past will continue to serve their needs. At the same time they must avoid a reliance on fads which have limited enduring value.

The field can point to a number of experienced practitioners who have contributed importantly to the theory of industrial relations—Frederick Taylor, Louis Brandeis, Morris Cooke, Chester Barnard, Clinton Golden, and Wilfred Brown, among others. Most practitioners, however, lack the time and disposition to respond in theoretical ways and focus instead on day-to-day or short-run problems of their organizations. They are more inclined to rely on professional advisers, either within their organizations or from outside academic or consultative agencies, for conceptual guidance of a longer-range nature. Or (more likely) they will rely on the traditional ways of thinking that they acquired in their developing years. I would suggest that a rethinking of their own approaches and a serious consideration of opposing ones are in order, for from them will flow major critical organizational and public positions and decisions.

In any discussion of basic perspectives, it is easy, in a short presentation, to oversimplify. However, my aim here was not to elaborate on the numerous alternatives, but rather to stress the obvious point that different

approaches are likely to lead to different behaviors. The manager, union official, or minority-group leader who has an explicit awareness of his or her conceptual framework may be better equipped to respond to the problems of fundamental change in the world of practice as the academician is in the spheres of research and teaching.

II. DISTINGUISHED SPEAKER ADDRESS

Manpower Policy and Industrial Relations in Britain

T. L. JOHNSTON
Heriot-Watt University

The title of my paper is broad, perhaps even sweeping, and deliberately so. It did not appear appropriate to use this occasion for a foray into one particular aspect of British industrial relations, but rather to paint on a broad canvas, and with rather a broad brush. As the title suggests, I have been even bolder than that, for I have chosen to straddle the manpower, or labor market, policy theme and the industrial relations one.

For a variety of reasons I shall devote more of the time available to speaking about manpower policy, working across from that direction to the industrial relations scene. My first task is to outline the main features of British manpower and industrial relations policies, and then probe more deeply the significance of recent manpower policy strategies, particularly in the context of British industrial relations practice.

The Industrial Relations Setting

We are all more familiar with the British industrial relations framework than with that more recent innovation, a comprehensive manpower policy, so I can be suitably brief about the industrial relations model. This is still grounded in the voluntary principle and sits within a framework which, since the Donovan Royal Commission of 1968,[1] has drawn a sharp distinction between the formal system of industrial relations, operating at the industrial and national level, and the informal system, in being at the plant or company level. The latter is operated via trade unions and groups

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[1] *Royal Commission on Trade Unions and Employers' Associations 1965–1968*, chairman The Rt. Hon. Lord Donovan, Cmnd. 3623, 1968.

of workers, through shop stewards and other representatives of employees.

Donovan set great store by shifting the center of gravity of the voluntary system to the company level. More of that in due course with respect to training. While there has, since Donovan, been movement in that direction, neither the Confederation of British Industry (CBI) nor the Trades Union Congress (TUC) has been satisfied with the progress made. There are numerous reasons for the slow tempo. The strong position in the economy of the public sector is a major component which works more explicitly with national than decentralized norms. Sustained initiatives toward reforming collective bargaining have been repeatedly diverted and subverted by the onslaught of ad hoc incomes policies since Donovan's day. Fashions such as worker participation and worker directors have had to be thought through, and argued for and against. Perhaps most important of all, the brave preference for the voluntary principle has not prevented governments from introducing a range of industrial relations legislation, some of which has been, at least by implication, critical of collective bargaining and some of which has also had consequences for labor market, or manpower, measures.

The Redundancy Payments Act of 1965 and the unfair dismissal provisions of the Industrial Relations Act 1971 and later, amending, legislation have preferred the legislative to the negotiated route for handling problems of severance and individual employee rights. In other areas of industrial relations there has been sustained controversy concerning, in particular, (a) the right of government to interfere in internal union affairs; (b) the rights (limits) associated with coercive industrial action; and (c) the legality of collective agreements. There has since Donovan thus been plenty of industrial relations action. Yet we cannot say with confidence that the system of industrial relations has changed fundamentally in the way which Donovan proposed, and hoped to see happening, admittedly not overnight.

Donovan contained a most interesting Chapter VI, on the Efficient Use of Manpower. In that chapter it was argued that the formal system of industrial relations in Britain was especially ill-fitted to accomplish improvements in the use of manpower. It offered no means for negotiating about restrictive practices enforced by work groups at plant level. Donovan's proposals for the reform of collective bargaining, through comprehensive company and factory agreements, were in its judgment fundamental to the improved use of manpower. (Productivity bargaining aimed at improved manpower utilization was all the rage at that juncture.)

Donovan did not see the solution to the problem of improved

manpower utilization as lying solely in the microcosms of the company and the plant, all the same. It saw a need for a macro approach as well. The (then) Department of Employment and Productivity (now the Department of Employment) would have to take the major responsibility for rousing the country to the gravity of the issues surrounding principles and practice in the important matter of training, and for carrying through the required reforms with a due sense of urgency. In addition—and here we see explicitly the feed across from training to trade unionism—training to standards set by Industrial Training Boards (ITBs), and with ready access of people so trained to the job market, would then make trade unions more willing to revise their rules regarding the exercise of skill, in particular the question of dilution of labor.

The Manpower Services Commission

So much for the IR background. What about manpower policy? I have no intention of bombarding you with a history of labor market policy in Britain stretching back to the Statute of Apprenticeships, and even further, nor with the history of Labor Exchanges (now Job Centers) since Beveridge successfully pleaded for their introduction in 1910. I take as my bench mark the Employment and Training Act 1973. This established public authorities, in particular the Manpower Services Commission (MSC), to concern themselves with arrangements for persons to obtain employment and with arrangements for training for employment.

It is unnecessary here to dwell on the point that the MSC obviously did not come to the labor market scene as virgin territory. I have already noted that Donovan saw the Department of Employment as a leader. I have drawn attention to the prior existence of an employment service operating labor or employment exchanges. In addition, the Industrial Training Act 1964 had already set in place a comprehensive mechanism for training by industry. More of that shortly. What then was the new agency, the MSC, to do?

By 1976 it felt confident enough, in a policy document entitled *Towards a Comprehensive Manpower Policy*,[2] to mark out the ground. Connoisseurs will see the evangelical hand of OECD in the following stated aims of a comprehensive manpower policy for Britain: (1) to contribute to efforts to raise employment and reduce unemployment; (2) to assist manpower resources to be developed and contribute fully to economic well-being; (3) to help to secure for each worker the opportunities and services he or she needs in order to lead a satisfying working life; and (4) to improve the quality of decisions affecting manpower.

[2] *Towards a Comprehensive Manpower Policy*, Manpower Services Commission, London, 1976.

Appropriately introspective, the MSC also added the fifth aim of giving itself a unitary organization and making itself more responsive to the needs of individuals and organizations on the labor market. I shall have a lot to say about the MSC, which is the locus of public manpower programs. That is not to suggest that the Department of Employment has abandoned an interest in policy through farming out to arm's length this quasi-autonomous nongovernmental organization (quango), the MSC. Nor does it signify that all public policy activities have to be conducted *through* the MSC. On training, for instance, the explicit public policy is that industry does it, and also pays. Nor has the MSC sought to monopolize placement in the labor market.

One of the really fascinating points to be made about the theme of my paper is that the 1973 Act was a largely bipartisan political document, agreed in its essentials by the major parties. While the trade union movement and the Labour Party were then fighting the Heath Conservative government's policy arising out of the Industrial Relations Act 1971 "tooth and nail," the theme of manpower policy flowed through into the 1973 Act in sweetness and light. True, manpower policy has in recent years had its moments of tensions with regard to consensus. Yet by and large the legislation continues to treat manpower legislation as a quite different animal from industrial relations bills, which invariably prove controversial.

The composition of the membership of the MSC expressed the consensual basis on which it set forth—the Commission consisting of an independent chairman, three members each from organizations representing employers (effectively the CBI) and employees (the TUC) and, in addition, two members drawn from local government (representing the education service and its involvement with manpower matters) and one from professional education organizations.

From the start MSC has accordingly incorporated a view of the need to mold manpower strategy in a manner which is acceptable to the unions and employers and which knits in to the educational system.

As an aside, it is worth mentioning that such explicit interfaces have been difficult enough to handle. My paper is, of course, primarily about the interface between the public labor market policy and the parties of interest, or social partners, in industrial relations—unions and employers. The education interface has not been free of stress and tension. Some other interfaces have been fascinating, and also fuzzy. Clearly, the first declared aim of the MSC—assisting to promote employment—is part of a wider national economic strategy. Much of the impatience on training which led to the 1964 Industrial Training Act stemmed from the passion at that time, expressed through the National Economic Development Coun-

cil, for promoting economic growth, and the obstacle to that objective which skill shortages, manpower bottlenecks, appeared to pose. More broadly, the MSC has often walked on ice when it has had to postulate an underlying employment outlook, derived from forecasting models, which innocent bystanders sometimes took to be its policies. The MSC has no explicit locus in the fairly central matter of the pricing of labor services. More often than not this has been part of a political struggle about incomes policy norms. It has often appeared rather artificial for the public manpower policy to be preaching about the allocation of labor as though this had no price tag attached to it at all. Yet the MSC has no remit to consider pay policy. It can and does nudge and prod on the theme of appropriate wage structures, however.

Public manpower policy through the MSC began with two major programs to oversee (a) the network of employment exchanges concerned with matching demand and supply, and (b) the national training policy, already substantially a going concern, especially via Industrial Training Boards—IBTs. I shall look at these in turn, concentrating on the way these programs appear to have industrial relations connotations, explicit or otherwise. The two—running an employment service and training—still remain major activities. In recent years, however, they have been overtaken by the response needed to deal with the rising tide of youth unemployment. (An appendix table shows the current balance among the three and the planned changes over the next four years.)

The Public Employment Service

Since its inception, the MSC has seen modernization of the public employment service as a prime aim. The traditional employment service had been associated with unemployment (with registration a requirement for eligibility for unemployment benefit), and even unemployability. The MSC undertook a massive investment and public relations program, shifting the emphasis to Job Centers located in prime centers in attractive premises, encouraging the image of employment, not least through publicizing vacancies and encouraging self-service in Job Centers, and widening the catchment of prospective clients among employers and job-seekers.

On the employer side of the matching process, a determined effort has been made to convince employers that the Job Center can assist in filling vacancies. Intensive visits to employer premises have improved the feel for the workings of internal labor markets. The provision of facilities for recruiting, assistance with labor market information and intelligence, and advice about training facilities have all promoted a larger and richer flow of the demand stream through the public employment service.

On the supply side, the improved flow of vacancies has been a prime datum in attracting a wider clientele. Counseling and occupational guidance, information about jobs in other labor markets, and about facilities for training have all led to an improved service for the job-seeker.

The MSC has been nothing if not self-critical in repeatedly evaluating its performance. All the assessments have endorsed the thesis that a positive and national network of Job Centers has been more cost-effective than the previous rather outdated mechanism.

What has all this meant for the industrial relations scene? Some of the gains have been *general.* The improved monitoring of labor markets has helped employers and workers. More information is available as a guide to regional location policies. The improvement in the matching process clears markets more effectively, with presumed benefits all round. Put another way, a better matching of demand and supply may dampen wage drift. It is not clear that everyone applauds that! These benefits are important in the environment of availability of jobs, a matter which unions rightly see as of concern to their members. And jobs are crucial, as recent declining union membership rolls demonstrate, to the health of vigorous trade unions.

Specific industrial relations impacts can be exemplified by reference to two themes, redundancy and training. While redundancy is governed by statute, the procedures leading toward redundancy require explicit notice to be given by the employer both to the employment service and to trade unions. The manpower adjustment and industrial relations elements then coalesce. The Job Center is coupled in to the counseling in advance of the redundancy, about rights, alternative employment, and training. This has to mesh with the statutory entitlement of trade unions to have adequate notice and time to negotiate. The Job Center does this with greater credibility than the old (un)employment office.

On training and retraining, the Job Center is the obvious channel from mismatch and bottleneck to training and retraining. Although the identification of incipient skill shortages is still very creaky, the employment service, through its network of bids from employers matched against registrants, can provide a more confident base of labor market intelligence to be deployed in support of the national training program. This leads naturally to the second of the two major historical remits of the MSC, training.

The National Training Effort

Reference has already been made to the national irritation with skill shortages and bottlenecks which led, in 1964, to the passage of the

Industrial Training Act. The approach was explicitly grounded in the proposition that industry should itself do and pay for the training. The system which the Act introduced provided for the establishment of training boards by industry, run consensually by representatives of employers, unions, and education. The quantum and quality of training were to be advanced. Funding was provided through a levy-grant system operated by each board, the aim being to use this fiscal device to spread the cost of training equitably among employers in each industry.

Twenty-eight training boards were set up by stages, covering about 55 percent of the labor force. The Employment and Training Act 1973 recast the funding arrangements. The levy/grant system was replaced by a system of levy, grant, and exemption. Typically, small firms were exempt, and large employers could obtain exemption by demonstrating that they were themselves undertaking training of adequate quantity and quality. In part, the change reflected the irritation felt in industry that the boards were becoming bureaucratic encumbrances. More fundamentally, the change encouraged do-it-yourself in the context of the employer's superior knowledge of his own internal labor market. It is more speculative to suggest, in the context of my theme, that there was some spillover from Donovan's emphasis on company bargaining to the idea that training should have its center of gravity in company initiatives. But it may have had a general influence.

Since 1973 the ITBs have continued to attract comment and criticism, and the outcome of the most recent review of the training-by-industry policy is that statutory training boards are to be retained in only a few industries, where voluntary arrangements would be unlikely to succeed. These include engineering and construction. Otherwise, the policy now being implemented is to place training by industry back on to a voluntary basis. Effectively, it means a substantial return to the situation prevailing prior to 1964.

Amid a variety of reasons advanced for this reversion, and leaving aside the fondness of the present government for privatization, the two that stand out as trenchant criticisms have been (a) the failure of ITBs to deal with cross-sector skills, and (b) the persistence of traditional attitudes, not least on the part of trade union members, to training.

The classic instance of the first problem was the recent shortage of instrumentation technicians. Some of the reasons for the shortage were obvious, such as the growth in process industries using modern instrumentation and electronic equipment, the North Sea oil boom, and, on occasion, pay-policy straitjackets which prevented employers from paying the rate for the job. Other explanations focused more on training arrangements, and in particular the point that training by industry fails to

catch cross-sector occupations such as instrument mechanic in an explicit aggregate national program for producing the supply. The ITBs appeared to have become an inward-looking, balkanized institution. Again, and this leads to the second criticism made, trade unions were frequently reluctant to allow conversion training to occur—for example, from mechanical to electrical skills—because of craft demarcations. This second point is the gateway to much wider issues than that comprehended by the activities of ITBs, though they clearly had and have a powerful presence in this problem area. I refer to attitudes to training.

Attitudes to Training

Three aspects of this theme will be singled out. They are, fortunately, readily identified for us in recent MSC and government documents on training.[3] Three major elements are now being distinguished as crucial components of a national training program. They are (a) developing skill training to standards, not least apprenticeship arrangements; (b) widening opportunities for adults; and (c) vocational training and education for all young people. Let me take these in turn.

Apprenticeship

Although apprenticeship training, not least in engineering, has achieved significant modernization since the inception of ITBs, it is still a common and relevant criticism to say that frequently apprenticeship training involves the repetition of one year's training for every year of the apprenticeship. Access to apprenticeship training at age 16 only, the pay rates for apprentices which are widely criticized as too high relative to the adult rate, the content of training on and off the job, and the assumption that trained once means trained for a lifetime have all been cited as cogent reasons for shaking the apprentice tree. These criticisms point to the heart of the interface between training and collective bargaining, and the craft tradition. Without explicitly attacking the industrial relations issue head on, the MSC has persistently prodded and pushed, in the most diplomatic language, for modernization of apprenticeship. Its hand has been strengthened by the evident problem of declining apprenticeship intake during the prolonged recession. Though the MSC sees the smoothing of the training cycle as one of its main roles, it cannot sustain such a policy if employers cut their payrolls by persistently reducing apprenticeship intakes.

In principle a significant breakthrough has been achieved in the past

[3] *A Framework for the Future. A Sector by Sector Review of Industrial and Commercial Training*, Manpower Services Commission, London, 1981; *A New Training Initiative*, MSC, London, 1981; *A New Training Initiative. An Agenda for Action*, MSC, London, 1981.

year, with the agreement, within the MSC and between it and the government, that the traditional apprenticeship scheme should be replaced by the principle that skill training takes place to agreed standards as a function of progress to specified standards, not as a function of time served from a set starting age.

Adult Training

The second aspect of attitudes to training concerns access by adults to training. Since the first World War a social purpose has been recognized in the provision of training facilities for adults who were disadvantaged, in the first instance by war but, more broadly and in peacetime, by unemployment. Purpose-built centers, known at this juncture as Skill Centers, offer specific training courses of varying duration, up to a year, for mainly blue-collar skills. There is no doubting the usefulness of these arrangements and their acceptability to trainees, to national trade union officers, and to employers. The persistent problem has been that of acceptability of these trained persons at the shop level. "Dilutees," often acceptable in time of war, have found the going harder in labor markets with a history of job scarcity and militant craft union representatives.

Changing attitudes on this issue is important, and it is occurring. But this is simply part of a wider issue, identified in the MSC principle of *wider opportunities for adults to train*. A major initiative in the early 1970s, TOPS (the Training Opportunities Program) encouraged access to retraining by adults who simply wanted a second chance. The facilities not only of Skill Centers but of the wider resource of educational establishments such as technical colleges are available, and this has proved a useful addition to the training effort. As the budget of the MSC has been increasingly squeezed in recent years, emphasis has concentrated more and more on training under TOPS for shortage occupations and high technology openings. Where entry ports after such training are not controlled by union vigilantes, TOPS is making a significant contribution both to the supply of new skills and, in terms of attitude, to the proposition that adults can train and be accepted into occupations by routes which previously were not open to them. This general point is the strongest challenge which manpower training policy is making to the established institutional arrangements of industrial relations and collective bargaining.

Preparation for the World of Work

The third aspect of attitudes to training concerns better preparation of young people for entry to the world of work. It is eloquent if disquieting testimony to the growing problem of youth unemployment that when the

MSC set sail in 1973/74 the national youth unemployment problem was in its infancy. Now the special programs, aimed mainly at youth unemployment, are the major claim on the MSC budget and likely to remain so.

The Youth Opportunities Program, introduced in 1977, has made a significant contribution toward the employability of young people who could not find their way into employment by conventional routes—for example, through advanced training and education or via apprenticeships. As with all MSC programs, it has enjoyed the strongest support of the social partners. There have nevertheless been a few classic problems which impinge on the industrial relations scene. Let me list a few. Should allowances paid to young persons on YOP courses be regarded as a wage? What should be the relativities vis-à-vis unemployment benefit, on the one hand, and apprenticeship pay rates, collectively negotiated, on the other? To take another theme, what about displacement of regular workers by young persons under the scheme being trained on employers' premises? As unemployment has continued to rise, trade union members have fretted about the trade-off between social conscience and support for young people, on the one hand, and, on the other, the fear that employers were substituting trainees for regular employees. Substitution has been a prickly issue. A final, rather esoteric, matter has highlighted the legal point that a trainee on a YOP work experience scheme is not an employee of the company for whom he or she works, nor for that matter of the MSC. A recent case concerning a complaint under the Race Relations Act 1976 found accordingly. The vulnerability on the part of trainees has led to some pressure for them to organize.

In 1983 the Youth Opportunities Program is to be absorbed into a much wider and more ambitious scheme, the Youth Training Scheme (YTS). Britain has in recent years become aware that a much smaller proportion of school-leavers in Britain than in other Western European countries receive training in some form after the statutory school-leaving age of 16. YOP has gone some way toward demonstrating what can be done for disadvantaged young persons unable to become employed. The YTS is intended to be a permanent scheme, offering a one-year integrated program of training and experience which will include at least three months' off-the-job formal training. The scheme includes apprentices. Initially, the annual budget of some £1.1 billion will fund the program for about 460,000 young people, mainly 16-year-olds. This is a substantial additional commitment for the education service and for the employers who are expected to provide on-the-job bases. With the benefit of hindsight, it seems clear that the experience of YOP has provided a strong learning experience for the more comprehensive scheme now on the stocks.

These three aspects just reviewed constitute a major assault on traditional attitudes to training. It is of the utmost significance for our theme that the MSC document, *A New Training Initiative*, published in May 1981, stressed that the main instrument for change must be collective agreement at the level of the sector and the company.

Conclusion

The parties of interest in industrial relations often thrive on their particular interests. Rigidities in labor markets follow. We have noticed that in the past ten years Britain has inserted a new public agency alongside its industrial relations machinery. This impinges on the activities of the parties to industrial relations. Indeed, the parties are often the same persons, working now in the setting of collective bargaining, now as emissaries of the consensual approach to labor market policies and programs.

In those traditional areas of manpower policies, the public employment service and training, the arrival of a new agency has injected new pressures for change. The MSC keeps stressing that the collective bargaining process often inadequately reflects the changing needs of the labor market for occupations. The public employment service is improving the matching process. In training, the MSC cannot mastermind every pressure and response. Skill shortages, for instance, stem from a catalogue of forces, some of which rest with the employer in his utilization of labor, while others fall more explicitly into the lap of trade unions. Control over apprenticeship is an obvious example of this. Yet the MSC can be and is a persistent pressure for change.

The interesting recent development, which carried over from manpower to industrial relations, is that youth unemployment has forced a reappraisal of traditional attitudes to education and training of all young people. Persistent rigidities are equally challenging old attitudes to adult access to training.

If these new training initiatives succeed, we can expect major changes in due course in important areas of industrial relations. Let me single out a few. Craft unionism will be profoundly affected by the changes in apprenticeship and youth training arrangements. Second, emphasis on transferable skills for adults will help to erode barriers between different types of trade unions. There should be interesting clinical material here in due course for the student of union growth and structure, but the tempo of change is hardly likely to be brisk. Third, the demands made on employers to provide and operate training capacity will concentrate management minds on labor utilization policies, so often criticized in the context of skill shortages. Fourth, these emerging policies for training will

require enormous grass-roots support if they are to work. This is the considered judgment of the MSC itself. Fifth, as the Commission has also recognized, collective agreements will be a crucial vehicle for expressing the marriage of industrial relations with manpower adjustment practices. We can then envisage that the Donovan thesis favoring company agreements can be married with manpower policies which also place great weight on local labor market solutions.

I do not expect such a marriage to be made in Heaven, but rather in smoke-filled rooms in which consensus and negotiating grind have to be hammered together. At least the establishment and activities of the MSC in Britain have opened up a new vista on, and pressures for change in, industrial relations in Britain. I find that a stimulating prospect.

APPENDIX TABLE

Manpower Services Commission Budget:
Allocation of Expenditures at 1981/82 Prices (%)

	1981/82	1985/86	Volume Change 1981–85
Employment service	20	14	Static
Training services	33	21	Decline of 1/7
Special programs	44	63	Almost doubled
Support services	3	2	Modest decline

Note: In the period 1981 to 1986, the total budget is expected to increase by 37 percent, at 1981/82 prices.

III. CHALLENGES TO TRADE UNIONISM

The Legal Environment as a Challenge to Unions

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American unions have long considered the legal environment an important determinant of their success in organizing and collective bargaining. It is only logical therefore that, in the face of declining membership and employer resistance, unions focus on the legal environment as a source of their problems and seek through legislation to remedy certain imbalances in the law.

Most analyses of the impact of the legal environment and unions have been concerned with the significant and recent changes in legal doctrines, but have not looked at the more fundamental question concerning the efficacy of the system created to regulate industrial relations. However, recently a few scholars have begun to look more closely at the National Labor Relations Act (NLRA). Some have sought to determine whether the objectives of the act are being achieved, while others are even questioning the appropriateness of these objectives in the first place.[1]

In this paper, we join with those who are reappraising the industrial relations regulatory system. Our intent is to tentatively suggest how the substance of labor law, and the institutions that enforce it, do and do not pose significant challenges to the labor movement.

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[1] Some of the strongest comments are coming from a group of revisionists who call their work "Critical Labor Law." See Karl E. Klare's "Labor Law as Ideology: Toward a New Historiography of Collective Bargaining Law"; Staughton Lynd's "Government without Rights: The Labor Law Vision of Archibald Cox"; Melvyn Dubovsky's "Legal Theory and Workers' Rights: A Historian's Critique"; and Duncan Kennedy's "Critical Labor Law Theory: A Comment," all in *Industrial Relations Law Journal* 4 (No. 3, 1981).

The Substance of Labor Law

The role of law in the achievement of trade union goals is best understood when one distinguishes between periodic adjustments and persistent doctrines in labor law.

Cyclical Realignments

Following the tradition of partisan swings in National Labor Board decisions, recent decisions by the NLRB, that now consists of two of President Reagan's appointees, seem to suggest a pro-employer tilt.[2] In *Amoco Oil Co.*, 262 NLRB No. 62, 110 LRRM 1419 (1982), an employer was permitted to void its labor agreement after the unaffiliated union failed to allow nonmembers to participate in a vote for the purposes of affiliating with OCAW. In *Midland National Life Insurance Co.*, 263 NLRB No. 24 (1982), the Board took an early opportunity to deregulate the content of representation campaigns once again.[3]

At least for the moment Board decisions have not been totally one-sided. In *Conair Corporation*, 261 NLRB No. 178 (1982), an employer who had committed "outrageous and pervasive" unfair labor practices was ordered to bargain with a union, even though the union was unable to demonstrate that it had the support of a majority of the employees. In *Wordsworth Academy*, 262 NLRB No. 42, 110 LRRM 1296 (1982), the Board, examining the Academy's control over its labor relations rather than its relationship to the public sector, asserted jurisdiction over a private, nonprofit corporation that provided special education services to local school boards. In *Materials Research Corporation*, 262 NLRB No. 122 (1982), the Board extended the *Weingarten* right of representation to unorganized employers.

All three of these were 3–2 decisions, however, with President Reagan's two appointees, then-Chairman Van De Water and Member

[2] Robert S. Greenberger, "Reagan NLRB Tilts Towards Management," *Wall Street Journal*, August 2, 1982, Sec. 2, p. 13. For an opposing point of view on the current Board's orientation, see John S. Irving, Jr., "The Survival of the Misguided Majority," paper presented to the 29th Annual Institute on Labor Law of the Southwestern Legal Foundation, October 21, 1982, reprinted in BNA, *Daily Labor Report*, No. 207, October 26, 1982, pp. D1–D12. Empirical research suggests that presidential appointees have set a promanagement or prounion tone to decisions involving unfair labor practice cases and bargaining orders. See Charles D. Delorme, Jr., R. Carter Hill, and Norman J. Wood, "The Determinants of Voting by the National Labor Relations Board on Unfair Labor Practice Cases: 1955–1976," *Public Choice* 37 (No. 2, 1981), pp. 207–18; and William N. Cooke and Frederick H. Gautschi III, "Political Bias in NLRB Unfair Labor Practice Decisions," *Industrial and Labor Relations Review* 35 (July 1982), pp. 539–49. See also Gene S. Booker and Cris L. Trafford, "Environment and NLRB Bias," *Labor Law Journal* (April 1966), pp. 202–11; and Terry M. Moe, "Regulatory Performance and Presidential Administration," *American Journal of Political Science* 26 (May 1982), pp. 197–223.

[3] See also *Affiliated Midwest Hospital, Inc.*, 264 NLRB No. 146 (1982).

Hunter, in the minority. Thus, these doctrines may be short-lived, since it is likely that any nominee of President Reagan will have a philosophical orientation that is similar to that of then-Chairman Van De Water and Member Hunter.[4]

Persistent Doctrines

To the labor movement, these short-term changes in legal doctrines may be less important than several doctrines that continue to form the basis of policy or have been gradually emerging through several administrations. One such doctrine apparent to us is the evolution of the employer's right to resist unionization. Another, perhaps less apparent, is the constraints imposed on trade union power in the name of accountability and stability.

With regard to employer resistance to unions during elections, the decisions of almost 30 years have shown consistently less concern with the rights of employees to receive information and the implicit threat posed by the employer's position of authority over employees. This trend is exemplified by the longevity of the once controversial captive audience doctrine.[5] The doctrine, which is considered an expression of both the employer's free speech rights and its rights of ownership, poses a threat to unions because it does not give sufficient recognition to the inherently coercive character of such a speech. Interestingly, early decisions by the Board (*American Tube Bending Co.*, 44 NLRB 121, 11 LRRM 61 (1942), enf. den. 134 F.2d 933 (2d Cir. 1943); and *Clark Bros. Co., Inc.*, 70 NLRB 802, 18 LRRM 1360 (1946), enf. den. 20 LRRM 2436 (2d Cir. 1947)) show how the Board gave relatively too little consideration to the employer's rights of free speech under the First Amendment. Recognizing the significant and long-term threat posed by the captive audience doctrine, unions in the ill-fated Labor Law Reform Act of 1977–1978 proposed the offsetting right to reply to such speeches. In the face of declining union victories in representation elections, we suggest that the Board once again consider the coercive and subtle influences employees draw when confronted by employer communications.[6]

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[4] In November 1982, President Reagan nominated Donald Dotson and Patricia Dennis to replace John Fanning and John Van De Water, respectively, on the NLRB. At the time of nomination, Dotson was an Assistant Secretary of Labor and Dennis was an attorney for the American Broadcasting Company. See BNA, *Daily Labor Report*, No. 225, November 22, 1982, pp. A8–A9.

[5] *Livingston Shirt Corp.*, 107 NLRB 400 (1953).

[6] We do not subscribe to the conclusion, based on the Getman-Goldberg-Herman study (Julius Getman, Stephen Goldberg, and Jeanne B. Herman, *Union Representation Elections: Law and Reality* [New York: Russell Sage Foundation, 1976]), that the election campaign is of little significance, since only 19 percent of the voters in the elections studied were

In a more speculative vein, we identify another emerging theme in labor law: that is, that union discretion and, therefore, union power[7] may be contained in the name of accountability. Law has sought to make unions more accountable organizations in three important areas during the past few decades.[8] Court decisions, following the *Trilogy* and culminating in *Boys Markets* and its progeny, have created a no-strike norm in labor relations, thus increasing the enforceability of the labor agreement. The development of the duty to represent all workers fairly has in essence increased the accountability of the union and its leaders to employees. The *OCAW* case cited above suggests that unions may have some obligations to nonmembers regarding matters that might be considered internal. And last, courts have intervened into the internal affairs of unions, interpreting a union constitution to be an enforceable legal obligation. (See *Plumbers and Pipefitters* v. *Local 334*, 107 LRRM 2705 (1981).) While we would not argue that these developments, taken individually, are undesirable, and while we would admit that one or more of these developments also may have some benefits for unions, these developments ultimately reduce union freedom of action and, as a result, union power.

The Structure and the Process

A great deal has been said, and need not be repeated here, about the effectiveness of NLRB procedures and remedies.[9] However, the thrust of the debate has been over whether or not labor board processes have become weapons in labor-management conflict, encouraging and discouraging the actors from seeking regulatory intervention.

At a more fundamental level, the question is whether the structure and processes of the industrial relations regulatory system are well suited to

influenced by the campaign. Elsewhere we found that, for the period July 1972 through September 1978, the average union representation election was decided by 20.6 percent of the votes. See Myron Roomkin and Richard N. Block, "Case Processing Time and the Outcome of Representation Elections: Some Empirical Evidence," *University of Illinois Law Review* 1981 (No. 1, 1981), pp. 75–98.

[7] This is based on the view that law is supposed to constrain the exercise of power. See George P. Shultz, "Strategies for National Labor Policy," *The Journal of Law and Economics* 6 (October 1963), pp. 1–9.

[8] This contention stops short of the view of those who study "Critical Labor Law" that labor law is an ideology of social control. It is not necessary to identify labor law as a conspiracy between bureaucratic unions, employers, and the state to recognize a trend toward stability in the goals of labor law.

[9] Some recent discussions of these matters appear in Roomkin and Block, "Case Processing Time . . ."; Richard N. Block and Myron Roomkin, "A Preliminary Analysis of the Participation Rate and the Margin of Victory in NLRB Elections," *Proceedings* of the 34th Annual Meeting, Industrial Relations Research Association, 1981 (Madison, Wis.: IRRA, 1982), pp. 220–26; Myron Roomkin, "A Quantitative Study of Unfair Labor Practice Cases," *Industrial and Labor Relations Review* 34 (January 1981), pp. 245–56; and the recent report on reinstatement under Section 8(a)(3), General Accounting Office, *Concerns Regarding Impact of Employee Charges Against Employers for Unfair Labor Practices*, June 21, 1982.

the reality of labor-management relations. It may be time to recognize that they are not. That system is characterized by the juridical model, a system of impartial adjudication of either party's good-faith disputes. In such a system, the employer enjoys an inherent advantage because of its ability to initiate new practices. We also must question whether the current system can function properly when employers are using the legal system aggressively and opportunistically.

The Power to Initiate

By the nature of the system, it is the employer that initiates actions through its right to manage property. The union must, in general, react to the employer's initiative. Even in situations where employees appear to be initiating action, such as a strike, employers retain the ultimate power to initiate action. In the case of a strike, an employer, through its power of discipline, can remove employees from the payroll.

Because of this power to initiate actions, the regulatory system gives employers a greater opportunity than it gives unions to alter the state of the law. Employers are capable of initiating new practices which, if litigated, could enhance employer rights. The union, for all intents and purposes, does not have an equal ability to institute conduct in pursuit of more favorable legal doctrines. This imbalance exists despite our commitment to due process in regulatory matters.

Not only is there an imbalance in the right to initiate actions, there is also a differential right to maintain good-faith conduct while it is being adjudicated. Employers can maintain such conduct until all appeals have been exhausted, thus imposing costs on the union or its employees.

It is not always acknowledged, but employers can reap benefits from those judgments they lose, thus getting even more encouragement to initiate action. Litigation tends to take private disputes and transform them into public disputes. As information in the public record reaches them, employers can take advantage of the case-by-case approach to distinguish their case from its predecessor, rebutting old arguments, and eventually bring about changes in doctrines.

This appears to be what happened with decisions involving dual purpose discharges—cases in which union supporters may or may not have been discharged for cause. The Board's original "in part" test was continually challenged by employers.[10] Even the newer doctrine of "shifting burden of proof," which requires the General Counsel to make out a prima facie case of antiunion motivation,[11] continues to be a subject

[10] The history of the litigation in "dual motive" discharge cases is reviewed in *Wright Line, a Division of Wright Line, Inc.*, 251 NLRB, 1083, 1083–86 (1980).

[11] 251 NLRB at 1086–91, enf. *NLRB* v. *Wright Line*, 662 F.2d 899, 108 LRRM 2513 (1st Cir. 1981).

of employer legal actions. Two recent courts of appeals decisions, for instance, have chipped away at the "shifting burden of proof" test by requiring employers to provide evidence that would simply rebut rather than outweigh the General Counsel's prima facie case.[12]

While, in theory, an employee who supports the union could engage in conduct that he or she believes is lawful, that employee must risk discipline and discharge by the employer—that is, the employee cannot maintain the action pending a final legal decision. Even if the General Counsel (Regional Director) chooses to issue a complaint,[13] and the employee's action is ultimately found to be lawful, the employee still must bear the burden of the employer's unlawful discipline pending a resolution of the dispute. It is reasonable to believe that such a cost would be a substantial disincentive to employees to explore their rights under the Act or to attempt to have established legal doctrines reexamined.

An incrementalist strategy in pursuit of their good-faith beliefs concerning the legality of their actions is also relatively unavailable to unions under Section 8(b). Union actions, such as pressuring employees of neutral employers or recognitional picketing, may prompt an employer to file a charge. The charge, if found by the Regional Director to have merit, triggers Section 10(1) of the Act, under which the case is given priority handling and which requires a request for an injunction by the General Counsel. Thus, the employer can have the action terminated before it is vetoed by the Board and the union cannot maintain the action. Even if the union ultimately wins the case in court, the union and employees who were enjoined are not likely to be the same parties to actually benefit from the victory.[14]

The fact that union respondents under Section 8(b) cannot maintain actions pending a dispositive legal determination, as can employer respondents under Section 8(a), means there is greater disincentive to unions than employers to explore the legality of their actions. Evidence of the dissatisfaction of unions with this inequity is the inclusion in the Labor Law Reform Act of 1977–1978 of a provision that would have required the Board to treat alleged violations of Section 8(a)(3) in the same manner as alleged violations of Sections 8(b)(4), 8(b)(7), and 8(e).

[12] See, for example, *NLRB* v. *Wright Line* (fn. 11) and *NLRB* v. *Transportation Management, Inc.*, 674 F.2d 130, 109 LRRM 3391 (1st Cir. 1982). For the opposite point of view, see *NLRB* v. *Fixtures Manufacturing Corp.*, 669 F.2d 547, 550 (8th Cir. 1982). The Supreme Court has granted *certiori* in *Transportation Management* (BNA, *Daily Labor Report*, No. 220, November 15, 1982, pp. A2–A3).

[13] The possibility that the discretion of the General Counsel in issuing a complaint may result in a barrier to an affected party's having its rights litigated has not gone unnoticed by the Supreme Court. See *Vaca* v. *Sipes*, 386 U.S. 171, 182–83 (1967) and *Detroit Edison Co.* v. *NLRB*, 440 U.S. 301, 316 (1979).

[14] See also Richard N. Block, Benjamin W. Wolkinson, and David E. Mitchell, "The NLRB and Alternative Situs Picketing: The Search for the Elusive Standard," *Industrial Relations Law Journal* 3 (Winter 1979), pp. 668–70.

Strategic Behavior

It is becoming clear that the system cannot cope when employers aggressively and opportunistically follow their self-interest. While most charge cases are still filed by employees and unions and not by employers, unions and employees are responding to the initiated conduct of the employer. To some significant but as yet unmeasured extent, employers show a greater willingness to initiate conduct—to exercise and perhaps to capitalize upon their inherent advantages under the regulatory framework. A traditional concern along these lines is that such aggressive actions by employers detract from the credibility of the system because they overload the NLRB's limited resources and create delays. We suspect another consequence as well.

The tendency to initiate conduct aggressively may create direct challenges to the basic tenets of the National Labor Relations Act. Usually this occurs when an employer commits egregious violations of the law, forcing the agency to deny one party its rights in order to protect the rights of another. At such a point, one is likely to get a "strange" remedy which, given its strangeness or unusual quality, becomes a barrier to its own use.

Consider the *Conair* case discussed above. Apparently the employer, by its outrageous and pervasive practices, destroyed the workers' ability to choose or not to choose a union of their choice. Thus the Board imposed a union on the workers, even if they might not have chosen one in the absence of employer unfair labor practices. Freedom of choice had to be sacrificed to protect the integrity of the regulatory system. One is reminded of the military people in Vietnam who said it was necessary to destroy a village in order to save it! Considering the exceptional nature of the remedy, the Board should and will show a great deal of reluctance in evoking the policy. Note, for instance, the sparse use of the *Gissel* doctrine. In the end then, the employer is in fact encouraged to act aggressively in labor relations and the acceptability of the machinery to the unions is lessened.

Conclusion

While criticism of the law and legal institutions is nothing new to American industrial relations, the labor movement's current dissatisfaction with the NLRA and its administration may have great significance. Continued dissatisfaction can undermine the acceptability of the regulatory framework and work to destabilize industrial relations.

In this paper we have distinguished between the short-run developments in the regulatory system—such as politically oriented shifts in legal doctrines—and long-term phenomena that pose a continued legal challenge

to unions. Although our analysis is highly speculative at this point, it appears to us that the legal system favors the employer because it can take the initiative in introducing new practices. At the same time, the ability of unions to take the initiative in labor relations seems to have been constrained by the growth of legal doctrines that stress the union's contractual and intraorganizational accountabilities and by the characteristics of the regulatory system.

We would not advocate constraining employers in their access to the legal system. Rather, we believe that unions should have the same access to the legal system as employers in order to get their good-faith beliefs litigated.

Perhaps we have overstated trade union perceptions of the legal system. And unquestionably unions would be greatly pleased if the NLRB could impose stiffer penalties and work more expeditiously, or, if a Democratic majority were returned to power. However, the ideas introduced here imply that dissatisfaction with the legal apparatus is a deeper problem than a disenchantment with administrative effectiveness or short-run changes in doctrine. What may be called for are other approaches to regulation—such as rule-making or problem-solving compliance—which would give the union greater access to the system.

Can the American Labor Movement Survive Re-Gomperization?

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I.

The American labor movement, and with it the industrial relations system as it is understood by American scholars and practitioners, is in crisis. The crisis is new. It is *not* the continuation, or culmination, of long-term trends adverse to labor in, for example, the industrial structure, the composition of the labor force, the size of establishments, or the character of American electoral politics. *How is it new?* First, the industries in which organized labor is most powerful are in very serious economic trouble: the existence of some major companies is tenuous and the continuation of all is problematic. This was unthinkable even two years ago. Second, management has succeeded in blaming labor for these economic problems, and trying, with a determination and aggressivity unparalleled in the postwar period, to avoid or destroy union organization in their plants and, where this is not possible, to win major concessions at the bargaining table. Third, labor's power to protect itself through the political process reached, with Reagan's election, a low ebb, and every single social institution and program which labor values has been threatened with *abolition* (also unthinkable four years ago). Fourth, the strategies and tactics which labor has devised to deal with all this have failed. One Federation strategy was to enter into a new "social compact" at the national level with big business mediated by the Business Round Table. But business was not interested. A second strategy was to organize a broad coalition on the left to threaten wholesale social reorganization along progressive lines. The labor movement demonstrated its capacity to mobilize such progressive forces in the massive Solidarity Day demonstration of September 1981. But management did not respond to the threat by entering into a new social compact with labor alone. And labor

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itself appears to have balked at the next step of actually carrying out the threat which the mobilization implied.

Labor's strategy in the face of the economic crisis of the businesses with which it is still in active bargaining relationships has been to accept management's diagnosis of the problem and to make major contract concessions to restore the company's competitive position. But these concessions have failed to halt the decline in employment and the competitive position of the industries involved remains precarious. Moreover, the ability of the top leadership to implement this strategy within their own organizations by convincing the lower level leaders and the rank and file to accept the "give-backs" involved is tenuous at best: their credibility has been seriously undermined by the failure of these programs to have the intended effect, and the strains created within the organization by the attempt to win internal acceptance create the danger of disintegration of the internal structure of the major industrial unions along the lines of the United Mine Workers, a specific example which is particularly ominous in light of the fact that several of these unions grew out of the UMW in the first place.

Why do we have a crisis of this nature at this time? Labor's position in American society in the postwar period is the result of a particular institutional structure which emerged as a coherent economic and industrial relations system in the immediate postwar period. The system was viable, and survived, because it effectively accommodated the underlying economic and productive trends. It is in trouble because these trends have shifted.

To comprehend this system and its deterioration, I think it is meaningful to think in terms of a set of understandings about American industrial relations reached by most practitioners in the few years following World War II. The precise nature of these understandings is important but considerable historical research would be required to characterize them precisely. Some were explicit enough to speak of a *compact* or an *accord* between labor and elements of the American business community. But important understandings also emerged within labor, within business, and among the lawyers and academicians who served as neutrals in labor-management disputes. They were only partly understanding of principle: more numerous, and probably more important, were understandings about a set of practices and precedents to which the participants came to adhere without a self-conscious awareness of the more fundamental principles they may have expressed. Behind all of this was a very explicit legislative framework. That framework was inherited from the New Deal, but was in no way reducible to that inheritance. Its acceptance by management remained problematic after the war and Taft-Hartley

provided the opportunity for a reinterpretation of the legislative system. The meaning of the legislation was thus defined by the practices accepted as standard in the immediate postwar period.

What was accepted and why? Here, I would stress three points: First, the understandings rested upon a underconsumptionist diagnosis of the economic crisis of the 1930s. The diagnosis was legitimized by Keynesian economics. The view, in brief, held that the heart of the economy consisted of a series of mass production industries producing mass consumption goods. The Depression had been caused by the failure of purchasing power to keep pace with the productive capacity of these industries. It had been cured by the government demand for mass produced war material in World War II, and the resurgence of the Depression could be prevented by sustaining the purchasing power of the consumers whose spending replaced that of government when the latter declined at the war's end. This may or may not have been a correct reading of Keynes or of the economy. (I happen to believe it was not far off the mark.) The essential point is that this reading was plausible and widely shared. It created a rationale for institutions like unions which sustained purchasing power by placing upward pressure on wages and for much of the substantive legislation which unions supported, like the minimum wage, social security, and unemployment insurance, for these also sustained mass consumption. Since everybody suffered in the Depression, this view gave the unions a very wide appeal, but the appeal was obviously greatest in the mass production/mass consumption industries themselves, and this was where the opposition to labor had historically been strongest.

The second component of the understandings which defined labor's place in the postwar period was a particular set of institutions regulating practices in the shop. In order to understand how they differ from those of other countries, however, and how they might be changed in the future, it is useful to see them as particular ways of achieving these goals which are widely, if not universally, shared by workers' organizations and which are pursued elsewhere in other ways: income, job security, and industrial democracy. The achievement of these goals in the United States depends heavily upon a system of highly articulated and sharply delimited jobs, each of which is assigned to a particular worker and surrounded by complexes of specific rules, customs, and precedents concerning how the work is to be done and the obligations of the worker to the employer. Thus current income is controlled by attaching to each of these specific jobs a particular wage rate. Unions control career income by rules governing the allocation of internal job vacancies. Job security is maintained by a set of rules which determine, in case of economic layoff,

which workers are unemployed and how the work is allocated among the remaining workforce. Industrial democracy has been reduced to a form of industrial jurisprudence in which work and disciplinary standards are clearly defined and fairly administered and disputes are impartially adjudicated. The whole system works only if the jobs are unambiguously defined and changes in job definitions and work assignments are sharply delimited; if this is not the case, it is meaningless to attach specific wages and employment rights to them and the governing rules and customs become too ambiguous to be effectively administered through the grievance procedure.

The precise origins of this system of shop regulation are obscure. It appears, however, that they were an adaptation of the newly formed industrial unions in the 1930s to the technology and managerial practice which American industry had developed for the mass production of standardized goods. The work had previously been broken down into a discrete set of clearly defined jobs by industrial engineers, following the practices codified by Frederick Taylor and his disciples; wage determination had already been linked to these specified jobs through time-motion studies and job evaluation; many of the work standards, disciplinary procedures, and grievance processes had already been codified and formalized in the attempt of high level management to assert the central authority over the foreman at the point of production which was required to obtain coordination in mass production. The unions thus found a whole set of mechanisms already in place; they sought first to insure conformity with established principles in order to curtail favoritism and capriciousness in shop management and, in so doing, were drawn into a bargaining relationship about the substance of the work process which presupposed these basic managerial instruments and procedures and focused upon their content rather than upon the instruments and institutions themselves. Practices which grew up in this way in the mass production industry then became standards by which labor relations in other industries were judged and evaluated, and national labor institutions gradually shaped practice in all industries to conform to the mass production model.

The third important component of the understandings governing postwar American industrial relations was the labor movement's attempt to present itself to American society as the spearhead of a broad, progressive coalition, whose concerns extended to the whole structure and substance of American life. Labor was aided in this effort by Keynesian theory, which gave it a special role in sustaining economic prosperity, but it also brought with it broad social commitments growing out of the Depression experience. This is not to deny labor's extensive

activity in the pursuit of the particular interests of its direct membership. It does emphasize, however, the very broad social program to which these particularistic goals were attached. As I have argued elsewhere, the kind of industrial unions which came to dominate American labor relations in the postwar period could not have survived without attaching their narrow program to a broad, political appeal. Their existence depended upon the protective legislative framework buttressed by supportive judicial and administrative rulings which could never have been justified to the American electorate, let alone the courts, on the narrow particularistic grounds of business unionism. Moreover, the economic gains of the unionized sector depended upon containing the competition of nonunion establishments through the minimum wage provisions of the Fair Labor Standards Act as amended periodically to keep up with inflation and productivity. Labor's political program, thus, went well beyond anything understandable in terms of narrow particular interests to include social security benefits, what we now call equal employment opportunity, and national medical insurance.

This effort of labor to spearhead a broad progressive coalition was also true in most other industrial countries. (In stressing this similarity I am, of course, at odds with most of my colleagues and teachers.) Where the politics of American labor did differ was in the firmness and completeness with which it foreclosed any role for the Communist Party in this progressive alliance. This rejection was, however, as much of an indication of the role which labor sought to play as of the reverse. The major argument against the Communist Party *within the American labor movement* was that the Party had sacrificed the interest of the progressive coalition and its own professed ideals in favor of the narrow, sectarian interests of the Soviet Union.

II.

Labor's current problems are the products of a broader economic crisis. It began as a crisis of the Keynesian system of macroeconomic regulation, but has become over the decade a crisis of mass production itself. In this sense, it has called into question the first two of the understandings underlying postwar industrial relations. What appears to have happened is the following: The institutions of macroeconomic regulation were designed to insure the expansion of relatively self-contained national markets. Beginning in the late 1960s and progressively in the following decade, the demand within these markets for mass produced consumer durables became saturated. This happened at about the same time in all of the major industrial countries. The result was that the industrial nations came increasingly into competition with each other for their own markets and those of the developing world. Internation-

al institutions capable of sustaining a world economic expansion in the way that domestic economic expansion had previously been insured were not created. One result has been a general economic stagnation. A second—and in this context more important—result has been the fragmentation of mass markets. As the major producers of the world have cut into each other's demand, the demand of each has become smaller and the economies of mass production relative to other forms of production have been reduced. This effect has been compounded by the uncertainty associated with the crisis itself, which deters the heavy fixed investment in very highly specialized resources which mass production technology entails, and by exogenous shocks, most notably those associated with oil, which make consumer demand for particular models highly volatile and creates confusion among producers, even those far removed from the final consumer, about technical choices involving long-run commitments to particular forms of fuel.

In this climate, firms and countries committed to so-called "speciality" or "batch production" have been the exception to the general trend. Their success is attributable to the use of flexible resources which enable them to move around quickly and easily in the market, following shifts in consumer tastes, relative energy prices, and the like. Basically, these so-called "speciality" producers use general-purpose and much more highly skilled and broadly trained workers than their mass production competitors. Finally, partly in response to these developments, there has been a rapid development in the technology of batch production which has reduced its cost relative to long runs of standardized items. The computer exemplifies this development: equipment which once had to be scrapped when the product design changed can now simply be reprogrammed.

These developments pose a particularly serious challenge to American industry. Because we pioneered in mass production, our institutions, modes of thought, and patterns of response grew out of, and are attuned to, this approach to the production process. The clear job definitions and the control of income, job security, and industrial democracy through rules and customs attracted to these jobs around which American unions built their shop-floor power are adapted to this form of production. In specialized production, especially with the new flexible technology and rapidly shifting markets, job assignments and shop practice change with a frequency and rapidity which clashes with this form of control. The labor movement therefore has to develop substitutes for these traditional modes of control if it is to remain an economically viable institution in the new environment, and its difficulties in doing so account in part for its problems. This, however, is hardly a problem of American labor alone; it is equally, perhaps even more so, a problem of American business. And one

of the reasons why the collective bargaining concessions which labor has made have failed to preserve jobs is that they are a response to demands made by business and conceived within the old strategy of mass production for mass markets. Thus labor really has a twofold problem: first, it must devise new strategies of control if it is to gain a foothold in those parts of the economy which are successfully responding to the new environment. Second, it must somehow force management in the older, mass production industries to rethink business strategy, and this at a time when labor finds it very difficult to rethink its own strategy. A major reorientation of thought and practice is thus required. There are a few signs that this is happening, tentatively and experimentally. But it will take time for the experiments to be evaluated and their lessons understood and accepted.

But, given the need for time, politics is critical, and here there is reason to doubt the capacity of labor to command the situation. The political position of labor in American society has deteriorated substantially over the last decade. The capacity of organized labor to protect the legal structure in which it is currently housed is problematic, and its ability to reshape that structure to accommodate any new forms of workplace organization and control which it invents in the process of accommodation to the newly emergent technologies is, at present, virtually nil. The last point is worth emphasizing. One might, for example, imagine that labor could exchange the narrow job jurisdictions and elaborate code of rules and customs through which it controls shop practice in mass production for some form of participation in production planning and the selection and phasing-in of tools and equipment. This is a very natural form of shop control in flexible specialization since workers must, because of the very flexibility of the production process, be broadly trained and have an overview of, and comprehensive understanding about, the nature of the production process which is neither necessary nor practical in mass production. The very nature of the production process then renders the workforce able to participate in a system of control at this level and, in a certain sense, already involves them in the decisions over which that control would be exercised. In practice, the union leadership would do nothing more than the business agent of a construction local does in "applying" the standard local agreement to a large commercial construction project, and construction unions are not notorious advocates of worker participation schemes. In a manufacturing plant, however, these forms of shop control involve a major transgression of a realm now protected from collective bargaining by the legal notion of managerial prerogatives, and the sharp demarcation between the rank and file and supervisory personnel. And the rapid spread of this type of collective

bargaining institution throughout American industry would require either legislative action or judicial accommodations which labor, given its present political standing, could never hope to achieve.

The Re-Gomperization:

Why is labor so weak politically? How might that weakness be overcome? I would attribute that weakness to the "re-Gomperization" of the U.S. labor movement. Of the three elements of the postwar understandings outlined above, the one element not called into question by the economic crisis was labor's political position as the spear-head of a broad progressive alliance. This, however, labor abandoned on its own before the crisis even began. For a period of almost 20 years, extending from the end of the New Deal to the War on Poverty, the progressive alliance made few new substantive gains. Suddenly, with the Civil Rights Act of 1964 and the War on Poverty itself, a whole new era in progressive legislation began. But, at that point, labor's conception of its political role began to change. It found itself suddenly in conflict with the other members of the coalition; legislation for blacks, women, the environment, and even health and safety began to conflict with the provisions of collective agreements. And, at that point, labor seems to have jettisoned the notion of the progressive coalition as an organic one in which such conflicts might be resolved internally. In its place, the AFL-CIO substituted Gompers's view of unions as organizations in pursuit of the particular interests of their immediate constituency. Political alliances came to be seen as tactical, temporary, and shifting. And as labor came to see itself and present itself in this way to the American political community, so it has come to be seen that way by legislators, the electors, and the courts—one of a multitude of particular, special interest groups to be accommodated in the shifting complex of coalitions and compromises, which is American politics. This turned out to be a pretty weak political position in the 1970s where such compromises were still being struck. It is turning out to be a disastrous position in the 1980s, as the problems of American society are increasingly being blamed on an excess of precisely those kind of expedient compromises among special interests, and one program after another is being reduced to a particular interest and cut back or eliminated on that basis. The evident failure of Keynesian economic policies has of course removed the last general claim which could be made for labor's legislative package.

It would, however, take more than labor to rebuild the broad progessive coalition of the postwar period. And, unfortunately from this point of view, labor is not the only part of that coalition that has been Gomperized in the last decade. There was a similar shift over the decade

in the whole tenor of the black appeal from the claims which Martin Luther King made for human rights, claims he asserted not only for blacks but for the Vietnamese as well, to the claims of the late 1970s made in the name of the "black community." The Jewish defense of Israel has increasingly been made, *by the Jews themselves*, on the basis of their electoral and financial strength; the rising retirement age and defense of the social security system are presented as a matter of *gray power*; abortion is a women's issue; bilingual education is a Hispanic issue.

This approach was encouraged by the Carter Administration whose neoclassical economic philosophy made it impossible to see social programs and institutions (at least those which, like unions, abridged market mechanisms) as anything more than pay-offs to the special interest constituencies which had been responsible for the President's election. And to the extent that the programs were in fact administered in this way, the social package which Reagan attacked did not really represent an integrated program defensible as a coherent expression of general principle.

Once politics has come to be structured in this way, it becomes very hard to rebuild a broad coalition which is based upon our common identity as human beings. But, the possibility remains. It remains in part because it is in the *interests* of each of the particular groups involved to cast their claims in general terms. And the vulnerability of these groups to the attack of the Reagan Administration upon social programs has demonstrated that interest. But it also remains possible because society *is* something more than the sum of its parts, because it has a coherence which derives from the humanity which we all share and that coherence is what makes it work. To say this is not to say that there are not *also* particular issues of special concern to particular groups: the union's pursuit of broad social goals in the earlier postwar decades did not mean the abandonment of the narrower, particularistic goals of their members. These two views of politics are not exclusive: there is both a particular politics and a general one. The pursuit of one need not mean abandonment of the other.

But there are times when general interests become more important than their specific manifestation. The Depression was such a period: the search of society for a solution to its common problem became overriding and whoever seemed to provide that solution became identified with the common good, whatever their particular stake in the solution they sought. Labor's position in postwar American society is due to the fact that it came to be identified in that way and managed through its politics in the postwar period to preserve that identification. Then, it allowed that identification to dissolve. The country now faces a new economic crisis. Reagan in the 1980 election managed to create the kind of identification

which labor made in the 1930s, and that is why the country tolerated a program which so transparently served the particular interest of his narrow constituency of California self-made businessmen. This solution hasn't worked, and the identification is dissolving: this is lucky for the rest of us, because the solution was certainly not in our particular interests.

It cannot really be said that labor now has an alternative to Reagan's solution and, in that sense, the kind of identity which grew out of the 1930s is not really possible now. But if, as I have argued, the crisis of the labor movement is bound up in the broader economic problems, labor's *search* for new institutional forms which are viable in the emerging productive technology is bound up with the society's search for institutional forms which will restore order to the structure of our economic and social life. It is indeed likely that the climate in which labor is able to perceive viable solutions to its own particular problems will also be one in which workable solutions to the larger social and economic issues are perceived as well. In this sense, labor's particular search is part of the society's search for a solution to its common crisis. If the labor movement could cast the problems in these terms, perhaps it could regenerate the organic progressive politics which sustained it in the past and buy the time which it needs to find institutional solutions to its own problems. I hope so because I truly do believe the fate of all progressive forces in American society is *indeed* bound up with labor in this way.

Trade Union Strategy in a Time of Adversity

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The continuing decline in the influence and power of the American labor movement is clearly one of the most significant of current industrial relations problems. Although many would argue that labor's current problems are merely transitory and that business unionism as usual remains a viable—indeed, the only viable—strategy for labor in the American context,[1] there are serious questions about its appropriateness to contemporary American society.

This paper explores the issue of trade union strategy in an organizational-theoretic framework. A conceptual model of the strategy formation process is presented and then used to analyze what is argued to be the principal failings of conventional union strategy. As a consequence of space limitations, it is necessary to restrict the presentation here to a synopsis of the complete paper.[2]

Strategy and Union Effectiveness

Most analyses of the labor movement tend to view unions as adrift in a sea of exogenously-imposed constraints and pressures (for example, changing labor and product markets, increasing employer hostility, shifting governmental priorities). Coping in such a setting is seen as a matter of adaptation—that is, finding the best organization/environment fit.[3] This approach, which is consistent with general systems theory, is based on the questionable assumption that organizations are able to exercise very little (or no) control over their environments.[4] However, much of the current literature in the organizational theory area challenges the assumption of organizational passivity. Organizations can and do actively intervene in order to reshape the environment to fit the organization. This is not to suggest that there are no ultimate limits imposed by the environment on

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[1] John Dunlop, "The Future of the American Labor Movement," in *The Third Century*, ed. S. M. Lipset (Stanford, Calif.: Hoover Institution, 1979), pp. 184–203.

[2] Interested readers may contact the author for copies of the paper in its entirety.

[3] See, for example, John Dunlop, *Industrial Relations Systems* (Carbondale, Ill.: SIU Press, 1959), and Thomas Kochan, *Collective Bargaining and Industrial Relations* (Homewood, Ill.: Richard D. Irwin, 1980).

[4] Daniel Katz and Robert Kahn, *The Social Psychology of Organizations*, 2d ed. (New York: Wiley, 1978), pp. 253–56.

organizational action, only that the environment is more malleable than systems theorists are usually willing to admit.

The central focus of the paper is an exploration of the current misfortunes of the labor movement in terms of the strategic policies and strategy-formation processes of trade unions ("strategy" being defined as a stream of interrelated decisions or actions which define the long-term relationship between an organization and its external environment). It is argued that the decline of the American labor movement (at least in the private sector) can be understood in terms of the failure of conventional trade union strategy to control critical resource dependencies that have emerged in the past 20 years or so. Moreover, organizational rigidities within the labor movement largely preclude meaningful strategic change. The union strategy model proposed is based largely on the work of Pfeffer and Salancik's recent book, *The External Control of Organizations*,[5] which examines organization-environment relations within what is termed the "resource dependence" perspective.

Organizational effectiveness is defined in terms of an organization's ability to secure and maintain a flow of resources critical to survival. When power disparities and interdependencies exist between a union and an environmental entity (for example, employers, government, other unions), uncertainty is created regarding the continuation of a critical resource flow and the union is put at risk of failure. Unfortunately, unions confront multiple resource dependencies and are subject to numerous competing, externally-imposed demands. Consequently, the assumption that union strategy is designed to optimize long-term goal attainment through environmental adaptation is generally untenable. Unions become preoccupied with resolving short-term crises, and there is apt to be little temporal consistency to choices with respect to goal optimization. Thus, *union effectiveness* is defined in terms of a union's capacity to assure itself of a steady flow of critical resources by building and maintaining a coalition of resource suppliers. Unions are seen, then, to be risk averse and satisficing entities.

The model of union strategy formation developed in the paper consists of five propositions which are adapted from the Pfeffer and Salancik book:

1. Union governance is essentially a political process.
2. The union's degree of dependence upon externally-supplied resources affects its organizational stability.
3. Internal union power derives from the ability of power seekers to manage critical resource dependencies.

[5] Jeffrey Pfeffer and Gerald Salancik, *The External Control of Organizations: A Resource Dependence Perspective* (New York: Harper & Row, 1978).

4. Those in power in unions seek to institutionalize control by creating or perpetuating dependencies favorable to their positions and by eliminating or avoiding unfavorable dependencies.

5. As a social reality may be ill-defined and ambiguous, those in positions of power may seek to impose self-serving definitions of reality on the union, so that true dependencies may be obscured (thus creating the potential for organizational failure).

Conventional Union Strategy

Considerable attention is devoted in the paper to an analysis of conventional union strategy as it evolved in the period 1935–1960. Several different critical exchanges are examined in strategic terms by employing the resource-dependence model presented above. Exchanges examined include those with: (a) the rank and file, (b) nonmembers, (c) employers, (d) governmental agencies and the courts, (e) other unions, (f) nonlabor social movements, and (g) foreign labor. Conventional strategy was successful in that era because it relied, to a large extent, on environmental control and manipulation. Examples of some of the more important strategic interactions of unions and environmental entities are:

1. *Rank and File.* Conventional strategy relied heavily on internal bureaucratic structures to maintain order and lessen the union's dependence on the membership. Order was also maintained by targeting for organization groups unlikely to impose difficult demands on unions (for example, poor workers, women, racial minorities).

2. *Management.* Though contentious at first, union-management relations moved in the direction of accommodation and cooperation in the 1950s and 1960s. In return for the legitimization of fundamental managerial authority by unions, management made substantial economic concessions. The sustained growth of the American economy in the postwar years, coupled with minimal foreign competition, provide the basis for this relatively harmonious relationship.[6]

3. *Government.* Governmental legitimization of unions was essential to the expansion of industrial unionism (for example, the Wagner Act). The ability of unions to influence economic policy, often jointly with employers, was imperative to sustaining the momentum of the labor movement (for example, expansionary economic policy tended to reduce the adverse employment implications of large contract settlements, which is an

[6] David Brody, *Workers in Industrial America: Essays on the Twentieth Century Struggle* (Oxford: Oxford University Press, 1980), pp. 173–214.

argument often presented in political theories of inflation). Consequently, unions developed close ties with the Democratic Party, a process best described as mutual cooptation.

4. *Nonlabor Social Movements.* Within its domain, organized labor confronted little competition from nonlabor social movement organizations prior to the 1960s. Leftists posed something of a threat in the 1930s and 1940s, but were initially coopted (and later purged). Black organizations, such as the NAACP, created some dependency problems at times for unions (for example, NAACP support was sought by the CIO in the late 1930s in organizing plants employing substantial numbers of blacks), but these were fairly limited until the early 1960s. Thus, organized labor enjoyed a relatively undisputed position as champion of worker interests in this period, with little need to coordinate its activities with other social movements.

The Failure of Conventional Strategy

The stagnation and progressive decline of the labor movement in the private sector, which began in the early 1960s (though it was forecast much earlier by Solomon Barkin, Daniel Bell, and others), is argued to be a function in large part of strategic failure. Conventional union strategy led to the development of a pluralistic labor movement which was able to prosper in a resource-rich and relatively uncomplicated environment. However, the economic stagnation of the 1970s, the growing interdependence of the American and world economies, and the emergence of a multitude of competing interest groups in the political and economic arena make the pluralism inherent in conventional union strategy ill-suited to a turbulent and complex world. Some examples of strategic failure discussed in the paper are:

1. *Rank and File.* Democratization within unions, promoted by the Landrum-Griffin Act and the fair representation doctrine, have reduced union control over the membership and increased union dependence on rank-and-file support. Antidiscrimination legislation has increased employment opportunities in the unionized sector for disadvantaged workers who are prepared to impose demands for social justice on unions, creating additional dependency problems for unions. Union leaders have generally failed to create new control systems, so that unions have often found it necessary to press for unwarranted contract settlements in order to appease dissident groups. Examples of unions confronting internal control problems include the UMW, the Steelworkers, and, to some extent, the UAW.

2. *Management.* The growth of foreign competition (plus nonunion

domestic competition) in both labor and product markets has greatly expanded the pattern and intensity of economic interdependencies confronting management. The decline in the rate of economic growth, which appears to be a structural phenomenon in part, serves to intensify dependency problems for management. Thus, the generally accommodative stance of management characteristic of the "mature" labor-management relations of the 1950s is being increasingly supplanted by a more aggressive approach to unions.

3. *Government.* The character and determinants of political power in the U.S. have changed rather substantially over the past couple of decades. Governmental authorities and political parties confront a multiplicity of demands from a variety of special interest groups, many of which are able to provide substantial contributions to political candidates. Political power is more dispersed, so that labor unions no longer serve as a core component of the dominant coalition within the Democratic Party. Indeed, the labor movement has succeeded in estranging itself from many of its natural political allies through its often narrow focus on the particular interests of unions. Finally, "full employment" and other demand-management policies are increasingly difficult to implement, though important to the pursuit of the traditional economic objectives of unions.

4. *Nonlabor Social Movements.* The proliferation of social movements and interest groups in the past couple of decades presents a major new dependency problem for labor. Social movement organizations compete with labor unions on several fronts: they may serve as alternative advocates for employees in the workplace (for example, women's groups, civil rights groups), they impose demands on employers that have significant resource implications and may organize boycotts or other actions to enforce those demands, and, of course, they seek legislative actions which may conflict with labor's vested interests.

Union Resistance to Strategic Change

The conclusion following from the arguments suggested above is that the pluralism of conventional union strategy is decidedly inappropriate to the contemporary environment confronting labor unions. A revitalization of the American labor movement necessitates an appreciation of the complex interdependencies of organized labor with other sectors of society. Structurally, this means creation of stronger and more formal linkages with other sectors and the subordination of the particular interests of unions to the more general interests of working people (that is, the creation of a broadly based working-class social movement).

Of course, few would be so naive as to expect such changes to occur. But what are some sources of resistance to meaningful change within unions? Much of the argument is based on the character of internal union politics and the process of power institutionalization mentioned in Propositions 4 and 5, above. That unions have such ambiguous goals, and that the methods to accomplish such goals are so imprecise, make them especially prone to distortions and misperceptions of social reality. Established organizational paradigms tend to be reinforced in such a way as to minimize the intrusion of discomforting information. The process of leadership succession within unions also tends to limit the infusion of new ideas. Indeed, it would appear as though the attainment of high office within unions depends largely on the individual's ability to reaffirm orthodox beliefs and values. These phenomena, which are means by which individuals and groups cope with uncertainty, are hardly unique to trade unions and have been observed in many other organizational contexts.[7]

[7] Karl Weick, *The Social Psychology of Organizing*, 2d ed. (Reading, Mass.: Addison-Wesley, 1979).

DISCUSSION

TOM BALANOFF
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In addressing the crisis confronting labor, as described by Professors Piore and Lawler, both identify labor's political position as "deteriorating substantially" over the last decade as a result of the failure of conventional labor strategies. Professor Piore goes further in identifying politics as critical in labor's development of strategies to address problems in the mass-production environments and the "new flexible environments." There is no doubt that labor's political position is important and interrelated with other environments in which labor partakes; as such, labor's position must be viewed in the context of the overall political environment.

In context, the labor movement has had successes in applying its political strategy in the 1970s, although these successes have been limited in comparison to certain times past. With the exception of the disasters of the 1980 congressional election, which I believe reflect an aberration rather than a trend, labor has enjoyed relative success in electing its endorsed candidates, although it may not have been completely successful in holding those endorsed candidates to a specific and consistent political position. Labor did achieve some significant legislative victories in the 1970s. Major gains were made in the area of workers' safety and health with the enactment of OSHA and MSHA, and the enactment of ERISA marked the first legislation that addressed and protected the interests of pension plan participants. Thus, while it cannot be said that labor's political agenda and accompanying strategy(s) have not eroded over the last decade, any assessment must be viewed with relativity.

Professors Piore and Lawler are correct in juxtaposing events of the 1960s, specifically labor's support for the Vietnam War and lack of support for McGovern, as impacting developments of the 1970s. The developments resulted in a wedge in the "Progressive Coalition," and the disenfranchisement of a large part of an entire generation which perceived labor as part of the "establishment." The accompanying result created a void at the national level by diminishing labor's effect on the policy and selection process in the Democratic Party (that is, Carter's nomination).

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Coupled with this development is a point raised by Piore: management's success in identifying labor as the primary source of our nation's ills. This question of identity has been a crucial element adversely affecting labor's agenda and warrants further analysis and a recognition of the impact of broader social trends.

The 1970s, the "me-generation," represented a shift from collectivism to individualism with Social Darwinism becoming a predominant approach to the economic stagflation of the 1970s. As such, labor's identity was a convenient whipping-boy for a whole litany of economic problems. The so-called high wage demands were identified as the culprits causing inflation, shifting focus from the true culprits of high energy, medical, housing, and capital costs. The labor movement's "New Dealism" was declared the bogeyman by many politicians and the charge was led against government regulations, social programs, and government spending. The corporate attack against labor and labor's political agenda laid the groundwork for rationalizations of the economic crisis and its offspring: the antiregulation movement, balanced-budget movement and, in part, concession bargaining. Along with the latest technology in election and fund-raising techniques and the assistance of corporate PACs, labor's "bad boy" identity increased to some extent the right wing's effectiveness in electing Ronald Reagan to the presidency. Professor Piore accurately reports that the right was successful in creating an image of Ronald Reagan as the knight in shining armor who would save us from the ravages of the overregulating and overspending zealots in the labor movement. Unfortunately much of Reagan's identity has been developed at the cost of the false identity projected on labor.

As Reagan and the right-wing's political star appears to be fading and our economic crisis deepening, the stage is set for a reemergence of labor's influence in the political process. Labor's test for the 1980s will be to focus attention on the results of uncontrolled corporate power and to develop a program of corporate accountability.

Professors Piore and Lawler pessimistically speculate on labor's ability to develop new political strategies for approaching changing political realities. However, it is not a question of new strategies but rather the resurrection of labor's proven political strategy—the "Progressive Coalition." Labor has shown through Solidarity Day its ability to lead the traditional Progressive Coalition based on a broad social and economic program. Piore is incorrect in thinking that the primary purpose of Solidarity Day was to achieve a new social compact with business. Although this could have occurred, it seems more practical that it should be perceived as a broad statement on the labor movement's attempt to reassemble the elements of the Progressive Coalition. That attempt must

be assessed positively in view of the results of the 1982 elections. The NewYork governor's race was a clear contrast between the progressive coalition strategy and the right-wing, single-issue, big-bucks strategy. Clearly Mario Cuomo does not deem labor's coalition strategy a failure.

In addressing collective bargaining strategies in the manufacturing sector, Professor Piore seems to imply that unions have an inherent power to unilaterally alter or mutually force changes in the production process. It is further implied that the crisis has occurred because of specific union action or lack of such action. Historically there is no basis of support for such a belief and, in the extreme, it has been a position of management to play by their own rules or take the ball and go home—or more appropriately, take the plant and go overseas. This does not negate the fact that there is a crisis in the manufacturing sector, that is in some instances secular in nature rather than cyclical, and that will result in some fundamental changes in certain industries. However, I don't believe we will see a wholesale shift from mass to "batch" production, as Piore suggests. Furthermore, in adapting to changes in production processes, the labor movement has not been as staid as Professors Piore and Lawler would have us believe. Over the years, a number of industries in the manufacturing sector have automated to the point of creating drastic alterations in the production process, and unions have adapted to such changes.

Union strategies for organizing cannot be measured solely on the merits of a specific campaign. Broader issues, such as the state of the economy, labor's overall identity, and the success of professional union-busters interact with specific union strategies and techniques. Changing political and economic climates will positively impact unions' organizing success rates. However, there have been new innovations in organizing that should not be overlooked. Most notably are the efforts of the Service Employees International Union to organize secretaries in coalition with the women's movement and the AFL-CIO's efforts in the Houston Project. The jury is still out on these efforts; however, it appears they will meet with relative success.

In conclusion, it is important to note that the labor movement is not necessarily a monolithic force, and many unions are applying varying strategies in addressing similar and dissimilar problems. Those strategies that work will come to the forefront while those that don't will fall by the wayside. The basic crisis that the labor movement confronts in collective bargaining and organizing is related to and dependent upon resolution of the broader political crisis. Whether the labor movement can positively impact that crisis will rest in the dynamics of the movement itself.

IV. CONTRIBUTED PAPERS: UNION ORGANIZATION, LABOR LAW, AND LABOR-MANAGEMENT RELATIONS

Multilateral Bargaining in the Public Sector: A New Perspective

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Some 14 years ago, McLennan and Moskow coined the term multilateral collective bargaining to distinguish public-sector negotiations from the essentially bilateral process that prevails in the private sector.[1] They reasoned that because various interest groups have a vested concern in the outcome of public-sector negotiations, they would seek to exert an influence on the bargaining process. In subsequent formulations, the term multilateralism was also used to refer to the diffuse nature of public management.[2] Although at present the term refers to both the multiplicity of groups applying pressure on public decision-makers and the fact that there are many decision-making centers (mayor, city council, personnel director, etc.) to be pressured, this paper will deal only with the former concern. It begins by presenting a "traditional" multilateral model and then refines this construct by viewing government as a more active participant in determining which groups become interested in the bargaining process and which aspects of the process are viewed as most significant. Of particular concern is the manner in which the media are used by government officials to activate interest groups, to structure the

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[1] Kenneth McLennan and Michael Moskow, "Multilateral Bargaining in the Public Sector," *Proceedings* of the 21st Annual Winter Meeting, Industrial Relations Research Association, 1968 (Madison, Wis.: IRRA, 1969), p. 31.

[2] See, for example, Peter Feuille, "Police Labor Relations and Multilateralism," *Proceedings* of the 26th Annual Winter Meeting, Industrial Relations Research Association, 1973 (Madison, Wis.: IRRA, 1974), p. 170.

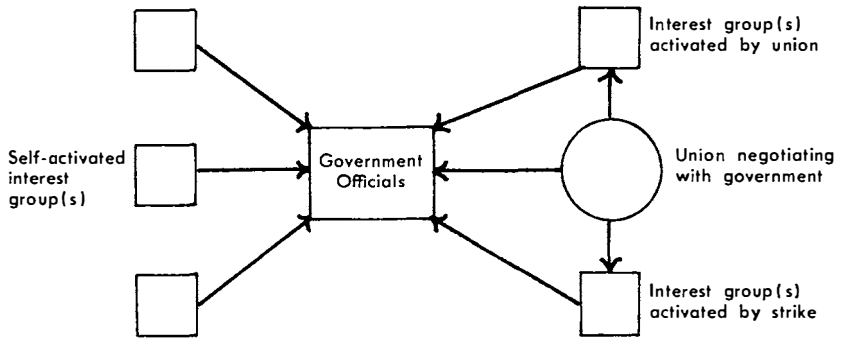
expectations of these groups, to determine which are the significant issues in bargaining, and to resolve the competing claims of various groups.

Existing Multilateral Models

The central assumption of virtually all treatments that explicitly or implicitly utilize a multilateral approach to public-sector negotiations is that government decision-makers weigh the political "clout" of each of the interest groups seeking to influence the bargaining process, then make a decision to maximize their political well-being. This approach is well supported in the political science literature and is perhaps epitomized by Anthony Downs who observed that politicians "formulate policies in order to win elections, rather than win elections in order to formulate policies."[3] Following this tradition, Fogel and Lewin explain the behavior of politicians in the collective bargaining process by indicating that "they view the electorate as a number of interest groups, and then seek to determine and respond to the relative importance of such groups."[4]

These multilateral models of bargaining, then, owe their intellectual debt to interest group explanations of political behavior. This approach views politicians as approaching their jobs in tabula rasa fashion, simply adding up the votes of the various interest groups and then implementing into policy the predominant direction of their pressures. Diagrammatically, the government official is a centrally located blank box upon which interest groups, including the union with which they are negotiating, exert pressure (See Figure 1).

FIGURE 1



The various interest groups presumed to be putting pressure on

[3] Anthony Downs, *An Economic Theory of Democracy* (New York: Harper & Bros., 1957), p. 28.

[4] Walter Fogel and David Lewin, "Wage Determination in the Public Sector," *Industrial and Labor Relations Review* (April 1974), p. 414.

government officials in the bargaining process are entities such as the PTA, welfare rights organizations, and other groups that, without prodding, realize they have a vested interest in the collective bargaining process and attempt to exert pressure. In addition, more sophisticated multilateral models recognize that it is possible for a union that is engaged in bargaining to activate other interest groups to put pressure on government officials. For example, a union negotiating with city officials may prevail on other unions or the local Central Labor Council to pressure city government on their behalf. Finally, much has been written of the ability of unions to activate interest groups by virtue of their power to call a strike. When interest groups are activated by the deprivation of critical services, their sole concern is typically that the strike be ended.

Activating Interest Groups—Theory

Perhaps the major shortcoming of existing models of multilateral bargaining is that they do not recognize the ability of government officials to "create" support for their policies. Regardless of how it is achieved, a government official will enjoy political support so long as congruity exists between the views of the electorate and the response of the official with regard to those issues that are considered salient by voters. Of course, as existing models indicate, government officials can maintain their support by responding to the felt needs of various interest groups. However, a considerable body of recent political science literature indicates that it is also possible for a public official to achieve congruity between constituent views and government actions by influencing which issues become salient and by helping determine the position assumed by the various pressure groups regarding these issues. As perhaps the leading exponent of this view, Murray Edelman, observes, "Political actions chiefly arouse or satisfy people not by granting or withholding their stable substantive demands, but rather by changing the demands and the expectations."[5]

It should not be too surprising that in a complex society, with hundreds of issues clamoring for public attention, individuals and groups must depend on external cues regarding which issues are worthy of their consideration. Priorities for discussion of public issues seldom relate directly to the amount of money or manpower to be expended, nor are individuals or groups automatically activated because their own interests will be affected. Instead, matters that experts consider to have a very high priority may arouse only apathy unless they can somehow be elevated to a position of social importance. "The mass public does not study and analyze detailed data [about complex issues]," asserts Edelman, but

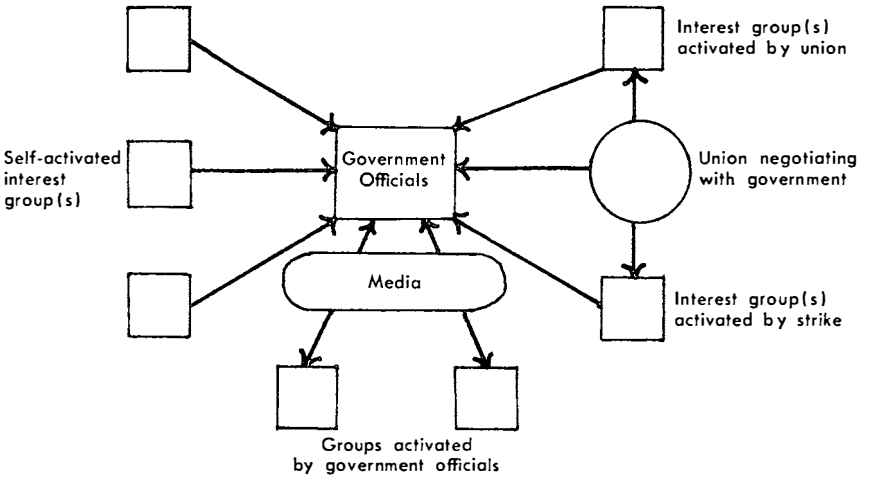
[5] Murray Edelman, *Politics as Symbolic Action* (Chicago: Markham, 1974), p. 7.

instead "ignores these things until political actions and speeches make them symbolically threatening or reassuring. . . ."[6]

Although the ability of government officials to determine which issues become salient and their ability to influence "what" individuals and groups think about those issues are conceptually distinct, frequently both of these functions can be achieved by a single act. For example, a news conference by a mayor in which he or she denounces a welfare union's demands as benefiting welfare "cheaters" at the expense of middle-class taxpayers would both make this issue salient for particular interest groups and set the parameters for "how" the issue will subsequently be discussed.

Because government officials are typically unable to directly activate either the mass public or specific interest groups to become part of the collective bargaining process, it is critical that the media be used to achieve such activation. To return to the schematic representation, we now have an "interactive" system in which government officials are both acted on and initiate action (see Figure 2). When government officials do activate interest groups, it is by using or, to employ the pejorative connotation, manipulating the media.

FIGURE 2



Role of the Media

Because of the significance of the media for this analysis, a brief overview of how the media operate is necessary. Contrary to their

[6] Murray Edelman, *The Symbolic Uses of Politics* (Urbana: University of Illinois Press, 1964), p. 172.

frequent self-characterization as "mirrors of society," the news media, in fact, exercise an enormous degree of discretion in reporting the news. The media "are not a passive conduit of political activity," one media analyst has written, but rather "a 'filter' or 'gatekeeper,' whose institutional interests, definitions and prejudices influence what is reported and what is not. . . ."[7] Such institutional requisites of the news media determine both "what" is reported and "how" it is reported.

Although the media now include both print and electronic journalism, the old newspaper standard of "good copy" still applies as the primary determinant of whether a story will be covered. More specifically, the media generally use the following criteria to decide if a story has sufficient news interest to be reported. Most importantly, stories are considered newsworthy if they involve conflict, such as wars or strikes. Second, events should be close to home and should be perceived as having a high impact on readers or viewers. Next, stories should be "familiar" in the sense that they should involve familiar situations or well known individuals. And a final criterion for television news, the event should have "film value"; that is, it should be visually suitable for presentation on TV.

In addition to these criteria which relate to audience appeal, many stories are covered simply because they are guaranteed to materialize. Assignment editors will send reporters to cover news conferences or follow up on news releases because they are able to predict in advance that a newsworthy story is present. Thus, a news conference by a mayor to discuss an impending strike is eminently newsworthy: it is local, involves a well-known politician, presents conflict, and is guaranteed to take place in time to be reported on the news that evening.

The requirements of a "good story" also dictate "how" the article or report will be presented—the "angle" of the story. Walter Lippmann's observation some 60 years ago that newspaper reporting is, in large part, a process of filling out an established "repertory of stereotypes" with current news is still valid.[8] In fact, the advent of television news has exacerbated the problem of the news media dealing with problems stereotypically. Because a TV news report lasts only a few minutes, it is impossible to deal accurately with complex issues or long-term trends. As television news executive Reuven Frank has observed, news programs should contain the same elements as fiction or drama; they should have

[7] James E. Combs, *Dimensions of Political Drama* (Santa Monica, Calif.: Goodyear, 1980), p. 123.

[8] Cited in Edward Jay Epstein, *News from Nowhere: Television and the News* (New York: Random House, 1973), p. 164.

structure and conflict, a problem and its resolution, rising and falling action, and a beginning, a middle, and an end.[9]

Since conflict is presumed to be of greatest interest to the news audience, it is always stressed. If the conflict involves confusing elements, it will typically be reconstructed in the form of a two-sided conflict because confrontations between clearly defined sides are considered most dramatic.[10] Ideally, for maximum dramatic impact, the conflict should pit the forces of good against the forces of evil.

Activating Interest Groups—In Practice

The attempt by government officials to "sell" their policies is hardly a cottage industry. In recent years the expenditures by government to influence perceptions of their activities had equalled the outlays of commercial advertisers. As pervasive as such activity is, however, it is not typically regarded as being manipulative because it almost always has the trappings of "objective" fact. The historian, Daniel Boorstin, has dubbed the staging of events by government officials so that they simulate reality "pseudo-events."[11] Because such "pseudo-events" are created specifically for the purpose of achieving media coverage, they are potent forces in defining issues as being worthy of societal attention. "Pseudo-events" typically used by government officials to stimulate one or more groups' interest in what is happening in collective bargaining include press conferences, briefings, interviews, press releases, and news leaks. The success of "pseudo-events" in garnering media attention is illustrated by a recent study which indicated that 75 percent of the news stories on local television stations originate from press releases.[12] Thus, a mayor bargaining with a firefighters' union over how a reduction in force should be accomplished might activate black and women's organizations by stating in a press release that the union's proposal to use strict seniority would disproportionately create layoffs among black and women firefighters.

Because our concern is with activating interest groups, it must be emphasized that efforts at manipulating public attitudes are typically directed at "opinion leaders" rather than the mass public. As one analyst has recently written, "Mass media impact on a handful of political decision makers usually is vastly more significant than similar impact on thousands of ordinary individuals."[13] A newspaper story indicating that a

[9] Epstein, p. 4.

[10] Epstein, p. 262.

[11] Daniel J. Boorstin, *The Image: A Guide to Pseudo-Events in America* (New York: Harper & Row, 1964).

[12] David L. Altheide and John M. Johnson, *Bureaucratic Propaganda* (Boston: Allyn and Bacon, 1980), p. 62.

police union is pushing very hard in negotiations to end the city's residency requirement for police officers may be of little interest to the general public. However, the story would likely be of considerable interest to leaders of black organizations who would readily see the implications of such a change on the racial composition of the police department.

Government Influence on "What" the Public Thinks

Government officials enjoy a uniquely privileged status in being able to influence the way in which public issues are perceived, for three reasons: they have control over the flow of information, they have the ability to act in an official capacity, and they have access to the media.

Government officials have access to certain information that is not generally available, and they also have the ability to control the dissemination of such relevant facts. By controlling much of the information that is available concerning public-sector negotiations, they have tremendous control over the public's perception of what is taking place. As a recent study of government agencies concluded, "bureaucratic propaganda uses truth for organization goals" by "presenting managed and often contrived reports as though they were done 'scientifically' and therefore depict 'objective' truth."[14] For example, a local school board negotiating with a teachers' union might issue a press release indicating that because of the state reimbursement formula and the presence of categorical federal grant monies, the school board's proposal has a *net* cost to the school district that is lower than the union's proposal, even though the total cost of the board's proposal is considerably greater. Lacking such information themselves, interest groups such as the PTA would be hard pressed to disagree with the school board's assessment.

Public officials can also mold opinion regarding public-sector negotiations by simply exercising official powers. A mayor may prevail upon the city's health commissioner to declare a health emergency during a strike by municipal sanitation workers, thereby putting the onus on the union for endangering public health. Or, in those situations where public-sector strikes are enjoinable, government officials may initiate legal actions in order to brand the striking union as having no respect for the law.

Finally, government officials can disproportionately influence perceptions of public-sector negotiations because their position accords them ready access to the media. If a mayor has a statement concerning

[13] Doris Graber, *Mass Media and American Politics* (Washington: Congressional Quarterly Press, 1970), p. 15.

[14] Altheide and Johnson, p. 23.

negotiations with a municipal union, it will be covered by the media simply because the opinions of well-known officials concerning conflict situations are considered news.

Astute politicians are well aware that the issues involved in public-sector negotiations are far too complex to be accurately reflected by the media. They therefore seek to focus attention on a particular aspect of the bargaining process that satisfies media requirements for a "good story" and presents the government officials involved in a favorable light. "Power," writes political sociologist Peter Hall, "is achieved by controlling, influencing, and sustaining your definition of the situation since, if you can get others to share your reality, you can get them to act in the manner you prescribe."[15]

Perhaps the most effective way that government officials define problems to insure their own success is by the use of condensation symbols. Condensation symbols are names, phrases, maxims, etc., that evoke highly valued societal or group goals, but which are not subject to empirical verification. The basic function of condensation symbols is to provide instant categorization and evaluation—things that are essential for media presentation.

By using a condensation symbol, a complex set of issues that precipitated a teachers' strike may be reduced to the issue of "whether teachers who were hired to be role models for our children should be allowed to break the law." Or, a set of firefighter negotiations, which might involve such issues as pay parity with police officers, scheduling practices, and a voluntary affirmative action program, might symbolically become a question of "whether employees who have control over life and death situations ought to be allowed to hold a city hostage." In addition to being directed at the general public, condensation symbols can also be directed at specific interest groups as, for example, the characterization of a police union's proposal to carry shotguns in the front of their police cars as constituting racial genocide. Each of these examples of the use of condensation symbols contain the same basic elements: they are made for the media, they are stereotypic confrontations of good versus evil, and the government official is depicted as acting from the best of motives.

Resolving Conflicting Expectations

Regardless of how various interest groups are activated or how they come to hold particular expectations of the appropriate course of government action to deal with labor relations questions, a final question

[15] Peter Hall, "A Symbolic Interactionist Analysis of Politics," *Sociological Inquiry* 42 (1972), p. 51.

remains: How are these conflicting expectations resolved? Wellington and Winter argue that these differences are resolved by performing a political calculus involving the distribution of fixed economic resources. "What he gives to the union," they observe, "must be taken from some other interest group or from taxpayers."[16] While correct in observing that differing expectations will be resolved on the basis of political considerations, Wellington and Winter exhibit considerable naivete in viewing government decision-making as involving only the distribution of "material" rewards. In fact, competing claims on government can be met through the allocation of both material and "symbolic" rewards. As political scientist Dan Nimmo reminds us, ". . . politicians win popular acceptance and support as much because of emotional leadership as their ability to allocate material rewards. The tangible gains that citizens actually accrue are less critical in affirming popular loyalties to regimes than what people think they get."[17]

A wide range of symbolic gestures are available to politicians as a means of gaining acceptability for their actions. Again, it must be recognized that the granting of symbolic rewards is accomplished through the media, so politicians must frame such gestures with the media in mind.

Members of particular interest groups may be reassured through the device of well-publicized consultations with individuals who are perceived as "representing" their interests.[18] Even more reassuring is the establishment of a "blue-ribbon" committee to dramatize government concern and to delay decision-making until such time that the issue will no longer be salient for the interest group in question.[19] Thus, an ad hoc parents group and various black organizations which have different opinions on the assignment of teachers to particular schools may all be pacified by the establishment of a high level commission to study the question.

In addition to symbolic acts, symbolic rhetorical devices are also available to government officials. Perhaps the most effective rhetorical device, because it meets all media requirements for a "good story," is to personify an enemy so that a dramatic encounter can take place between the forces of good and evil. The enemy may be a labor "boss" who is more interested in maintaining his own job than the fact that citizens

[16] Harry H. Wellington and Ralph E. Winter, Jr., "The Limits of Collective Bargaining in Public Employment," *Yale Law Journal* 78 (June 1962), p. 63.

[17] Dan Nimmo, *Political Communication and Public Opinion in America* (Santa Monica, Calif.: Goodyear, 1978), p. 87.

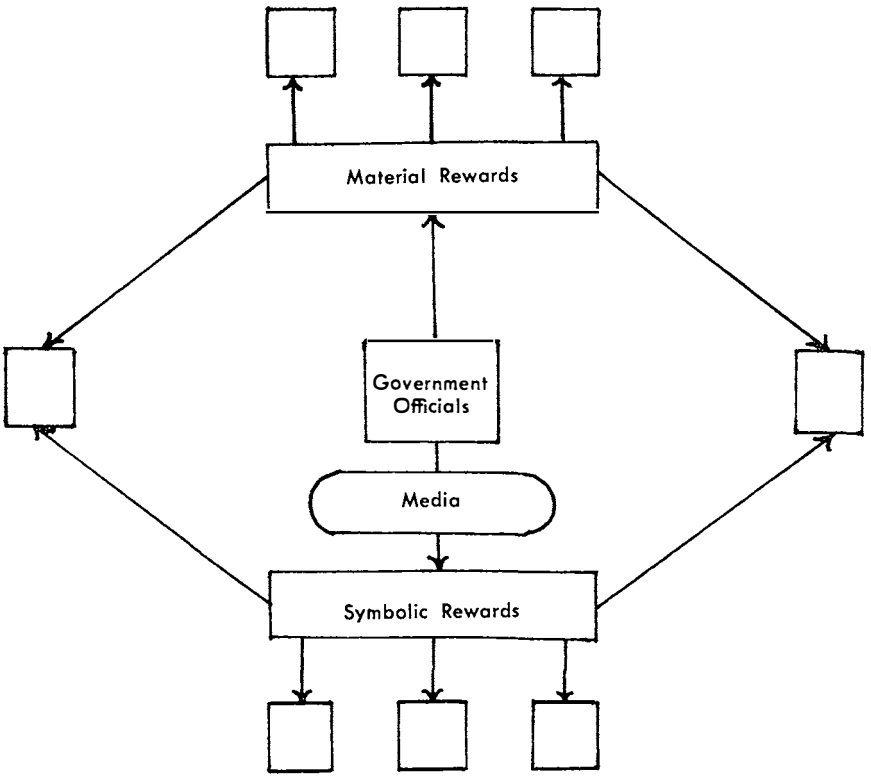
[18] Edelman, *Politics as Symbolic Action*, p. 37.

[19] Combs, p. 60.

simply cannot afford higher taxes, or a state legislature that requires local school boards to provide certain programs without providing commensurate financial support. By acting confident and self-assured in attacking a personified enemy, politicians will likely succeed because most individuals "want to believe that their leaders know what they are doing and so will accept a dramaturgical presentation of such ability on its own terms."[20] However, even if it is clear that a government official does not completely succeed in a dramatic confrontation, he will likely be perceived as having acted heroically, thus remaining worthy of support.[21]

The way in which government officials resolve the demands of competing interest groups is shown diagrammatically in Figure 3.

FIGURE 3



[20] Edelman, *Politics as Symbolic Action*, p. 38.

[21] Orrin Klapp, *Symbolic Leaders: Public Dramas and Public Men* (New York: Minerva Press, 1968), p. 126.

Summary

Of those interest groups participating in multilateral bargaining, some are self-activated, others are convinced by unions to become active, while additional groups may become activated by a strike. In addition, through the use of the media, government officials themselves have the power to activate interest groups. Regardless of how these various interest groups are activated, their competing claims will be resolved by government officials dispensing either material or symbolic rewards in a manner which maximizes the official's political well-being. Finally, symbolic rewards are typically disseminated through the media.

A Brief Application of Dialectical Theory to the Study of Union Organizations

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In recent years the field of organizational behavior has begun to examine the usefulness of dialectical models for the study and understanding of organizations (see, for example, Benson 1977, Brown 1978, Zaitz 1980). The application of this model to the union as an organization, however, has been rare, if it has been done at all. As this paper will attempt to demonstrate, this is unfortunate because such an alternative model may prove useful in explaining such current phenomena as the union movement's decreasing relative share of the labor force (Sandver and Heneman 1981) and particularly the increase in decertification activity over time (Anderson et al. 1980).

Unlike traditional organizational theories, the dialectical model concentrates on principles which examine and attempt to explain the emergence and dissolution of organizational types. This emphasis has led to the elevation of contradiction as perhaps the major principle for organizational analysis. According to this principle, inherent contradictions exist in organization types, leading to conflict and ultimately to new emerging organization types.

This paper will focus on the contradiction principle as it applies to union organizations and will attempt to delineate some inconsistencies and incompatibilities in the organizational fabric of unions. The primary proposition advanced is that there is a fundamental and irreconcilable contradiction between the equally necessary union imperatives of organizational coordination and member commitment.

I. Foundational Propositions

Unions, like all organizations, are subject to a variety of forces and influences with which they must cope if they are to survive. Most importantly, unions must be able to balance, or at least offset, the power of firms they bargain with in order to win contract concessions. There-

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fore, the second proposition advanced by this paper is that "union strength" in the industrial relations system appears to arise from at least two primary sources: the degree of organizational coordination the union possesses and the degree to which the union can bind its members into some constant pattern of relationships (degree of member commitment).

As collective bargaining issues become more complex, unions often attempt to deal with such complexity through increased organizational coordination. This coordination frequently takes on a bureaucratic form (Lester 1958) and includes such elements as hierarchy of positions, a well-ordered system of rules and procedures, and a systematic specialization of tasks (Weber 1958). For example, as business unions have arisen over time to protect workers' wages and job security in expanding markets (Tannenbaum 1951), the emphasis on organizational coordination has become paramount. This is due, at least in part, to the instrumental value of coordination for bargaining with highly coordinated management structures on complex bargaining issues.

Despite the instrumental value of organizational coordination for the union, however, there are other necessary forces within the union which often appear to frustrate this effort. In order to elaborate these forces, it is necessary to emphasize that perhaps the basic source of power for the union lies in its ability to engender collective action among its members in support of unions goals or objectives (e.g., the strike). Collective action, however, would seem to depend in great part on the extent of members' commitment to the union. According to Salancik (1977), people who are committed to an organization will tend to adhere to that organization's norms. This suggests that, in the union setting, collective action (a union norm) will depend in some measure on members' commitment to the union.

The third proposition advanced in this paper is that commitment, defined by Porter and Smith (1970) to include a desire to remain in the organization, a willingness to exert high effort for the organization, and a belief in the values and goals of the organization, depends on how well the union meets both economic and job-related needs of members. That is, member commitment is a function of the total rewards members receive from their involvement in the organization (e.g., Sheldon 1971). While the importance of meeting the economic needs of members may seem empirically obvious, the importance of meeting job-related needs, including increased responsibility, variety, and autonomy (job redesign, etc.), may appear misplaced. Many workers, however, are becoming increasingly interested in the actual jobs themselves rather than in just the economic rewards of these jobs (e.g., Cooper et al. 1979). This interest is supported in the union setting by such research as that by Macy (1980)

who found evidence of positive correlations between union-management collaboration on job-related needs and members' satisfaction with the union. Indeed, union efforts to deal with job-related issues have received support not only from members in general (see, e.g., Holley et al. 1981), but even from local union officers (Dyer et al. 1977, Ponak and Fraser 1979).

II. The Contradiction

If member commitment and, hence, union strength can be enhanced by meeting the member's job-related needs, then why have unions been reluctant to concern themselves with these issues? (See Davis 1975, Katzell and Yankelovich 1975, Winpisinger 1979, Strauss 1980.) The typical response to this question is that such reluctance is a result of goal differences with management and past adversarial behavior (see, e.g., Kochan and Dyer 1976, Drexler and Lawler 1977, Lewin 1981, McKersie et al. 1981). These responses, however, deal only with causes for union reluctance to collaborate with management and do not explain why unions have not taken a more active interest in meeting members' job-related needs. This paper proposes that the underlying cause of this reluctance can be found in the union's emphasis on organizational coordination and its subsequent bureaucratic nature.

According to Michel (1949) and the "iron law of oligarchy," elite hierarchies emerge in democratic organizations which are able to wrest power and control from the mass of participants. Once in power, the hierarchy attempts to entrench itself through the creation and implementation of rules and procedures that serve to thwart the ability of other individuals or coalitions to replace them. Perhaps because this behavior appears common in unions (see, e.g., Ulman 1955, Seidman and Melcher 1960, Lipset 1960, Estey 1976), they are virtually the only economic organizations required by law to submit their leaders periodically to the election process. As a consequence, despite the increased security derived by the hierarchy from organizational coordination (a well-ordered system of rules and procedures), the union hierarchy cannot ignore the need to demonstrate its instrumentality to members. Thus the hierarchy must evaluate meeting members' economic needs and meeting their job-related needs as ways to secure members for the union and for the union hierarchy itself.

Meeting members' economic needs would seem to be attractive to the union hierarchy for gaining member commitment. Economic concessions won at the bargaining table are explicit and measurable and can be communicated relatively easily to the membership. In addition, economic concessions are won through a collective bargaining process that often

projects an adversarial image in which union representatives are cast in the role of advocates for the membership, while management is cast in the role of the membership's adversary. Economic concessions won in this process are clearly attributable to the efforts of union negotiators, which greatly strengthens the membership's instrumental perception of the union hierarchy. Finally, all economic concessions won by the union are visible to the entire membership. That is, any individual union member can determine the concessions won for members in other departments, plants, and divisions by simply consulting the contract. Thus, economic concessions won through the entire firm can be directly attributed to the union hierarchy through the contract.

Meeting job-related needs of members would seem much less instrumental to the hierarchy with respect to maintenance of power and control. For example, unlike economic concessions, meeting job-related needs often requires some measure of member collaboration with management. That is, job redesign efforts appear to be most effective when workers and management participate together in the development and assessment of such a task (see Trist 1981, Drexler and Lawler 1977, Kochan and Dyer 1976).

The consequences for the union of member collaboration with management on job-related issues are several. First, since members themselves are involved in the process, the instrumentality of the union hierarchy is diminished. Unlike economic concessions won in collective bargaining, the coordination of collective power is not necessarily a fundamental requirement for success in meeting job-related needs. More importantly, however, Schlesinger and Walton (1977) suggest that individual participation in job-related issues may raise workers' expectations for individual participation in other work areas, further decreasing the instrumentality of the union hierarchy. In addition, the outcomes of job-related issues are evaluated more subjectively than are economic concessions. For example, the success of work redesign efforts may be contingent upon the individual expectations of various workers concerning their particular job characteristics. As a consequence, improvements are hard to measure at a macro level and hence do not lend themselves easily to union hierarchy responsibility.

Given the preceding analysis, it seems only rational that the union hierarchy focus its primary attention and energy on meeting members' economic needs. Such a focus increases members' perceptions of the union hierarchy's instrumentality and provides a sound rationale for the existing and continued interest in organizational coordination and, hence, in the existence of the hierarchy itself. Meeting job-related needs, on the other hand, may lessen the hierarchy's perceived instrumentality as

individual members begin collaborating with management over job issues important to them.

Using the dialectical approach, the preceding analysis may go far to help explain much of what is happening in the union movement at present. As unions have emphasized organizational coordination to meet economic needs in expanding, complex markets, job-related needs have been largely ignored. However, as workers have become increasingly interested in job-related issues, this strategy has caused member commitment to the union and, hence, union strength to wane. The dilemma of contradiction faced by the union is that, should the hierarchy divert its efforts toward job-related needs in order to build organization commitment, it is likely that any gains may be offset by decreases in commitment resulting from the union's increased difficulty in meeting economic needs. That is, because individual member collaboration with management on job-related issues may cause members to demand less organizational coordination (less control by the hierarchy and fewer specialized rules and procedures), the hierarchy's bargaining ability over economic issues may be hampered. Thus, on the one hand, the union is faced with the risk of relatively low levels of member commitment when the hierarchy focuses on increasing organizational coordination to meet members' economic needs at the expense of job-related needs, while, on the other hand, it runs an offsetting risk of equally low levels of member commitment when it focuses on job-related needs which may result in demands for decreases in organizational coordination and, hence, increased difficulty in meeting economic needs. Appealing to the "iron law of oligarchy," an emphasis on meeting members' economic needs is less threatening to the hierarchy itself and thus will likely be chosen as a focus by the hierarchy over meeting members' job-related needs. Therefore, as union leaders continue to focus on economic needs, it is not surprising that member apathy seems to be increasing (Strauss 1978).

III. Implications for Research

When the dialectical approach suggested above is used, the apparent contradiction between organizational coordination and member commitment gives rise to several important questions for future union research. First, can differences in union strength across unions be explained in terms of the intensity of the contradiction above? Second, what kind of structural and process changes are emerging in unions as a consequence of this contradiction? And third, can the increase in decertification activity, the frequent existence of factions and splinter groups, and the lack of member involvement in union government be explained by this contradiction?

These questions are somewhat unique in union and organizational research. They do not view issues such as member apathy, etc., as problems requiring solutions. Rather, they are merely viewed as interesting phenomena. It may be helpful for predictive purposes to understand why these phenomena occur, but there is no intent at "managing" them being implied. This is an important distinction from traditional union and organizational theory whose aim is more directed at preserving existing organizational types. The dialectical approach is more interested in uncovering the principles and processes which occur in organizations as they evolve.

While this emphasis may be surprising and perhaps alarming to some at a time when the relevance of industrial relations research is being scrutinized, it is precisely because of the relevance issue that the dialectical approach has been advanced in this paper. If the premise that organizations are continuously evolving is correct, then there can be few things more relevant than understanding the evolutionary processes of organizations.

To conclude: This paper has offered a rather basic application of the dialectical approach to union organizations. Although the contradiction which was briefly developed is undoubtedly an important one, it certainly is not the only contradiction, nor is it likely to be the most important one. It is hoped, however, that this simple application of the dialectical approach will serve to stimulate an increased interest in its use in future theoretical and empirical union research.

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Employer Campaign Tactics and NLRB Election Outcomes: Some Preliminary Evidence

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Various authors have claimed that employer success in NLRB representation elections depends on the use of an assortment of well-orchestrated campaign tactics.[1] Prominent among these tactics have been early detection of union activity, appropriate campaign management, the use of specific communication channels, use of certain campaign issues, and restriction of employee-solicitation activities. Also, success in obtaining a favorable trade-off between the composition of the election unit and the date of the election has been considered an important factor. Although academic researchers have provided documentation of the relationships between certain campaign practices and election results, relatively little empirical analysis of campaign behavior has been published.[2] This research provides a preliminary investigation of the relationship between the several employer campaign practices identified above and election outcomes.

Method

A questionnaire was designed to identify the campaign practices used by employers in preparation for NLRB elections. A sample of 113 employers was obtained from the records of a single NLRB regional

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[1] Louis Jackson and Robert Lewis, *Winning NLRB Elections: Management's Strategy and Preventive Programs* (New York: Practicing Law Institute, 1977); John G. Kilgour, *Preventive Labor Relations* (New York: AMACOM, 1981).

[2] John C. Anderson, Gloria Busman, and Charles A. O'Reilly III, "The Decertification Process: Evidence from California," *Industrial Relations* 21 (Spring 1982); Julius G. Getman, Stephen B. Goldberg, and Jeanne B. Herman, *Union Representation Elections: Law and Reality* (New York: Russell Sage Foundation, 1976); John Lawler, "Labor-Management Consultants in Union Organizing Campaigns: Do They Make a Difference?" in *Proceedings of the 34th Annual Meeting*, Industrial Relations Research Association (Madison, Wis.: IRRA, 1981).

office located in the eastern United States. The sample consisted of all RC-type (petition for certification) election cases involving a bargaining unit of 20 or more employees that were conducted and closed between October 1980 and January 1982. The sample included 60 employers that won elections and 53 that lost. The cooperation of each employer was solicited by telephone immediately before the questionnaire was mailed in February 1982. Also, anonymous responses were allowed in order to increase the quality and level of responses. Fifty-two (46 percent) of the 113 employers completed and returned their questionnaires, including 31 firms that won their elections and 21 that lost.

Election outcome was measured as a dichotomous variable and coded "1" for an employer win and "0" for a loss. All but a few of the observed campaign tactics were measured as dichotomous variables and coded "1" if actually used by the employer and "0" if not used. Simple correlations between practices and election outcomes were calculated. Discriminant analysis was used to determine which combination of practices distinguished winners from losers in the sample studied.

Findings

The results provided in Table 1 concerning various methods of detecting union activity are generally consistent with our expectations about the use and impact of such practices. Use of employee sources of information to learn of covert union activity was most highly correlated with employer election success. Conversely, those employers that first became aware of organizing activity through direct observation of overt tactics were clearly more likely to lose their elections. The number of days between the date of detection and the date of the formal demand for recognition attained a much smaller but still significant correlation with election

TABLE 1
Detection of Organizing Activity (n = 52)

Method	Percentage of Employers Reporting Use	Correlation With Election Outcome[a]
Covert activity reported by employees	58	.42***
Employer confronted by overt activity	40	−.36**
Outside sources	2	−.20
Days lapsed between detection and formal demand for recognition	—	.26*

Note: *$p < .10$; **$p < .05$; ***$p < .01$.
[a] Employer win = 1, loss = 0.

outcomes. Finally, the use of outside sources, such as other employers or trade associations, to learn of union activity was not effective.

The correlation results for the various practices that employers may implement after organizing activity is detected are provided in Table 2. The findings concerning campaign management indicate that the employer's campaign was more effective if it was managed through the combined efforts of an inside general management official and an outside consultant. This approach apparently provided an optimal blending of the expertise and specialized experience of the consultant with the company official's greater knowledge of the employees and issues involved in the campaign.

A moderate degree of association was found between restriction of employee solicitations on behalf of the union and election outcomes.

TABLE 2

Election Campaign Practices Used by Employer (n = 52)

Practices	Percentage of Employers Reporting Use	Correlation with Election Outcome[a]
Campaign management:		
Outside consultant with inside general manager	44	.26*
Inside general manager	40	.20
Inside IR specialist	11	.18
Outside consultant	5	.003
Restrict employee solicitation	20	.30**
Campaign communication channels:		
Speeches	81	.39***
Personal letters	71	.26*
Small group meetings	56	.06
Handbills, flyers	50	.27**
Payroll envelope messages	44	.26*
Posters	20	.36***
Movies	21	.23*
Total number of channels used	—	.43***
Campaign issues used:		
Disadvantages of unions (other than strikes)	92	.35***
Negative image of organized labor	60	.28**
Employer's compensation practices	40	.04
Employer's "good points" (other than compensation)	23	.26**
Potential strikes	12	.30**
Election arrangements:		
Employer influence on election date	66	.55***
Employer influence on election unit composition	65	.68***
Days elapsed between petition and election	—	.08

Note: $*p < .10$; $**p < .05$; $***p < .01$

[a] Employer win = 1, union win = 0.

However, future use of this practice may be affected by a recent Board decision which concluded that employer "no solicitation" rules are often ambiguous and tend to discourage employees from engaging in protected solicitation activities.[3] Accordingly, the Board may require employers to specify clearly that solicitation is permitted at certain times and places.

The correlations calculated for campaign communications channels were significant for all variables except small group meetings. The correlation calculated for the measure consisting of a simple summation of all channels used by a firm was more impressive than those calculated for the strongest individual channels, speeches and posters. These findings indicate, as we anticipated, that many of the communications tactics that employers are uniquely positioned to utilize do have a material impact on election outcomes.

Four campaign issues were particularly effective when used by the employer. Three pertain to negative views of unionization, and one involves favorable aspects of the employer's past treatment of employees. As expected, compensation was not a decisive factor.

Employer influence on election arrangements was measured by asking employers to report their success at influencing date and unit composition on a five point interval scale ranging from unsuccessful to very successful. Though these measures capture only employer perceptions, the large, positive correlations found for both types of employer influence are consistent with the belief of some authors that election arrangements often have a substantial impact on election outcomes.[4]

The results of the discriminant analysis, presented in Table 3, indicate that election results depended to a great extent on employer use of six particular campaign practices. The relative importance of each of the six practices is indicated in Table 3 by the discriminant function coefficients. Influence on the bargaining unit stands out as being the most important. Also, election winners learned of covert organizing activity with employee assistance, used more communication channels, exercised more influence on the date of the election, used the employer's good points as campaign issues, and placed restrictions on employee solicitation activity.

Conclusions

These findings provide tentative evidence that several of the commonly recommended campaign practices are related to election results. Also, these results raise policy implications in two areas. First, the evidence underscores the importance of the employer's ability to limit employee

[3] *T.R.W., Inc.*, 257 NLRB 47, 107 LRRM 1481 (1981).

[4] Richard Prosten, "The Rise in NLRB Election Delays: Measuring Business' New Resistance," *Monthly Labor Review* 102 (February 1979).

solicitation activity and to present information through numerous channels in the workplace. This suggests that NLRB efforts to promote a reasonable balance between the union and the employer in campaign communications should be continued, if not strengthened.

Second, the apparent importance of exercising influence on election arrangements suggests that the process through which the influence is exercised may be too permissive. For instance, the fact that a majority of the employees do or do not wish to be represented by a union may be outweighed in many circumstances by the union's willingness to settle for an employer-preferred, though still appropriate, bargaining unit in exchange for an earlier election date. Less flexibility in the establishment of election arrangements, or the use of standardized bargaining units and election dates in routine election situations, would tend to reduce the incidence of this outcome.

In closing, it should be pointed out that the design of this study imposes some limitations on our conclusions. First, because of the exploratory nature of the analysis, data on union campaign behavior were not examined. Second, the data were collected from a small sample of firms within a limited time frame and geographic area. Confirmation of our findings in a more comprehensive sample is needed. Finally, because of the potentially sensitive and confidential nature of the information

TABLE 3

Stepwise Discriminant Analysis of Tactics Related to Election Results (n = 52)

Campaign Tactics	Correlation Coefficient	Discriminant Function
Covert activity reported by employees	.42	.36
Overt activity observed by employer	−.36	—
Days elapsed, detection to demand	.26	—
Employ outside consultant	.26	—
Restrict employee solicitation	.30	.34
Speeches	.39	—
Posters	.36	—
Total number of campaign communications channels used	.43	.39
Campaign issues used:		
Union disadvantage	.35	—
Negative labor image	.28	—
Potential strikes	.30	—
Employer's "good points"	.26	.32
Employer influence:		
On election date	.55	.25
On unit composition	.68	.57

Notes: Cannonical correlations = .71; Wilks' Lambda = .47, $p < .0001$. Percent of grouped cases correctly classified = 91 percent.

collected, some degree of response bias must be expected to exist in the data. However, the interest and willingness to cooperate shown by employers during telephone conversations suggests that such bias is a minor factor.

Disclosure of Information: A Comparative View

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Disclosure of information to employees and unions is an issue of increasing importance in most Western industrialized countries. The scope and timing of disclosure have become the focus of particular interest, especially with regard to decisions on plant closure and new investment sites. In this paper, we examine the existing law and practice on disclosure in three countries, the United States, Great Britain, and Sweden, as a basis for determining whether certain statutory provisions and judicial interpretations serve to encourage or inhibit the extension of disclosure of information to employees. This paper is concerned primarily with the impact of different legal frameworks. Our main focus is on the union in the private sector as the recipient and user of information within a collective bargaining system.

The duty to disclose necessarily relates to the conditions which existed at the time the statute creating the duty was enacted. Of the countries surveyed, the American law was first to obligate employers to disclose information. This occurred in 1936, during a time of severe economic contraction when unions were struggling to secure collective agreements covering the most basic terms. In Great Britain, collective bargaining was very firmly established and the economy relatively buoyant when legislation on disclosure was first enacted in 1971. In Sweden, a voluntary national agreement on disclosure was concluded between the Swedish Confederation of Employers' Organizations (SAF) and the Confederation of Trade Unions (LO) in 1946. In 1976, the broad-ranging Joint Regulation of Working Life Act was enacted, representing the crest of labor movement power in Sweden.

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United States

In the United States, disclosure of information to unions is a derivative right, arising from the employer's duty to bargain in good faith based on an interpretation of the language and intent of the National Labor Relations Act (NLRA) rather than on an express statutory provision on disclosure. When the NLRA was passed in 1935, the employer's duty "to bargain collectively with the representatives of his employees" was not defined. In 1936, the question arose whether an employer had violated Section 8(5) by refusing to turn over wage information requested by a union during negotiations. The NLRB held that the employer had committed an unfair labor practice, declaring "communication of facts peculiarly within the knowledge of either party is of the essence of the bargaining process."[1] The NLRB's conclusion, that the duty to bargain in good faith encompasses a duty to disclose information, was readily accepted by the courts. In 1947, when Congress enacted Section 8(d) defining the duty to bargain, disclosure of information was not mentioned. This omission is significant because the enactment of Section 8(d) was motivated by the belief that the NLRB had been too expansive in its interpretation of the duty to bargain so that Section 8(d) expressly states what the duty to bargain does and does *not* cover. Congress's silence, then, represents agreement with the NLRB's interpretation.

From its inception, the duty to disclose was linked to the duty to bargain in good faith. This linkage, rather than extending the scope of disclosure, served to limit the extension of the disclosure obligation. This came about as a result of the 1958 *Borg-Warner* case when the Supreme Court placed the universe of potential subjects of bargaining into three categories and labelled them mandatory, permissive, and illegal.[2]

The distinction between the first two categories is crucial because American labor law takes an all-or-nothing approach. If the subject is mandatory, both sides have a duty to bargain in good faith and they can resort to economic weapons to support their negotiating positions. If the subject is permissive, neither side may condition its acceptance of the collective agreement upon the inclusion of the item, nor may demands on a permissive subject be backed up by concerted action. As such, *Borg-Warner* had the effect of limiting the disclosure duty to mandatory issues, since an employer cannot be compelled to discuss permissive subjects, let alone turn over information related to them. In this sense, permissive subjects of bargaining can be viewed more aptly as issues subject to permissive consultation. The judicial interpretation of the duty to bargain,

[1] *S. L. Allen & Co.*, 1 NLRB 714, 728 (1936), *modified* and *enf'd*, 2 LRRM 780 (3d Cir. 1938).

[2] *NLRB* v. *Wooster Div. of Borg-Warner Corp.*, 356 U.S. 342 (1958).

as refined by *Borg-Warner*, completely eliminates the possibility that permissive subjects of bargaining could be treated as mandatory subjects of consultation to which a disclosure requirement would attach.

Since the duty to disclose information arises only from the duty to bargain, it is important to note what items are included in the category of mandatory subjects based upon the interpretation of the statutory language "wages, hours, and other terms and conditions of employment." The first two, wages and hours, have presented few definitional problems. The catch-all phrase, "term and conditions of employment" has been less susceptible to definition, with its meaning being clarified only through case-by-case determination. This process has been slow and has not provided clear-cut guidance.[3] In general, courts have taken the view that issues relating fairly closely to the conditions of employment of those employees (and only those) covered by the contract are mandatory subjects of bargaining. Issues related to the company's long-term strategic plans, such as capital investment and product-line diversification, are not mandatory subjects because they are deemed to have only an indirect impact on the employment relationship. The decision to close all or part of a company is outside the reach of mandatory bargaining even though it has an immediate, direct, and adverse impact on the unit employees because such a decision lies "at the core of entrepreneurial control."[4]

The duty to disclose is activated by a union request, which must be fairly specific, for information. A union may also demand that an employer produce information to substantiate claims, such as inability to pay, he has made. The NLRB has held that a union has a right to information which is "relevant and necessary" to bargaining, a requirement which has not been interpreted narrowly. Once the major hurdle of demonstrating that the information has some relevance to a mandatory subject of bargaining has been surmounted, a union need only show that the information relates to a specific item about which the union is or intends to negotiate.

Employer refusal to disclose information is not a common unfair labor practice. With the NLRB holding that certain types of information, such as wage-related data, are presumptively relevant and with effective enforcement, such as orders to turn over the information, routinely available, employers lack an inducement to resist disclosure. When

[3] For example, it was not until 1979 that the Supreme Court decided that prices for food in the company cafeteria was a mandatory subject of bargaining. *Ford Motor Co. (Chicago Stamping Plant)* v. *NLRB*, 441 U.S. 488 (1979). Ford had refused not only to bargain about the prices but to disclose information relating to the setting of the prices to the UAW.

[4] *Fibreboard Paper Products Corp.* v. *NLRB*. 379 U.S. 203, 223 (1964) (Stewart J., concurring). The effects of a closure, but not the decision itself, are subject to bargaining. *First National Maintenance Corp.* v. *NLRB*, 452 U.S. 666 (1981).

employers do so, their refusals are frequently based on an objection to the specific request, such as the format in which the material is to be presented, rather than on a general objection to the substantive nature of the information.

Objections on the grounds of confidentiality are not often successful. When confidentiality is put forward as a defense, the NLRB determines whether the company's interest is "legitimate and substantial," and if so, whether the employer has made a good-faith effort to provide the union with the data requested in some form which would have met the union's needs while protecting the employer's interests.[5] In some cases, the union's need for the information may be held to outweigh the competing confidentiality and privacy interests involved.[6]

The right of American unions to obtain information related to bargaining has a firm legal basis and is easily enforceable. The major legal constraint, that the information be related to a mandatory bargaining subject, flows from the acceptance of management rights which underpins American labor law. In essence, it is believed that if a union has no right to strike over an issue, it has no right to receive information related to that issue. That receipt of information might foster cooperation, and thus be a goal worthy of separate legislative enactment, is an idea not yet advanced.

The ability of American unions to obtain information related to bargaining raises operational questions. Unions must request specific information to activate the disclosure duty. When bargaining occurs at the national level with union negotiators backed up by professionally-trained staff members, broad disclosure is common. When bargaining occurs, however, at the plant level, requests for information are usually limited to the obvious items, with local union negotiations having little sense of what data are available and how they could prove useful.

Great Britain

Similar to the American situation, disclosure in Great Britain is linked to bargaining. Unlike the United States, the duty to disclose arises from express statutory provision, Section 17 of the Employment Protection Act 1975.[7] Under Section 17(1), the employer is obliged to disclose informa-

[5] See, e.g., *Detroit Edison Co.* v. *NLRB*, 440 U.S. 301 (1979) where the company refused to furnish the actual questions asked on a test used for promotion, nor would it provide the names with scores attained by those who had failed the test.

[6] See *Minnesota Mining & Mfg. Co.*, 261 NLRB No. 2, *Colgate Palmolive Co.*, 261 NLRB No. 7, and *Borden Chemical Co.*, 261 NLRB No. 6, where two chemical workers' unions sought acess to workers' medical records and substance exposure information. These cases, decided on April 9, 1982, are on appeal.

[7] This was a reenactment of provisions from the 1971 Industrial Relations Act which had not come into force before the 1971 Act was repealed in 1974.

tion without which the union would be to a material extent impeded in carrying on bargaining, and which would accord with good industrial relations practice on disclosure. Section 17(2) provides that the bargaining must be about matters and cover workers for which the union is recognized. Section 18 lists several exemptions from the disclosure duty, for example, when disclosure would cause substantial injury to the firm or would involve a disproportionate amount of time.

The impact of Section 17(2) on the scope of disclosure is considerable. British labor law does not contain a duty to bargain over certain types of issues. In "recognizing" a union, an employer agrees to bargain with a union over certain issues relating to certain workers. No subjects are placed by law on the bargaining table nor are any subjects legally excluded from the arena of economic combat. As a result, if a British union can persuade an employer to bargain about a certain issue, it can then seek disclosure of information related to that issue. It is commonly assumed that in recognizing a union, an employer must be deemed to have agreed to bargain about wages and hours, but whether other terms and conditions of employment come within the "recognition" can be a vexing question.

Similarly, the Central Arbitration Committee (CAC) has taken a narrow view of Section 17(1). The idea in the law that disclosure should be granted when the request is in accord with "good industrial relations practice" has not had a positive impact since the CAC has concluded that it cannot act as a trail blazer or standard setter.[8] Furthermore, in attempting to ascertain what is the standard practice on disclosure, the CAC confines its inquiry to the industry in question, not importing standards from progressive industries.

In contrast to the American "relevant and necessary" standard which has been liberally interpreted, the CAC's reading of Section 17(1)(a) is most definitely restrictive. Requiring disclosure of information "without which the trade union would be to a material extent impeded" in bargaining, this provision has proved a considerable obstacle to a union desiring a certain type of information which it has managed to do without in past bargaining. The union must show more than that the information would be relevant and helpful; it must demonstrate need.[9]

The low success rate of union disclosure claims before the CAC has curbed the inclination of British unions to pursue such claims. A further disincentive is the clumsy enforcement procedure contained in the Act. When a union believes that an employer has failed to meet his statutory

[8] CAC Award No. 79/484, *Standard Telephones and Cables Ltd. and Ass'n of Scientific, Technical and Managerial Staffs*, para. 25.

[9] CAC Award 78/353, *Daily Telegraph Ltd. and Institute of Journalists*, para. 20.

duty, the union can file a complaint with the CAC which first attempts a conciliated settlement. If this fails, a formal hearing is held, with the CAC issuing a written award. If the union believes that the employer has failed to comply with the award, the union can make a further complaint to the CAC. The remedy for failure to comply with an award is *not* an order directing the employer to turn over the information. Rather, the CAC may order that certain terms be inserted into the employees' contract of employment. This statutory remedy is now generally conceded to be unsuited to its task.

The language of the Act, its interpretation by the CAC, and the resulting decline of interest on the part of unions in using the law have combined to make the direct influence of the law slight. It may, however, have a larger indirect influence by creating an atmosphere conducive to disclosure. Unions may have been persuaded that information is a more important tool in the bargaining process than they had previously realized. The law may have induced employers to disclose information to avoid litigation. The fact that a majority of cases are settled at the conciliation stage, prior to a formal CAC hearing, seems to support this.

Sweden

The Swedish law on disclosure is broader and more comprehensive than those of the United States and Great Britain. The 1976 Joint Regulation of Working Life Act obliges employers to keep recognized unions continuously informed about economic, production, and personnel matters. Under Section 18, employers must supply any information sought by the union during negotiations and, if the employer refers to any documents, then they must be made available to the union on request. The union has a right to examine accounts and any documents which it feels it needs. If it is possible to do so without unreasonable cost or inconvenience, management is obliged to assist the union with an analysis of such documents.

The duty to disclose is related to an obligation to bargain. Under Section 10, the union has a right to negotiate with the employer on "any matter concerning the relationship between the employer and his employees." Moreover, before deciding upon any "important change of work or employment condition," the employer, under Section 11, must, on his own initiative, negotiate on these matters. If the union requests negotiations on any other matter, Section 12 obliges the employer to negotiate.

Other aspects of the legislation reinforce the union's right to bargaining and to disclosure. First, Sections 38-40 permit the union to veto the employer's decision to have work performed by subcontractors. Second,

the Act has shifted the traditional priority of interpretation in disputes from the employer to the union. Thus, where a dispute occurs, pending resolution of the issue, the union's interpretation prevails. This stands in stark contrast to the law and practice in the United States where "management acts and the union grieves" and to Great Britain where status quo clauses the union have historically been subjects of much contention and are an issue on which the law is silent. Finally, the legal history of the 1976 Act suggests that damages for breach of the disclosure duty should perform a penal function. Thus sanctions are much stronger than in the U.S. or U.K.

The statutory exemptions are minimal. First, a conflict clause limits the right to information when this would affect a situation in which conflict exists or is imminent. Second, the union can only receive information concerning its own needs, not those of another union. Third, the employer has the right to require that the union negotiate on a duty of confidentiality. When agreement cannot be reached, Section 21 empowers the Labor Court to order a duty of confidentiality where it considers there could be "substantial injury" to the firm or a third party from disclosure.

The 1976 Act provides that a national voluntary agreement between employers and unions should fill out the details of the law. Although probably less adversarial than their American and British counterparts, Swedish employers displayed a reluctance to go beyond the legal minimum. A disclosure agreement in the private sector was not concluded until Spring 1982.

To date, the Swedish Labor Court has decided most cases in a manner generally favorable to the union side. Generally, the position has been taken that where there is a duty to negotiate, there is also an obligation to provide full information to make negotiations meaningful and effective. The scope of negotiations and disclosure has been very broadly interpreted. Thus, the employer must disclose on any matter which the employees believe might have repercussions for them.[10] This includes topics from broad strategic decisions, such as plant closures, to sensitive personnel matters such as the appointment of a senior executive.[11] Subsidiaries are not excused from the duty to disclose and negotiate on the grounds that they do not possess the information.[12] Arguments of confidentiality and substantial injury have not proved successful before the Labor Court and they have not often been advanced by employers.

[10] See, e.g., Labor Court decisions No. 60 (1978), No. 166 (1978), No. 1 (1979), No. 88 (1979), No. 72 (1980).

[11] Labor Court decisions No. 51 (1958) and No. 45 (1981).

[12] Labor Court decisions No. 1 (1979).

From a legal viewpoint, there are two main limitations in the Swedish law. First is the problem of bargaining to impasse. Although there is a duty to attend negotiations and provide information, there is no obligation to compromise or reach agreement. Once the negotiations have taken place, the employer is free to take the decision, and Swedish unions are bound by a peace obigation during the term of the contract. Only on subcontracting does the union have the power of veto. Second, there is the problem of timing. The law has been interpreted to mean that the employer should not wait for a request before disclosing information. Rather, he should initiate the disclosure process at a time in the decision-making process for the union to be able to take an integral and effective part in the employer's preparation for the decision. Thus, disclosure should occur before the employer has made a preliminary decision.[13] Yet, in another important case, the Labor Court decided that the employer has the right to make investigations and deliberations concerning the various alternatives before the obligation to disclose and negotiate takes effect. The court noted: "It is not really possible to negotiate in a meaningful way before the employer has reasonably made up his mind concerning the different measures which are possible."[14] Thus, in the vital early stages of planning, when the employer starts to collect data and structure alternatives, there is no obligation to supply information.

In addition to these limitations contained in the law itself, there is a further constraint which arises from the way in which the law relates to the collective bargaining system. The Swedish law assumes bargaining at the plant level and, indeed, it is expressly designed to encourage this. But it is at precisely this level the Swedish collective bargaining is weak. At the company level, it is weaker still, and yet it is here that key decisions are taken. Collective bargaining has traditionally been strongest at the national level, and the central employers' and union organizations prefer to keep it that way.

The problem in Sweden arises from the absence of union structures and the related failure to develop union strategies at plant and company levels.

Conclusion

Legislation on disclosure of information has been increasing, both nationally and internationally. This paper has examined three national systems. From a union point of view, the primary problem in the United States and Great Britain has been the weakness of the law itself. In Britain,

[13] Labor Court decisions No. 28 (1978) and No. 93 (1980).

[14] Labor Court decision No. 56 (1978).

the law is not supported by a duty to bargain. More importantly, in both countries, the disclosure obligation is limited. From a union viewpoint, the Swedish law is a considerable improvement, with the scope of the bargaining and disclosure obligations much more widely drawn. In Sweden, one of the main legal difficulties has been the timing of disclosure.

An industrial relations variable which features prominently in the Swedish case is that of asymmetrical union structures and bargaining institutions. Large firms formulate their strategies at headquarters and divisional levels and have developed corporate structures to implement their strategies. To deal effectively with them, unions must have their own countervailing structures and strategies at the appropriate level. If, as in Sweden, unions are organized at the industry and national level, while plant and company level organization is weak, corporate information is not likely to be requested or effectively used. If, as in Britain and to some extent in the U.S., unions are strong at the plant level but the company-wide structures are weak, the unions' strategic view of the corporation is limited. It is at the crucial corporate level that union structures and strategies are weakest in most Western industrialized countries.

The national systems surveyed in this paper all demonstrate that strong legal provisions are a necessary condition for effective disclosure. They are not, however, in themselves a sufficient condition. Legislation may prod reluctant employers and act as a catalyst on the union side, but legal rights alone are inadequate in the absence of appropriate union structures and bargaining institutions.

DISCUSSION

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Multilateral Bargaining

The principal thesis of Marmo's paper is that public officials (more generally, "the politicians") activate interest groups to serve the aims of the politicians who engage in multilateral collective bargaining. This contrasts with the Downs's model, in which the politicians are merely "computers" who take into account all of the competing interest groups and then "optimize" on outcomes so that they can remain in office. Politicians are not puppets, and Marmo effectively argues that position. Moreover, Marmo argues that the principal means used by politicians to activate complementary interest groups is the media.

One could infer from Marmo's comments that the impact that politicians have on interest groups through the media is uniformly self-serving and effective. On the contrary, my own impression is that politicians can just as often be counterproductive when they approach the media in their attempt to elicit the support of competing interest groups. That is, the politicians may actually inspire voter support for the union position as opposed to their own. The California, Pennsylvania, teachers' strike, which is now the longest in the state's history, seems to have been managed very poorly by the local school board officials. The community is effectively split to the point where the dispute has reached the level of national attention. Many other similar examples of "poor media/interest group management" can be attributed to public officials.

Marmo has called our attention to a very important part of the public sector labor-management relations process—an area which has not received adequate attention. The management of labor relations is usually evaluated in terms of outcomes. Where process is considered, it is nearly always evaluated at the table, or in terms of the management ability to deal with their own "in house" organization. We have given very little attention in our research to the importance of the politicians' management of the media and the multiple interest groups which McLennan and Moskow cited in their 1968 study of multilateral bargaining. The politician/media/collective bargaining nexus promises to be an interesting area for further research.

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Dialectical Theory and Unions

Musser first recapped for us the classic dilemma faced by labor organizations concerning the "power/autonomy" trade-off. Arnold Weber (1967) notes this concept to be one of the key determinants of bargaining structure. A hypothesis following Weber would be that if the critical issue in bargaining has shifted from the broad industry-wide economic issues to workplace "quality of work" issues, then the locus of decision-making in bargaining should shift to that level. Musser suggests that unions, because of their hierarchical structure, are unable to respond to this kind of shift, and that their current decline is, at least in part, due to this inability to respond. He contends that the union hierarchy eschews quality of worklife/job-related needs issues, because the adversary mode is critical to the maintenance of the hierarchy. (It is not clear whether "the hierarchy" refers to the particular individuals or to the institutional structure or both.) Since QWL issues are, by their nature "cooperative" rather than "adversarial," they do not facilitate maintenance of the hierarchy.

There are two issues at different levels here. First, is there a zero-sum trade-off between economic and quality of worklife issues? (Moreover, what happened to "due process" needs?) Why can't unions engage in quality-of-worklife discussions and improvements without sacrificing their goals and effectiveness on the more adversarial-distributive types of economic or due process issues? Second, what of the evidence? Perhaps the most widely acclaimed, recent example of labor-management cooperation has taken place at the General Motors facility in Terrytown, New York. In no sense can one say that the UAW has lost its militancy or willingness to defend its members' economic interests. Moreover, other researchers have found that the key to achieving success in QWL is convincing union leaders of its value. It seems that rank-and-file employees simply do not trust management. Only where union leaders can convince the rank and file that cooperation does not spell surrender are these kinds of programs effective. Leaders risk political suicide if they are seen as being too much "in management's pocket." Thus, Musser is correct to suggest that the hierarchy is endangered by QWL, *but* hierarchy in this context refers to individuals, not the institution, and danger occurs only when politically vulnerable leaders act contrary to the wishes of a more militant membership.

Employer Campaign Tactics and Election Outcomes

Perhaps the most concise way to phrase the question posed by Murrmann's paper is: What is the best tactical course of action for an employer who wishes to defeat a union organization campaign?

In Table 2 Murrmann presents a simple correlation between each of a long list of tactics and the election outcome for the campaign in which that tactic was used. Unfortunately, the reader who is unsophisticated with respect to statistics would tend to draw inferences from Table 2 which are incorrect. For example, with respect to campaign communications channels, one might be tempted to rank the tactics in the order of the strength of their correlation with the win-loss outcome ranging from "speeches" down to "small group meetings." Although there is probably support for saying that speeches are a better tactic than small group meetings (at least within Murrmann's data set), the correlation coefficients are sufficiently close to each other among most of the tactics that one could not conclude that they are different from one another. An appropriate statistical technique to distinguish among tactics would have been a *t*-test. The problem, of course, is that we are dealing with binomial rather than normal distributions.

The discriminate analysis reported in Table 3 may also be misleading with regard to the inferences the unsophisticated statistician is likely to draw. Since there is likely to be multicollinearity among the independent variables, a step-wise approach to the resolution to this problem is probably inappropriate. The coefficients are not stable. Under these circumstances, one can only infer that interaction effects among various tactics can be substantial.

A consideration of how each of the variables listed in Table 2 is viewed in other parts of the literature might be useful. For example, the Getman, Goldberg, and Herman study (cited by Murrmann) asserts that employer campaign tactics have very little effect on election outcomes. Certainly, those who are actively involved in "union avoidance" will be interested in attempting to reconcile the findings of these two studies.

Disclosure of Information: A Comparative View

The key premise of the Bellace and Gospel paper is that "knowledge is power." Few can disagree with this premise. Unfortunately, the authors find that the law can have little impact on information-sharing and, hence, on improving the collective bargaining process, unless the attitudes of the parties are changed. They do note, however, that changes in the law can have a positive effect as these changes operate through the attitudes of the parties. An employer may, at least, begin to think about the real effect of disclosure and recognize some of its benefits. In this sense, the law may be a catalyst which will move the employer to share some crucial information with union leadership, which, in turn, can promote a more cooperative kind of relationship between the parties.

Bellace and Gospel also allude to the impact that changes in the law

might have on unions. This is where the key to disclosure lies. It is typical for union leaders to downplay the value of employer information and fail to use it effectively in bargaining. A personal example must be permitted on occasion: My uncle, who served as an AFL organizer in the 1920s and 1930s, and as president of a federal local for over 20 years, once advised me that he never listened to the management spokesman at the bargaining table. He simply hammered away at the union's demands. It was his view that he could not trust the deceptive information provided by management and that management simply attempts to "blow smoke" at the table. He felt that the rank and file was particularly susceptible to deception in this sort of a setting.

It is tempting to argue that the times are different now than they were in the 30s, but I believe that my uncle would hold the same view today that he did then. The fact that the company and his union are now defunct, perhaps, tells us something about his strategy and its effect. Bellace and Gospel have put their finger on a crucial element here. The law, itself, will be of little value if union representatives continue to hold the view that information provided by the company will be deceptive or, at best, useless. Union representatives, at all levels, need to be more effectively trained and educated on how to use information about their companies. Obviously, this information can be used in many ways in the bargaining process. To the extent that management feels the union is a "distributive institution"—an adversary attempting to gain all it can without regard to the welfare of the company—disclosure is not likely to go very far. On the other hand, where a more "integrative attitude" is present, where management feels that union leadership shares some concern for the well-being of the company as it attempts to protect the interests of its members, management will be willing to provide more valuable information to the union. Perhaps the development of laws which require certain forms of information to be disclosed will serve as a catalyst and will promote a more effective and cooperative attitude on the part of both parties.

V. STRIKES AGAINST THE GOVERNMENT: A COMPARISON OF U.S. AND CANADIAN EXPERIENCE

An Overview of the Canadian Experience

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The right to strike against the government is far more widespread in Canada than in the United States, where it is the exception rather than the rule.

Municipal Government Employees

Employees of municipal governments in most provinces in Canada have had the right to bargain collectively as long as employees in the private sector, and under the same legislation. The right to bargain collectively for municipal employees has, with very few exceptions, included the right to strike—a right they have exercised on occasion. Strikes over bargaining impasses by municipal employees usually run their course, as in the private sector, and end with a negotiated agreement. However, some have been ended by special legislation on grounds of public interest. Some provinces even give the right to strike to municipal police. One gives the same right to firefighters. There have been legal strikes by municipal police in at least two provinces, Nova Scotia and New Brunswick. There have also been illegal ones in the city of Montreal where the law of the Province of Quebec forbids it. Laws, as all of us in labor relations know, are effective only to the extent that they can be enforced.

Evolution of Bargaining Legislation: The Senior Levels of Government

Although the right to bargain collectively, usually including the right to strike, has long been taken for granted in Canada for employees of

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municipal government and for workers in a wide range of other public services, including many federal and provincial government agencies and boards, the federal government and all but one of the provinces were still resisting the extension of similar rights to their own employees less than two decades ago. The exception was the Province of Saskatchewan where, as early as 1944, a socialist government had included its employees, without qualification, in the coverage of its original labor legislation. The resistance, by senior levels of government, to collective bargaining by their own employees began to crumble in the rest of Canada in the middle 1960s, but resistance to giving them the right to strike still persists in a number of jurisdictions. In 1965, more than 20 years after the Saskatchewan initiative, the Province of Quebec took a lead over the other provinces and the federal government by granting broad collective bargaining rights, including the right to strike, to employees in the Civil Service. The federal government followed suit in 1967 and the provinces of New Brunswick, Newfoundland, and British Columbia in 1968, 1970, and 1973, respectively. The remaining five of our ten provinces have also extended bargaining rights to government employees, but provide for third-party arbitration of unresolved disputes as a substitute for the right to strike.

The right to strike in government employment, and in other areas of public service, is subject, in most jurisdictions where it exists, to prescribed procedures and predictable delays and is qualified more often than not by provisions for the maintenance of essential services, some of which may be more effective than others. It is important to remember, moreover, that the right to strike under any act is subject to higher social goals as determined in particular circumstances by the elected representatives of the people. The federal Parliament and the provincial legislatures have the power (and they have used it) to end or prevent particular strikes by means of special legislation, regardless of any right to strike on the statute books.

The Provincial Experience

There have been few strikes over negotiating disputes in provinces where such strikes are prohibited. In the occasional instances where they have occurred they have been of very short duration; most often they have involved liquor board employees or employees in correctional institutions or medical services rather than government employees more narrowly defined. Work stoppages by government employees in the provinces that prohibit them have most often been for reasons other than a breakdown in negotiations. Strikes have occurred, for example, over the question of bargaining unit structure, the imposition of wage controls, accumulated grievances, and so on. Such strikes, as will be seen below,

would be unlawful even in jurisdictions where the right to strike over negotiating disputes exists.

The provinces that have extended the right to strike to government employees have not, on the whole, suffered the dire consequences that the prophets of doom expected. The most frequent, and serious, strikes against the government have been in the Province of Quebec, although most of these have been by workers in the health and education sectors rather than by government employees as such. (These groups bargain directly with the government, on a province-wide basis. In fact, they have formed a common front against the government and have struck in every round of negotiations since the right to strike has existed. Their strikes have invariably been ended by special legislation.) It is likely that the sociopolitical context has had more to do with the experience in Quebec than the right to strike per se. That is a story in itself.

It is particularly interesting to note that there was never even a threat of a strike by government employees in Saskatchewan for 30 years after the law allowed it. There have been a few strikes in that province since 1973 over lagging negotiations, but these have usually involved small numbers of employees and have been of very short duration. The first strike by a substantial number of employees, on a service-wide basis, occurred in 1975. It lasted 11 days and was ended by mediation. There was a month-long service-wide strike in 1979; the government took court action to bring that strike to an end. Saskatchewan was a so-called "have not" province until the middle 1970s after which the discovery of potash, uranium, and even eventually oil turned the financial picture around. The union strategy may well have changed with the change in the employer's ability to pay.

Although the right to strike over an impasse in negotiations was extended to British Columbia government employees in 1973, their first strike took place last summer. It lasted from August 5 to September 20. In that period, however, there were only eight days in which all 38,000 bargaining unit members were on strike. The strike was generally of a rotating character, intended to bring public attention to the issues involved without unduly inconveniencing—that is, antagonizing—the public. Accordingly, the union made sure that essential services were maintained and that essentiality was broadly defined. A few other work stoppages by government employees in British Columbia in the past year or so have involved small numbers of workers and were over matters such as backlog of grievances, reorganization procedures involving layoffs and transfers, legislation limiting indexing of pensions, and so on, rather than over negotiating disputes. As such, they were not within the law. As for the other two provinces, New Brunswick and Newfoundland, where

government employees have the right to strike, there have been no work stoppages over negotiating disputes by government employees as such, although there have been a few strikes in the health sector, where the government is a party to the bargaining relationship.

The Federal Experience

The federal experience with collective bargaining in the public sector is of particular interest in view of the innovative nature of the Public Service Staff Relations Act (PSSRA) when it was enacted in 1967, the wide range of experience in several rounds of bargaining since then, and the influence this statute was to have on some of the legislation that followed in the provinces. The rest of this paper will focus on the federal law and the experience under it.

Although the PSSRA broke new ground in a number of respects, its most original contribution was its built-in choice of procedures for the resolution of bargaining impasses; this included a provision for the maintenance of essential services in the event of a legal strike. The Act requires the bargaining agent to decide on the ultimate method of dispute resolution before serving notice to bargain. Two options are available: reference of a dispute to a conciliation board, with the ultimate right to strike, or binding arbitration. Whichever option is chosen, a conciliation officer may be named to assist the parties prior to the ultimate step in the process. The bargaining agent is bound by its choice of method of dispute resolution for the round of bargaining for which that method has been specified, but may change its option prior to commencement of negotiations for another collective agreement. The bargaining agent has the sole right of choice of method. The method chosen cannot be vetoed by the employer.

The strike option was made subject to the condition or safeguard that employees engaged in services essential to the "safety or security of the public," described in the legislation as "designated employees," are forbidden to strike. Twenty days after notice to bargain is given by either party, the employer is required to furnish to the Public Service Staff Relations Board (PSSRB), and to the bargaining agent, a list of employees or classes of employees that the employer considers to be "designated employees." The Act provides for a decision on the employees to be designated to be made by the PSSRB, which is the impartial tribunal that administers the Act, in the absence of agreement between the parties. Conciliation board proceedings, which must be completed before the right to strike accrues, cannot be invoked until agreement has been reached on the list of "designated employees."

The number of employees that are designated, and the services they

perform, will obviously affect the ability of a union to conduct an effective strike. Accordingly, there have been differences between the parties from the outset on the number of employees to be designated in particular circumstances and the tasks the designated employees should be required to perform. It has also become apparent in the light of experience that there are deficiencies in the designation provision itself, in particular the rather narrow definition of the services to be protected in the event of a legal strike. However, in spite of deficiencies in the legislation and differences as to its interpretation, it appeared until recently that a modus vivendi had been reached that was reasonably acceptable to both sides. As for the PSSRB, it made clear from the outset that if it were to err at all, it would prefer to do so on the side of caution; in other words, it would rather designate too many than too few where public safety and security are concerned. The last bargaining experience of the air traffic control unit was the first instance in which the policy that the parties themselves followed for over a decade and on which the PSSRB has based its decisions on designation has been brought into serious question by the employer. The decision by the employer to keep all commercial flights in operation in the event of a strike and, accordingly, to designate all operational air traffic controllers as essential to public safety and security effectively removed the right to strike, or at least to conduct an effective strike, from the air traffic control unit. The "designation" of over 1700 air traffic controllers in the last round of negotiations was in sharp contrast with all previous rounds in which approximately 200 had been designated to keep emergency flights in operation. The employer's use of the designation provision in the recent air traffic control case, and the decision of the courts upholding the employer's position, may have created a whole new ball game with respect to designation under the PSSRA. The "CATCA case," as it is popularly known, could have implications for other bargaining units. It will certainly complicate the task of the PSSRB, which can no longer rely on past practice in making its decisions on designations.

In considering the choice of options under the law, and the choices that have been made in practice, it is important to note that bargaining units of federal employees cover a broad spectrum of occupations from relatively unskilled manual workers at the bottom of the occupational hierarchy to highly trained technical and professional personnel at the top. The self-image and aspirations of the various occupational groups and their perception of the clout they might exercise in the event of a strike will naturally affect their bargaining strategy and tactics. A few groups have been traditionally militant. Others have shown uncharacteristic militancy in recent years.

As expected and hoped by the policy-makers, the initial choice of impasse procedures leaned heavily in favor of arbitration, the few exceptions being the postal unions (which were removed from the jurisdiction of the PSSRA by the Canada Post Corporation Act in October 1981), the air traffic control unit, the ship repair and printing units, and the unit of electronic technicians. The Public Service Alliance of Canada, which represents the largest number of bargaining units, covering more than half the employees in the service, specified arbitration as the method of dispute resolution for all the units it represented in the initial stage of negotiations and continued to do so for several rounds following, as did the Professional Institute of the Public Service which represents the next largest number of bargaining units. That a significant number of bargaining units have since switched their original option, with the result that the majority of employees in the federal public service are now in bargaining units committed to the conciliation board route, with the possibility of a strike at the end of the road, indicates that the confidence in arbitration was short-lived. Objective statistics show, however, that neither the right to strike per se, nor the switch away from the arbitration option, has brought the wheels of government to a halt.

From the time the Public Service Staff Relations Act was enacted in 1967 up to and including October 31, 1982, a period of more than 15 years, there have been 710 sets of negotiations between the government of Canada and units of its employees, only 27 of which, or less than 4 percent, have ended in a strike. Only two of these strikes were ended by legislation. One, in 1977, involved air traffic controllers; the other, in 1978, was over a dispute in the Post Office. The other strikes were allowed to run their course—that is, until a negotiated agreement was reached.

Although there have been 27 strikes over negotiating disputes, they have affected only 14 of 81 bargaining units in the service. Seven of these strikes have been by postal workers who, incidentally, had struck on more than one occasion before the law allowed it. There have been a half-dozen other repeaters, among them the air traffic controllers, but none of the repeaters other than the postal unions has struck more than twice. The duration of lawful strikes under the Public Service Staff Relations Act has ranged from one day to 101 days, the median point being 21 days. With few exceptions, the longer ones have been either rotating strikes (as the 101-day strike of postal employees in 1970) or strikes in which only a small number of employees in a unit took part. This was the case, for example, in the 31-day strike by the general labor and trades units in February and March of 1975. The only members of those units likely to cause serious inconvenience to the public by withdrawing their services were the employees who normally manned the heavy equipment for removal of

snow on airport runways. Accordingly, they were the only ones the union called out on strike. (To the good fortune of the government employer, the weather was remarkably clear for most of the time this particular unit was on strike.) However, a strike by employees in the clerical and regulatory unit in 1980, which continued for 30 days, did cause major inconvenience, even though not all employees in that unit were on strike at any one time. In addition to the fact that the strike itself affected virtually every department of government, the fact that employees in other bargaining units, who were not entitled to strike at that stage, refused, on instructions of the Public Service Alliance, to cross picket lines established by the clerical and regulatory unit, added significantly to the impact of that strike.

As in the case of the provincial jurisdictions, the law governing the federal service permits strikes only over negotiating disputes, and then only under particular circumstances. A lawful strike may take place under the PSSRA when a bargaining unit that has specified the conciliation board option for the resolution of an impasse in negotiations has gone through all the prescribed procedures and delays under that option. A lawful strike cannot occur under any other circumstances. Strikes are strictly prohibited when a collective agreement is in force. (This is the general rule in Canada in both the private and public sectors.) This does not mean that work stoppages never occur when an agreement is in force. Strikes during the so-called "closed period" have occurred on various occasions, particularly in the Post Office, and in other cases such as the one just mentioned. It goes without saying that the failure of designated employees to remain on the job when their bargaining unit is on a legal strike also constitutes unlawful action. This is not to say that this, too, does not happen on occasion. Public inquiries into the experience under the Public Service Staff Relations Act have recommended stricter enforcement procedures with respect to designated employees, in the absence of fully effective procedures in the law as it now stands. No action has been taken so far on these recommendations.

While some groups, like postal workers, have been traditionally militant, as have the air traffic controllers (whose ability to disrupt air traffic through slowdowns and threats of strikes, as well as by actual strikes, has given them clout far beyond their numerical strength), the phenomenon to watch now is the trend toward militancy in groups where it might originally have been least expected. With the encouragement of some new leaders, even the most traditionally docile groups, including some professional groups, seem to have been deciding recently that the time for a change in tactics has come. As noted earlier, the strike by the clerical and regulatory unit in 1980 was the first fully horizontal

strike in the service and affected virtually every department of government. But what was even more significant about the strike was the change in attitude it represented by a traditionally docile group. The placards they carried on the picket lines were symbolic at the time. They may even have been prophetic. They read, "The worm has turned."

Most aspects of the collective bargaining regime as we have come to know it in the federal public service have, in effect, been placed "on hold" for the next two years or so by the Public Sector Compensation Restraint Act, passed by the Parliament of Canada toward the end of last summer as part of the government's program to control inflation. By placing a strict statutory ceiling on wage increases and extending—in other words, freezing—all other monetary benefits under existing collective agreements for the period of its application, this Act has made the dispute resolution procedures under the PSSRA, that is, both arbitration and the conciliation board strike option, irrelevant—in fact, illegal. The fact, however, that the bargaining agents were showing increasing militancy on the eve of the controls legislation—unprecedented legislation which many of them perceive to be inequitable and unfair—is not without implications for the post-control period when bargaining, hopefully, will be permitted to resume as before. For while the Public Sector Compensation Restraint Act may postpone the consequences that flow from the increased militancy that was evident immediately prior to its enactment, there is a strong possibility that a high, perhaps even higher, level of militancy will characterize the relationships between the parties once the restraint period comes to an end.

A Management View—The Canadian Postal System

S. T. Cooke
Canada Post Corporation

In his book *The Right to Strike*, Professor L. J. MacFarlane, Oxford University lecturer in political theory, makes the following observation: "The right to strike, like the right to vote, may be misused and, like the right to free speech, may need to be legally restricted to protect the vital interests of others, but it remains one of the great keystones of democratic political society." Today, we're here to examine the frontiers of that right: strikes against government services in the context of the Canadian and American experience.

My task is to present some perceptions and opinions of strikes in the Canadian postal system, a sector that has seen frequent and sometimes prolonged use of this labor option. In Canada, postal workers have achieved a reputation over the last decade of a militant group that is not reluctant to hit the streets to back up their demands for collective agreements.

Is this a fair representation of the facts? And if it is, why did such conditions arise? Has the establishment of Canada Post as a Crown corporation changed anything? And if so, what may we expect in the future concerning strikes against government services from postal workers? These are some of the questions I'd like to consider today.

Employee organization in the federal public service began toward the end of the 19th century, when government employment was often the result of political influence and personal favoritism. Postal employees were among the first to take positive steps toward collective action in the public sector. In 1889 the Railway Mail Clerks Association held its first annual meeting. And the Federal Association of Letter Carriers was formed as a national organization in 1891. It's clear that Canada's postal workers have traditionally been concerned with organization and active participation.

On February 20, 1967, the Canadian Parliament passed Bill C-170, the Public Service Staff Relations Act. It took effect on March 13 of the same year. I won't dwell on the provisions of this act; Professor Goldenberg has

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already presented its significance admirably. However, it is important to note that this legislation established the right to strike for certain elements of the Canadian federal public service. And it introduced 200,000 federal workers into the collective bargaining process, thereby adding considerable strength to the voice of organized labor.

This trend has grown in the intervening years. By 1975, nearly 99 percent of the eligible Canadian federal public service was represented by exclusive bargaining agents. In the case of Canada Post, approximately 97 percent of our workforce is now unionized in some form. And this extends well into the management sphere. That's an important consideration for managing an essential national service.

On October 16, 1981, Canada Post became a Crown corporation. In other words, it is now more flexible than a department of government, but less able to do as it wishes than a private corporation. I'll go into these differences in more depth a bit later, but right now I'd like to look at the years from 1967 to 1981, the period when Canada Post was functioning as a department of government with employees who had gained the right to strike.

In 1968, the first full year that strikes at the Canadian Post Office were a legal possibility, 45,468 person-days were lost through work stoppages. By 1974, this figure had risen to 198,942 person-days. The following year the Post Office hit its all-time high of 786,667 person-days lost, almost 99 percent of it due to a legal strike. In 1981, just before its establishment as a Crown corporation, Canada Post lost 663,283 person-days to work stoppages. And here again, most of this total—99.96 percent in fact—was due to a legal strike. Illegal strikes had also taken their toll in the period 1968–1981.

The past record of labor-management relations at the Post Office was not the best. Part of this was because of processes and mechanisms by which both parties tried to resolve their differences. These processes were extremely cumbersome—almost designed for failure. And they fostered an adversarial attitude that still plagues us somewhat today.

During that period, three "employers" put their fingers into the bargaining process. First was the Department of Finance, which set the fiscal policy for the country. Second was the Treasury Board, which did the bargaining and was, in law, the employer. Finally, there was the Post Office itself, responsible for running the day-to-day business, but very much a voyeur when it came to collective bargaining.

The bargaining process itself was extremely formal, almost quasi-judicial in nature. Under the Public Service Staff Relations Act, the normal services designed to facilitate freely negotiated settlements in the

private sector weren't available to the Post Office. In their place came imposed settlements—made by Parliament, even the courts. And even after some of these imposed agreements, the issues often remained as points to be squabbled over within the organization, further contributing to a decline in trust and respect between Post Office management and labor. The outcome was all too often a strike that hurt customers and undermined Canada Post's reputation for reliability.

On October 16, 1981, Canada Post became a Crown corporation with the responsibility—indeed, the parliamentary mandate—to run the Post Office responsibly and efficiently. And that requirement has been translated into Canada Post Corporation's five-year business plan which lists three top priorities: improved service, better human relations, and financial self-sufficiency.

I'm happy to say that I've seen some evidence that the human relations within the Corporation—the part of our business that's most germane to this discussion—is likewise improving. Let me give you an example, because I believe it has a lot to do with the attitude—the mind-set, so to speak—that can promote or discourage the strike mentality.

Historically, the one big benefit of working in the public sector has been certainty of employment—the idea that one has a job for life. It's difficult to replace that attitude with a competitive approach to life as a corporate entity, especially in these days of economic hardship and uncertainty. I can't say today that all of Canada Post's employees have learned a new attitude in their own approach to their jobs. However, I can say that I've seen signs that such change is possible. Our employees, by and large, have brought a feeling of a fresh start to the first year of Canada Post Corporation.

One good example is the number of person-days lost to work stoppages I mentioned earlier. Some of them were in six figures. This year, to the end of October, Canada Post lost less than 120 person-days to labor disputes. That's less than a half of one-tenth of 1 percent of the 663,000 person-days lost in 1981—an important indicator of change at Canada Post.

It would be nice if we could let that one example stand as a paradigm for Canada Post Corporation and its future environment for strikes against government services. Unfortunately, that's not the case. There are many more considerations and complications.

The current recession in Canada and the general economic climate of cutbacks and difficult growth have affected Canada Post, just as they have the rest of the business community. Volumes are down. That's not surprising, considering the number of companies cutting back or even going under. But it does have profound implications for our workforce,

particularly in light of that traditional view of a public service job equaling secure employment.

Canada Post Corporation's third top priority is achieving financial self-sufficiency. One of the things Canada Post inherited was a massive deficit. Had rates not been raised substantially last January, that deficit would have approached the billion-dollar mark. Instead, the deficit for last fiscal year amounted to $660 million. This year that figure is expected to be reduced to around $400 million. Finding that kind of money has not been an easy job.

There's another change at Canada Post Corporation that can bring benefits or problems. Canada Post's unionized workers were covered under the Public Service Staff Relations Act until October 1981. Now both parties must learn the intricacies and limitations of a different piece of legislation for this purpose: the Canada Labor Code.

This code allows the federal government to regulate those industries and undertakings of an interprovincial, national, or international nature such as transportation, communications, radio and television broadcasting, banking, and uranium mining. The code covers companies whose operations have been declared to exist for the general advantage of Canada or two or more provinces. It also covers Crown corporations such as Air Canada, Canadian National Railways, and Canada Post.

Under the provisions of the Canada Labor Code, the Canada Labor Relations Board has the power to make certain declarations and orders relating to strikes or anticipated strikes. (Again, in contrast to the situation in the U.S., strikes are not legal during the terms of a collective agreement.) Where the Board is satisfied that a strike is, or would be, unlawful, it may require a union to revoke its authorization to strike. It may also enjoin any employee from participating in the strike action. On the other hand, the Board does not have any jurisdiction to deal with illegal picketing or harassment where the strike is otherwise lawful under the dispositions of the Code.

Both unions and management are now struggling to understand this new labor code so that both parties can use it properly. And this has been somewhat complicated by the fact that Canada Post Corporation's management team is still fairly new. Many of our senior executives, and I am one of them, have been with the corporation less than a year. It will take time for this team to reach its full potential as a responsive and effective part of the decision-making process.

Overall, Canada Post's human relations philosophy has changed profoundly from the days of government department status. We're now dedicated to achieving a labor-management environment that's characterized by an attitude of problem-solving rather than by one that tries to

assign blame for the past. We're consulting with unions *before* major decisions are made—sharing the facts so that we can find innovative solutions together.

As part of our commitment to this dialogue, the Corporation has brought representatives of organized labor into its boardroom. Two of Canada Post's 11 directors are labor leaders, thus giving our senior decision-making body a valuable new insight into human relations problems. And I'm hopeful that this experiment can help us generate more trust between labor and management.

Building trust, however, is a fragile and painstaking process. And here again the job has been made more complex by events occurring outside the corporation. I refer to Bill C-124, federal legislation limiting wage increases in the public sector and removing the option to strike for the next two years.

W. J. Robertson, president of the Canadian Air Traffic Controllers Association, has publicly voiced his opposition to this legislation. Others in the public sector have done so as well. In fact, union reaction to Bill C-124 has been almost unanimously negative across the entire public sector in Canada. This attitude may have severe and lasting implications for the future of Canadian labor-management relations in the future, particularly as it applies to government services.

About a month ago I attended a seminar that examined the future of public-sector unions in Canada. One of the speakers at that seminar was a senior representative of a provincial public-sector union that has been limited by provincial legislation similar to Bill C-124. This union leader made his position abundantly clear.

"The 1980s," he said, "will see as much strife as we can bring until we get the respect we deserve. We'll give no cooperation in any area where we can possibly avoid it." I am forced to admit that this response is not a rare one among leaders of Canadian public-sector unions.

It's true that the next two years can give management a big edge in dealing with unions, but I believe management will exercise this advantage only at its peril. Labor is vulnerable at the moment, but it will not always be so. If we kick unions while they're down, they'll get up and fight back.

I firmly believe that these are critical times for the future of the union-management dialogue in Canada. Ten years from now people will judge our actions during this period of restraint. If we don't use this time to forge new levels of understanding on nonmonetary issues, we'll be perceived as fools—and we'll deserve to be.

I can't for a moment suggest that this effort will be easy, or that substantial progress will be the result. But the stakes are far too high to

treat this opportunity lightly. It will take all of management's resourcefulness and patience to deal effectively with the frustration that now permeates public-sector unions and their opposition to what they see as an unfair legislative maneuver on the part of government. It is at least safe to say, to paraphrase an old Chinese curse, that we will be living in interesting times.

One of the questions that may never be completely resolved concerns the definition of essential services and the effects of strikes that interrupt them. To my mind, this is not a simple case of black and white, but rather a series of areas that grow progressively gray. I think of it as points along a line moving from minor inconvenience to service interruptions that can threaten the social or economic well-being of an entire nation.

Some services in our society can—by their withdrawal—immediately cripple crucial functions that we need in order to survive. Such areas as emergency medical treatment or police and fire protection are generally perceived as indispensable and therefore unacceptable sectors for strike action. However, it's important to remember that some strikes may begin by causing citizens a minor inconvenience but, through prolonged absence of service, can also lead to eventual hardship and even danger to society in general.

The right to strike is not an absolute one; it carries with it the responsibility to the long-term health of a country. I believe society should have the right, in some cases, to intervene in situations where strikes threaten to inflict a substantial and abiding wound to the vital functions of the country as a whole.

As for the future of strikes against government services, I can only say that we'd better not count on legislative armistices to compensate for sloppy management practices. Once this two-year period of restraint ends, I believe the right to strike should be restored to the federal public sector. Even within the field of so-called essential services, I believe strikes can occasionally play a useful and educational function in the labor-management environment.

Taking away the right to strike is a bit like eliminating the vapor safety valve on a boiler. Employees need to know that they have this means of relieving their frustrations and internal tension—even if they never use it. Otherwise, an explosion is inevitable.

Collective bargaining is a game of power. In the private sector, it's economic power. In the public sector, it's political power. And sometimes that power must be fought out on the streets.

But in the final analysis, both labor and management must face up to their responsibilities if strikes against government services are to be kept to a minimum. Gone are the days when union members (or leaders) could

ever think that they had a right to disrupt a business for questionable goals. But gone, too, are the days when management could pretend to have the right to disregard employees as people, or treat them as mere bodies on a shift or names on an organization chart.

The stewardship of a company rests with management, and management must not shirk its decision-making responsibility or try to pawn it off on a third party. Nor should management try to coopt unions. Communicating decisions means consultation, sharing some of the power—and that's not just telling unions what the decisions are. It's part of a process that makes both parties responsible for the problems and the rewards.

One of the difficult questions that follows is whether management in Canada is prepared to really share some of the power. Until such time as that power is balanced more evenly, union members and employees in general will still perceive and respond to an imbalance in the decision-making process. And if, as is the case in Canada now, the right to strike is then suspended or modified, it will only emphasize the feeling that labor is the traditional underdog. This reinforcement of the adversarial attitude between labor and management will do little to foster the give and take that's vital to progress and mutual respect.

On the other hand, management can go only so far to get unions to share the anguish and the responsibility of understanding the point of the whole exercise: survival. Real job security will come from efficiency and competitiveness, not from the mind-set that equates public service employment with lasting and complete protection against the effects of the economy.

Both parties must understand that these and many other questions must be resolved together by mutual trust and consideration. It's all a bit like a glorified Rubik's cube: when one part of the puzzle is solved, you find the other pieces have moved. If we don't work together, we'll never get it all to turn out right.

In the final analysis, labor peace and increased business productivity won't come from an absence of problems, but from our mutual willingness and ability to solve them. And we must always keep in mind the importance of people in making the right decisions. How much we do will be important. How well we do it will be decisive.

And there is always the legacy of the past to be considered. When Canada Post became a Crown corporation, it inherited some 5000 adjudications (or arbitrations, as they are known in the U.S.) and over 15,000 grievances from the days as a department of government. These must be resolved equitably if we're to pursue our commitment properly to normalize labor relations.

I can't offer any proof that strikes against government services will

soon go the way of the buggy whip or the dodo. At Canada Post Corporation we think we've got the right approaches and programs to keep such disruptions to a minimum. Our efforts are focused on careful understanding of the needs of our unions, management, and customers. Using this knowledge, we've compiled a comprehensive plan that we hope will be acceptable as possible to these constituencies and still allow us to run the Corporation properly. But things change too quickly today to maintain that there is one final formula for labor peace that will always be appropriate.

We'll all need flexibility, common sense, and a healthy respect for the value of homework if we're to see such strikes lessen. A liberal dose of luck wouldn't hurt our chances either. If both parties can keep those instruments in our respective tool boxes, we should have a reasonable chance of forging and maintaining the kind of understanding that will make strikes against government services a rare exception in an environment of mutual respect and concern for the larger needs of society.

Canadian Air Traffic Controllers—The Canadian Case

W. J. Robertson
Canadian Air Traffic Control Association

This topic is unfortunately only too timely with respect to Canadian air traffic controllers, and quite possibly all government employees at the federal level in Canada. However, I shall deal exclusively with the case of air traffic controllers as it is in this sense that I have a vested interest.

I say today's topic is timely because parallels which did not exist between the now defunct PATCO and my association, CATCA, are fast developing. While PATCO as a bargaining organization did not have the legal right to the strike in dealing with its employer to effect collective agreements, Canadian air traffic controllers have enjoyed such rights since 1967, and on two occasions have exercised this legal avenue. Today, however, that right is quickly disappearing.

Before I proceed, though, let me give you some background:

The Canadian Air Traffic Control Association, which I have represented as president for three and one-half years, was formed in 1959. We have a membership of approximately 2280 across Canada, employed at over 60 locations in various specialties.

With the advent of collective bargaining in the Canadian federal public service in 1967, our association was certified by the Public Service Staff Relations Board (PSSRB—the agency responsible for labor relations in the Canadian federal public service) as the exclusive bargaining agent for all air traffic controllers in Canada. That certification made our association somewhat unique in that we have since functioned in a dual role—as a union and as a professional association, handling both the responsibilities of a union toward its membership as well as making representations on the professional side with respect to such areas as equipment, air traffic control procedures, and controller training.

Since 1967 nine collective agreements have been negotiated. There have been two strikes on two separate occasions. First, in 1972, controllers withdrew services for 11 days over a monetary issue, returning to the job after an agreement was reached to refer the dispute to binding arbitration.

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The second, and only other strike, was a three-day stoppage in 1977 that ended when the Parliament of Canada enacted back-to-work legislation imposing the terms of the entire collective agreement.

Two methods of dispute resolution are available to federal public service unions in Canada—binding arbitration or the conciliation-strike process. From the outset, controllers have preferred the latter—that is, the conciliation-strike approach. It is interesting to note that when collective bargaining initially came into being in the Canadian public service, most unions opted for binding arbitration. Today the majority follow the controller approach and have elected the conciliation-strike option.

This change of heart supports our belief that binding arbitration is unsatisfactory. In our opinion, arbitrators, with a few notable exceptions, are not known for their inventiveness in planning adequate solutions to problems. At best, in most instances they "cut the baby in half" which can in many cases be worse than doing nothing.

Two strikes over 15 years, totalling 14 days, isn't a bad track record for effecting collective agreements. Yet our association is labeled as militant. But that is a public relations aspect I propose to mention later, time permitting. I do want to say at this point, however, that we as controllers, with or without comparison to Canada's inside postal workers and a few other labor organizations in our country, see ourselves as moderates—professionals who are basically middle-of-the-road when it comes to practicing the fine art of labor-management relations. This, however, is not the approach being taken by our federal government.

Perhaps it is a strong opinion, but we as air traffic controllers see ourselves being singled out by actions of the federal government of Canada in the past two years. We have negotiated in good faith for 15 years toward nine agreements with only two strikes of limited duration, but today Canadian controllers find themselves under the gunsights of a government which appears to have taken a cue from the new wave of conservatism and antiunionism.

I briefly mentioned earlier the demise of the U.S. air traffic controllers organization, PATCO, which has been decertified. By comparison to its Canadian counterpart, PATCO did not have much in the way of bargaining rights as a representative body. It could not even negotiate hours of work. Our system of bargaining up until this year has been much more liberal.

But a change in philosophy by our government now appears to have taken place with respect to Canadian public servants. And, with the ease in which President Ronald Reagan bludgeoned U.S. controllers, one might suggest that controller-bashing has become a new and recognized

international government sporting activity. The screws toward completely abolishing collective bargaining rights are also being turned and tightened on Canadian air traffic controllers.

The first step came in a letter I received in November of 1980 from the president of the Treasury Board, the Treasury Board being the government department charged with negotiating all collective agreements in the federal public service. The letter advised that the Treasury Board was applying to the Public Service Staff Relations Board for sufficient designations under Section 79 of the Public Service Staff Relations Act to enable our employer, the Department of Transport, to maintain a commercial air system across the country in the event of a strike by controllers. The government had decided as a policy that, in the event of a strike, the commercial air system was to operate as if operations were normal. That was a radical departure from our previous experience in dealing with the question of designated employees.

Before I go further, however, you must know that the designation process was the only fetter on the right to strike for those groups which elected the conciliation-strike option of dispute resolution. Section 79 of the PSSRA required a determination prior to the establishment of a conciliation board—either by mutual agreement between the Treasury Board and the respective union or, failing that, by the PSSRB by way of an evidentiary process which resulted in a binding decision—as to the numbers of employees who would remain on the job and the duties they would perform in the event of a strike. These people were then known as safety and security designates.

In all of our preceding negotiations except the most recent set, we had reached mutual agreement with the employer that approximately 200 controllers were required to remain on duty nationally in the event of a strike to provide service to six very specific categories of operations. These were in a declared emergency, apparent emergency, operating medical evacuation flights, and those conducting air defense, far north resupply, and forest fire-fighting operations.

When the government moved to designate all operational controllers to provide all normal services, we viewed it without reservation as a blatant move to undermine our right to strike. As a result, we asked the PSSRB to adjudicate, as I have previously described, the question of designated employees.

After five days of hearings, the Staff Relations Board accepted our argument that the past practice of designating approximately 200 controllers was sufficient to ensure safety and security.

Having set a new course, the government then appealed the PSSRB decision to the federal court of appeal where our victory was overturned.

The new federal stance was reinforced by the Supreme Court of Canada which in turn ruled that the Public Service Staff Relations Board did not have jurisdiction to rule on the question of designated employees, saying that such a question was solely up to the discretion of the employer—a radical departure from the operation of the Staff Relations Act for the previous 15 years.

The courts in effect overturned the interpretation of the PSSRA since its inception—an interpretation previously supported by the government of the day, the same government in office today. The right to strike was substantively wiped out overnight by the courts' allowing the employer to designate virtually 100 percent of our bargaining unit, using the misnomer "essential services" instead of the respected definition—services essential to maintain the safety and security of the public.

This new situation is the reason behind my earlier reference to parallels between ourselves and PATCO. They never had, and we now lack, the right to strike. To draw the parallels even finer, the government this year "temporarily" (they say) abolished through legislation any form of collective bargaining with public service unions for two years.

Under the guise of fighting recession and bringing inflation into line, the government of Canada introduced before Parliament, and passed with its majority, Bill C-124, an act which imposed wage settlements of 6 and 5 percent, respectively, on federal public service unions over the next two years. Further to the salary imposition, the legislation has completely frozen the collective bargaining process during the next two years.

We are vigorously contesting the freeze, citing precedent. In the late 1970s in Canada the same government used another initiative aimed at reducing rising inflation. Under an agency known as the Anti-Inflation Board (the AIB), wage ceilings were established by the government and negotiated settlements were then reviewed by the AIB. In some cases settlements in excess of the guidelines were allowed, but on the whole most were held to the approved maximum. In some cases rollbacks were ordered and imposed. The collective bargaining process, however, was not dislocated as it is today.

If controls of any kind are necessary, we would like to see a similar type of approach followed during the current battle to bring inflation in line. We have publicly indicated that we will comply with wage restraint, but we oppose the abrogation of our collective bargaining rights. We have too much to lose by sitting idle and allowing government to rescind, even temporarily, hard-fought-for rights. Given an inch, a mile could be next, and we have genuine fears.

Controllers in Canada have been somewhat unique in their collective bargaining in that traditional non-employer/employee issues have been

brought to the table for discussion. We have discussed, for example, the use of Canada's two official languages, English and French, with respect to air traffic control, equipment, safety procedures, and other nonmonetary items. Our nonmonetary and nonsalary bargaining is unique in many respects and must be protected.

I mentioned earlier the aspect of public relations and introduced a new term to our discussion today, that of "controller bashing." Too often when the mail is late the postman at the door is blamed. The recipient of a delayed letter doesn't see beyond the face of the mailman. The fact that a train was storm-delayed between Toronto and New York City doesn't enter the mind of the angry recipient. The postman is responsible for the delayed train or, perhaps in my case, the delayed plane which couldn't fly due to unsuitable weather.

Controllers face the same public relations dilemma as the brow-beaten letter carrier. If 50 airplanes converge on New York City at the same time, the flight attendant will invariably inform impatient and tired travelers that the flight has been delayed by air traffic control. Yet you can no more put down 50 waiting aircraft on a runway at one time than you can speed up the delivery of a letter from a train parked by a washed-out siding.

This public relations malaise we as controllers have been trying desperately to combat has become a useful tool in the hands of government wanting to ensure an end to the collective bargaining process. It may be that, because such a tool has become available, controllers have been singled out for a far greater purpose—that being the abolition of all federal public service bargaining rights granted to Canadian public servants back in 1967.

Through the Supreme Court the employer has won the right to virtually designate the whole of our membership during a work stoppage, at least sufficient numbers to prevent any effective form of strike action. And through legislation to combat the recession, we are being denied any application of the collective bargaining process for two years.

From these two steps alone, it would appear that the writing is on the wall for not just controllers, but for all public service unions in Canada. Controllers have been suspicious of government intentions for some time now, and quite possibly our fears are justified. Just recently a senior government official was quoted in the media as saying that the right of public servants to strike is "the single most crucial issue" facing public service collective bargaining. That same official went on to say, and I quote, "A balance must be struck between the public's right to services and the right of public servants to strike." A further point was made by the official: ". . . I have seldom heard discussed the right of the public to services they have paid for."

I'm not suggesting that I am diametrically opposed to those statements, except that they are isolated and extreme, but taken together with the other government initiatives I have outlined before you these past few moments, it would appear the writing may very well be on the wall in capital letters for collective bargaining in the public service of Canada. CATCA may well become the test case.

Without engaging in what could be termed "flaming" or "depression" rhetoric to describe our position against any such move, it need only be pointed out that removing the right to strike hasn't prevented strikes. Government efforts beyond our mutual border have been given hostile receptions. It may be that government in Canada hasn't been getting a message from its employees.

The Role of the Federal Labor Relations Authority in the United States

RONALD W. HAUGHTON
Federal Labor Relations Authority

The Federal Labor Relations Authority has administered Title VII of the Civil Service Reform Act of 1978, which is the Federal Service Labor-Management Relations statute, for nearly four years. Functionally, our responsibilities in the federal sector are similar to those of the NLRB in the private sector. Among other things, we resolve representation and unfair labor practice cases and negotiability disputes. Unlike the Board, we also resolve exceptions to arbitrators' awards, a role which is handled by the courts in the private sector.

Certain NLRA concepts such as the substance of Section 7(a) and the separation of powers between the General Counsel and the Board have been incorporated into our statute. There are, however, significant substantive differences in the treatment of labor relations matters, particularly strike situations, between the two laws.

Basically, the NLRA is set up to make sure that labor-management disputes are fairly conducted; it does not prescribe substantive terms and conditions of employment. Our statute, on the other hand, contains numerous provisions mandating particular terms and conditions of employment. These provisions include such matters as:

1. Official time for contract negotiations for union representatives.
2. Dues deduction at no cost to the union.
3. Compulsory binding grievance arbitration.
4. A detailed and strong management rights clause.
5. Exclusion from bargaining of major employment matters such as wages, health and life insurance, etc., which are established by law and regulation.
6. Compulsory interest arbitration by the Federal Services Impasses Panel, an entity within the Authority which resolves impasses upon the request of either party.
7. Strong proscriptions against strikes, work stoppages, or slowdowns.

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Our statute's proscriptions against strikes are not the only expressions of congressional intent in this area. Congress has long made it clear that strikes in the federal sector, such as the one that resulted from the PATCO-FAA bargaining impasse of 1981, are prohibited. The strongest expression of this is found in 18 U.S.C. § 1918, originally enacted in 1955, which makes it a felony for any individual who accepts or holds a position in the federal government to participate in a strike against the United States government.

Congress reaffirmed its commitment to the prohibition against strikes when it enacted our statute. Under Section 7103 of the statute, the definition of "employee" excludes any person who participates in a strike, and the definition of "labor organization" excludes an organization which participates in the conduct of a strike against the government or any agency and imposes a duty or obligation to conduct, assist, or participate in such a strike. Section 7116(b)(7) makes it an unfair labor practice for a labor organization to call or participate in a strike, work stoppage, or slowdown, or to condone such activity by failing to take action to prevent or stop it. Finally, Section 7120(f) provides that upon finding a willful and intentional violation of Section 7116(b)(7) by a labor organization, the Authority shall (1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit, or (2) take any other appropriate disciplinary action.

This language is unique to federal employment. In contrast, absent voluntary no-strike agreements, strikes in the private sector are generally legal under the National Labor Relations Act.

The Authority's involvement in a strike situation (other than efforts to obtain temporary judicial relief under Section 7123(d)) arises only after all of the following occur: (1) a party files an unfair labor practice charge alleging a violation of Section 7116(b)(7); (2) an unfair labor practice complaint is issued by the independent General Counsel of the FLRA; (3) a hearing is held by an administrative law judge; (4) the administrative law judge issues a recommended decision and order; and (5) one or more of the parties file exceptions to the ALJ's decision and order.

All of the above happened in the case of the PATCO-Federal Aviation Administration dispute. Thereafter, the Authority unanimously found that PATCO willfully and intentionally violated Section 7116(b)(7) of the statute and that PATCO was not a "labor organization" at the time of the decision under Section 7103(a)(4)(D) of the statute.

With respect to the appropriate remedy, a majority of the Authority (Member Applewhaite and I) held that Section 7120(f) of the statute gave

the Authority discretion to revoke PATCO's exclusive recognition status or take any other appropriate disciplinary action. Member Frazier was of the view that such discretion was extremely limited. Applying Section 7120(f) to the case, Members Frazier and Applewhaite, for the Authority, ordered that PATCO's exclusive recognition status be revoked.

I found that the record then before us was insufficient to determine whether revocation or other appropriate disciplinary action was warranted, and concluded that the case should be remanded to the Chief Administrative Law Judge for further evidence as to remedy. However, I added that I would remand only if PATCO, within five days, ended the strike and represented to the Authority that it intended to abide by the no-strike provisions of the statute. I stated that if PATCO failed to do so, I would concur in the majority's order to revoke.

PATCO subsequently advised me as follows, in pertinent part:

> As PATCO understands Chairman Haughton's decision, the only way that we could comply would be to order our members to return to work. However, PATCO's members have been locked out by their former employer and could not return to work even if so ordered.
>
> The preceding notwithstanding, however, in an effort to comply with Chairman Haughton's decision, and to the extent of our ability to comply, when the FAA ends its lock-out, PATCO would immediately order all of its members to return to work.
>
> PATCO also acknowledges, and intends to comply to the extent that it can with, its obligation to conduct itself in conformance with all aspects of the . . . Statute, including those procedures for impasse resolution.

In a supplemental opinion, I considered PATCO's response and concluded that it had "not complied even with the first condition of my decision—namely, that the strike be ended . . . . There was no provision in my decision for the kind of conditional termination described in PATCO's notice." Accordingly, I found that I had to record myself as concurring with the majority's order—making it unanimous—that PATCO's exclusive recognition status be revoked. The Authority's order was subsequently affirmed by the U.S. Court of Appeals for the District of Columbia Circuit.

The PATCO-FAA case is the only strike case to have come before the Authority. I do not believe it will have significant long-range effects on federal-sector collective bargaining. I was queried on this point as part of *The New York Times* traditional Labor Day story. Abe Raskin, the man assigned to write the story, asked me what was the state of federal labor-management relations in light of the PATCO situation. I answered:

> Other unions and management in the Federal Service are doing business as usual, except to the extent that economics is forcing everybody to tighten up. Neither side is embracing one another, but if there is any walking softly by the unions it is only because of the tightness of the budget and the resulting contractions. Agency heads have not taken what happened to the air controllers as a signal to turn the screws on Federal unions generally.

That is what I said late in August of this year, and I still hold the same opinions.

I recently testified before the House Post Office and Civil Service Committee as to what might be done in the case of labor disputes resulting in a stoppage of work in the future. I hasten to say here that I do not expect to be faced with the problem in the foreseeable future. Federal unions simply don't espouse the right to strike.

On the other hand, should such a situation arise, I testified that my experience with the War Labor Board in World War II suggests a procedure that could be very effective in heading off a threatened strike of federal employees. While the present statute contains effective machinery providing for the government to move in and stop a strike once started, I submitted that it would be much more effective if we did not have to wait until a strike occurs and an unfair labor practice charge is filed. I informed the House Committee that the way the War Labor Board, with the encouragement of top labor and management representatives, went about marshaling public opinion against the continuance of a particular strike during World War II, and even on occasion during the rash of industrywide strikes which followed the cessation of hostilities and before wartime controls were officially ended, was to make judicious use of the show-cause hearing.

What the government did was to summon both parties to a strike situation to appear before the most prestigious body of citizens it could muster at the local or national level. The telegraphic summons made it clear that production critical to the total war effort was involved and requested the parties to appear at a public hearing to show cause why production should not be continued.

The public show-cause hearings were attended by the press, invited witnesses, and any other interested parties. At these hearings the War Labor Board flatly refused to hear anything on the merits of a particular dispute until production had been resumed. The focus was on the critical importance of continued production.

Of all the other disputes I have had the opportunity to observe or participate in as a mediator since World War II, I believe that only the San Francisco State College student-faculty strike in 1967 and the threatened

PATCO strike warranted show-cause proceedings. In the PATCO case, such a show-cause proceeding could have served to focus national public opinion on the need that federal law be complied with, and that the operation of America's air traffic system be continued uninterrupted.

If there had been legislative sanction for a unilateral move by the Impasses Panel, the Panel could have seriously considered summoning the parties to appear before a nationally televised show-cause hearing at 7 a.m. on August 3, the day mediation efforts broke down at 2:30 a.m. Just think of the impact if the morning TV news shows had decided to have live coverage.

I believe that this procedure, before Presidential appointees with great expertise and status in labor relations, backed by public opinion, might have derailed the strike.

Failing the holding of a show-cause hearing on August 3, a later show-cause hearing before the expiration of President Reagan's three-day grace period for returning to work could still have focused the power of public opinion on the sole issue of the return to work, in accordance with law, and the nation's need for a critical service. If a show-cause hearing had been held either immediately before the strike or immediately after it had started, there should have been absolutely no discussion of the merits of the dispute until after the strike was ended.

I contend that the continued operation of a particular federal system should not depend on what one or both parties might decide to do procedurally. They currently have the right to request the services of FSIP. However, I submit that this permissive approach leaves too much room for self-interest. In the PATCO case for whatever reasons, each party must be presumed to have made a decision not to request the help of the Federal Services Impasses Panel. The option was spelled out clearly in the statute.

The neutral third-party arms of the government should control the proceedings, and the Impasses Panel should have a clear right to summon parties before it moments after negotiations have failed, and when it is clear that a work stoppage is imminent. This option should be used only in a critical situation involving a strike or threatened strike of an essential federal operation.

If a show-cause hearing is held in such circumstances, the Panel must not concern itself with the merits of the dispute or even whether or not it has decision-making authority over disputed substantive issues. I would give the back of the hand to any claim that the Panel should not be involved because of a contention that there are issues in dispute, such as wages, which cannot be decided under our statute. The focus should

constantly be on the necessity for continued operations in compliance with established law.

I believe that public opinion will support compliance with the law. When one gets right down to it, the resolution of a critical strike more often than not is with the court of public opinion. Even in the private sector, both management and labor need the support of the public when it comes to remaining obdurate on strike issues affecting critically needed goods or services.

Finally, I reiterate my belief that the responsible federal unions such as the American Federation of Government Employees, the National Association of Government Employees (which has affiliated with the SEIU), the National Federation of Federal Employees, and the National Treasury Employees Union have no intention to strike against the federal government. However, the government should have preventive machinery available in case another PATCO-type situation should arise, for whatever reason and regardless of which party might be at fault on the merits of a particular dispute. The thrust of what I am saying is that after a strike has started, it might be too late to put Humpty Dumpty back together again.

Strikes Against the Government: A Union View of the Problem

VINCENT R. SOMBROTTO
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At the present time, all employees of the federal government and all but a relatively small number of state and municipal employees are denied a basic right enjoyed by their brothers and sisters who labor in the private sector—the right to withhold their services from their employers. However, despite almost blanket legal prohibitions and possible criminal sanctions, public employees *do* strike. Between 1938 and 1978, state and local employees engaged in some 4800 work stoppages, and virtually all of these strikes were illegal.[1] Since 1962, there have been 39 strikes of federal employees.[2] Of these 39, two—the 1970 postal strike and the 1981 strike by the nation's air traffic controllers—are events worthy of extensive analysis and study. Unfortunately, policy-makers have not drawn from these strikes the "lessons" I believe should be drawn.

The postal strike of March 1970 lasted eight days, and at its height some 200,000 letter carriers and postal clerks were out on the streets. Some commentators consider the 1970 strike the nation's first and only nationwide wildcat, for what began in New York City, over the objections of local union leaders, spread spontaneously throughout the country. Rank-and-file postal workers were bringing their message of low pay and broken promises directly to the public, with the hope, of course, that the President and the Congress of the United States, as well as their own national union leaders, would listen and act. While not every striker was satisfied with the results, postal workers did win two substantial pay increases and the right to full-fledged collective bargaining over wages, hours, and conditions of employment. And not a single striker was punished for walking off the job.

The August 1981 strike by the nation's air traffic controllers was, as we all know, a far different story. More than 12,000 members of the Professional Air Traffic Controllers Organization (PATCO) walked off their jobs after rejecting the government's final wage offer. President

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[1] John M. Capozzola, "The Impact of Government Employee Unions," in *The Power to Govern: Assessing Reform in the United States*, ed. Richard M. Pious (New York: Academy of Political Science, 1981), p. 155.

[2] Eugene H. Becker, "Analysis of Work Stoppages in the Federal Sector, 1962–1981," *Monthly Labor Review* 105 (August 1982), p. 49.

Reagan reacted immediately and fired all those controllers who did not return to work within 48 hours. Subsequently, the government moved to decertify the union itself. As for the air traffic control system, supervisors, nonstriking controllers, and military personnel combined to keep the system operating at partial strength. The public was inconvenienced by the government's action, some airlines suffered financial loss, and air traffic safety declined. Nevertheless, the government has been successful up to this point in outlasting the controllers.

On the surface, then, the government "caved" in 1970, but "hung tough" 11 years later. The question remains, however, which approach better served the public. Here, the results are clear.

Out of the tumult of the 1970 postal strike came not only long-awaited and much-needed pay raises for postal workers, but also postal reform. Under the terms of the Postal Reorganization Act, which became law in August 1970, the Post Office Department was transformed into a semi-independent government agency—the United States Postal Service. As mandated by the Act, the Postal Service was to become "business-like"—efficient, cost-conscious, and eventually self-supporting. And, despite major defects in certain areas—especially labor relations—the Postal Service has during the last 12 years moved a long way toward meeting the objectives which governed its creation.[3] In this sense, the public has been a beneficiary of the 1970 strike.

The Postal Reorganization Act also brought to the Postal Service—and to postal workers—free collective bargaining. For the first time, a large contingent of employees of the United States government could bargain freely over wages, hours, and terms of employment. Since 1970, then, postal workers have possessed all the rights of private-sector employees with the exception of one—the right to strike. As long as legal proscriptions against the right to strike exist, collective bargaining for postal workers will not be *true* bargaining. Nevertheless, postal workers have made giant steps toward the bilateral determination of their conditions of employment—a key attribute of both industrial and political democracy. In this sense, too, the public benefited from the 1970 strike.

President Reagan's zealous and hostile overreaction to the strike of air traffic controllers, on the other hand, illustrates a strike the government "won," but the nation ultimately is losing. By his mass firing of the controllers, Reagan has crippled the nation's air traffic system for years to come. Obviously the system is still working, but it is equally obvious that those supervisors and nonstrikers who have maintained the system thus far cannot do so indefinitely. More critical is the fact that the same

[3] This judgment follows that contained in *Evaluation of the United States Postal Service* (Washington: The National Academy of Public Administration, 1982).

grievances which led to the PATCO strike itself are now being voiced by those controllers who are presently in the towers. Once again, air traffic controllers are complaining of undue stress, physical and mental fatigue, and excessively long shifts. The Federal Aviation Administration has taken no action to redress these grievances, and, consequently, it is only a matter of time until there is a major air traffic disaster or another strike, or both. In this sense, the public—and not simply the 12,000 controllers who lost their jobs—are suffering because of the President's action.

One true "lesson," then, to be learned from a comparison of the 1970 postal strike and the 1981 PATCO stoppage is that, when oppressed, workers will break the law regardless of the odds and regardless of the consequences. This is as true today as it was before the wholesale dismissals of the striking air traffic controllers and the subsequent crushing of their union. Admittedly, the next group of striking federal workers may well be less susceptible to being replaced by supervisors and nonstrikers than were the air traffic controllers and, consequently, may be able to mount a more effective strike. PATCO was unsuccessful, not because it acted illegally, but because it lacked the power to shut down the nation's air traffic system.

Strikes of public employees will, it is clear, continue whether they are sanctioned by law or not. However, as a matter of public policy, it would be wise for the federal government and those states that do not allow public employees to strike to follow the example of those states that do. There are several reasons why this is so.

First, *true* collective bargaining requires that the parties themselves arrive at an agreement. This bilateralism implies a process where both parties can inflict—or threaten to inflict—some loss upon the other party. Certainly, the *power* to conduct an illegal strike enhances the bargaining strength of the union, whether that power is exercised or not. However, as a realistic matter, the illegality of a strike can, at times, weaken the union's resolve despite the fact that, as has been argued above, oppressed workers will strike regardless of legal prohibitions. Thus, the illegality of a strike not only dilutes the union's bargaining power, but it also distorts the collective bargaining process itself by forcing the union to depend upon third-party resolution of an impasse. And, as David Lewin has argued, public management can also suffer in such a situation because the public employer can be faced with paying an unanticipated or unwelcomed price for avoiding a strike.[4] Legalizing strikes, then, will result in

[4] David Lewin, "Collective Bargaining and the Right to Strike," in *Public Employee Unions: A Study of the Crisis in Public Sector Labor Relations*, ed. A. Lawrence Chickering (San Francisco: Institute for Contemporary Studies, 1976), pp. 153–57.

collective bargaining agreements which truly reflect the power relationships of the parties.

Second, the right to withhold one's services from one's employer is a fundamental right in a free society. It is a right enjoyed by government workers in Canada and most of Western Europe—but certainly not in the Soviet Union, Poland, or other Communist-bloc countries. No valid distinction between private and public employment can be made which would justify suppressing this right for government workers. Private-sector workers often perform the same tasks that public employees do (for example, mass transit, health care, sanitation, and even the delivery of parcels). In addition, it has become clear in recent years that public employers must confront economic constraints just as powerful as those faced by private employers. And given the increased willingness of the public itself to endure inconvenience—whether it be generated by a strike of public- or private-sector workers—it cannot be persuasively argued that public workers are in an intolerably strong position to exercise their will. New York City's latest transit strike demonstrates that a public-employee union cannot bring a city to its knees simply because the public is temporarily discomforted. Certainly, the length of the last postal strike in Canada—42 days—underscores this point.

Third, legal prohibitions against strikes embitter the collective bargaining environment and thus poison the labor-management relationship in general. Moreover, as was clear during the PATCO confrontation, antistrike laws lead inevitably to the politicizing of the conflict. Traditional bargaining issues are quickly submerged by arguments as to whether unions should be allowed to "flout" the law, and politicians vie with one another to be the first to quote Calvin Coolidge that "there is no right to strike against the public safety by anybody, anywhere, anytime." Jailed and shackled union leaders become martyrs in the eyes of the workers, who develop a distrust, if not outright cynicism, toward both the law and the judiciary. And, to the extent that the union is strong enough to demand amnesty for its striking members, the legal system itself as the basic foundation of the social order is weakened.

Mounting effective arguments against antistrike legislation is, of course, far easier than changing the law itself. Given the general antipathy toward public workers existing at the present time, it is unlikely that the Congress will soon grant federal workers the right to strike—nor is it likely that more state and local employees will be granted the right to strike by their state legislatures. Consequently, public-sector unions today must work with public management to create the kind of climate in labor-management relations which will reduce the likelihood of a strike—

whether legal or not. The proper climate requires, at first, the bilateral determination of wages, hours, and working conditions. In fact, on the state and local levels, those jurisdictions which do *not* have collective bargaining laws have the highest incidence of strike activity.[5] Collective bargaining, therefore, must be extended to all public workers—federal, state, and local. Second, public management at every level must recognize that public employees will not suffer quietly those politicians who wish to blame them for the nation's economic difficulties. Nor will government workers shoulder a disproportionate burden of the responsibilities for resurrecting the economy. Attempts to do so will only increase militancy and thus lead to work stoppages, whether legal or not.

[5] James L. Stern and Craig Olson, "The Propensity to Strike of Local Government Employees," *Journal of Collective Negotiations* 11:3 (1982), pp. 201–14.

VI. TRENDS IN DISCHARGE

Employment-at-Will: The New Legal Definition of Just Cause

PATRICK WESTERKAMP
Arbitrator

Employment-at-will is an invention of "American Scholars and Courts."[1] The doctrine was announced in 1877. In that year Horace G. Wood declared, "With us the rule is inflexible, that a general or an indefinite hiring is *prima facie* a hiring at will . . . and is determinable at the will of either party."[2]

This maxim was unchallenged for decades. Citing Wood, courts sternly upheld worker discharges unless management had guaranteed employment for a fixed period.

Employer arbitrariness or venality rarely was at issue. Instead, judges asked whether a job was promised for a specific interval. A positive answer required management to demonstrate termination before the natural expiration of an employment contract was for cause. A negative reply left an employee plaintiff without redress, as under those circumstances management was presumed to have retained power to discharge at any moment.

Results, though occasionally harsh,[3] were certain. They served Justice Brandeis's dictum that "[i]n most matters it is more important that the applicable rule of law be settled than that it be settled right."

The picture is changing. Courts are bringing the doctrine into step with today's times. Judicial modifications of employment-at-will are springing up throughout the nation. Companies whether large or small, organized or unorganized, can no longer discharge with unfettered discretion.

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[1] Clyde Summers, "Arbitration of Unjust Dismissal: A Preliminary Proposal," in *The Future of Labor Arbitration in America* (New York: American Arbitration Association, 1976).

[2] H. G. Wood, *Master and Servant* (1877).

[3] See *Bell* v. *Faulkner et al.*, 75 S.W.2d 612 (1934); *Hablas* v. *Armour & Co.*, 270 F.2d 71 (1959); *Geary* v. *United States Steel*, 319 A.2d 174 (1974).

This evolution is occurring in 50 separate environments. In state after state judges are questioning the values served by termination-at-will. Their investigations often lead to change.

Michigan provides an absorbing illustration. In 1980 its supreme court explored the links between personnel manuals and employment contracts. The inquiry centered on a job applicant who was assured employment until mandatory retirement. He subsequently was handed a copy of the company's personnel manual and was hired. Five years later, well before the onset of old age, he was fired. He sued his ex-employer for breaching its optimistic promise of extended employment.

He won the suit. In *Toussaint* v. *Blue Cross & Blue Shield of Michigan*,[4] the court contended that termination-at-will is not a substantive rule. It comes into play only when a contract has no definite termination date. In those instances, the court stated, agreements must be construed to ascertain what, if anything, stands between employers and their normal right to discharge. The at-will rule, it submitted, permits a worker's release unless a barrier is discovered.

Thus the power to fire can, the court noted, be stymied if the parties expressly shackle management. Accordingly, "A provision of an employment contract providing that an employee shall not be discharged except for cause is legally enforceable although the contract is not for a definite term."[5]

Additionally, in a precedent-setting statement, it stressed that companies may also lose power to terminate "as a result of an employee's legitimate expectations grounded in an employer's policy statements."[6]

Applying this principle to the facts, the Michigan court concluded that Blue Cross's personnel manual had merged with the parties' employment contract. It used that manual to infer that Blue Cross had voluntarily limited the power to fire its staff. In a broad assertion it proclaimed:

> No pre-employment negotiations need take place and the parties' minds need not meet on the subject. . . . It is enough that the employer chooses . . . to create an environment in which the employee believes that, whatever the personnel policies and practices, they are established and official at any given time, purport to be fair, and are applied consistently and uniformly to each employee.[7]

This holding is far-reaching. It inserts a just-cause provision into nonunion employment contracts. Employers can no longer give workers

[4] 292 N.W.2d 880 (1980).
[5] Id. at 885.
[6] *Ibid.*
[7] *Id.* at 892.

the gate for just any reason. In Michigan employees may only be terminated for cause as defined in personnel manuals.

Toussaint, supra, is on the cutting edge of reform. While New York State rejected similar arguments in *Edwards* v. *Citibank, N.A.*,[8] the Michigan model cannot be ignored. It, and less provocative cases, reflect popular concern for the individual.

Wood's original rule mirrored 19th century philosophy:

> In an era of tremendous industrial expansion, a principle freeing the employment relationship from the status restrictions of earlier, stagnant economic systems was quite compatible with the reigning laissez-faire economic view of the period. Wood's rule offered freedom of action to both parties and the promise of unleashing productive capacity which would insure the economic progress of the employer, the employee and society at large.[9]

Within decades the heralded "freedom of action" was seen as one-sided. Theorists and practitioners came to recognize obstacles to employee mobility. As one study committee wrote, "The ties that bind the employee to the job are formidable. They include, for example, accrued rights in pension and insurance programs, seniority and related benefits that encourage long-term service."[10] Freedom to quit, they concluded, is often an illusion.

This realization extended beyond empathy for labor's vulnerability. It encompassed the humanistic goal of reducing unacceptable by-products of at-will termination. Among the chief exponents of change was Professor Lawrence Blades.

According to Blades,[11] the ability to discharge at-will created potential employer abuse. He deplored any condition which might cause workers to choose between their principles and their livelihood. For this reason Blades advocated rule modifications to safeguard employees from "unquestionably overreaching domination"[12] by management. Blade's call was echoed by later writers.[13] Many proposed precise remedies. How-

[8] 425 N.Y.S.2d 327 (1980).

[9] Committee Report, *At-Will Employment and the Problem of Unjust Dismissal*, 36 Rec. A.B. City N.Y. 170 (April 1981).

[10] *Id.* at 187.

[11] L. Blades, "Employment at Will vs. Individual Freedom: On Limiting the Abusive Exercise of Employer Power," 67 Col. L. Rev. 1404 (1966).

[12] *Id.* at 1407.

[13] Note, "Implied Contract Rights to Job Security," 26 Stan. L. Rev. 336 (1974); Summers, "Individual Protection Against Unjust Dismissal: Time for a Statute," 62 Va. L. Rev. 481 (1976); Comment, "Protecting At Will Employees Against Wrongful Discharge: The Duty to Terminate Only for Good Faith," 93 Harv. L. Rev. 1816 (1980).

ever, their main contribution has been to raise sensitivity. The message has been heard and understood.

While no court has abolished Wood's rule, 14 jurisdictions have created exceptions. In these states either public policy or contract law has been used to curtail the power to fire.

Toussaint, supra, demonstrates the broadest use of contract principles to carve exceptions to at-will employment. *Coleman* v. *Greybar Electric*[14] is more orthodox. Also, it is more typical of judicial activity.

Coleman involved a salesman who was compensated in part by a commission plan. Pursuant to its scheme, proceeds were payable "the first of April following the year for which the compensation"[15] is earned. This meant that an employee had to wait three months before receiving an annual commission. In *Coleman* the waiting period was cut short by the salesman's discharge 44 days before his money was due. He filed suit under contract for the past commission. In defense, his former employer raised discharge at-will.

The defense was rejected. On appeal the true question was stated to be whether the court would compel a forfeiture. While not denying defendant's authority to terminate plaintiff, the court wouldn't allow loss of commission absent explicit agreement between the parties. It commented, "[T]he contract did not authorize a forfeiture . . . if the employee were terminated arbitrarily and without cause."[16]

Later cases reiterated judicial reluctance to sustain automatic losses. The principle involved is far from obscure. "Courts will strictly construe contractual provisions which authorize the forfeiture of important rights already earned by the rendering of substantial service."[17]

A few judges have even advanced beyond the *Coleman* analysis. In *Zimmer* v. *Wells Management*[18] a covenant of good faith was read into an employment contract. The case concerned an executive's discharge and his ensuing entitlement to stock in escrow. The court upheld his right, noting: "Unless the agreement comprised an implied covenant to treat the employee in good faith, to bargain honestly as to renewals and not to remove him from office wrongfully, or in bad faith, just to take advantage of the escrow forfeiture no reasonable contracting party could have expected to part with valuable consideration."[19]

Five years later Massachusetts faced a similar question. On this

[14] 195 F.2d 374 (1952).
[15] *Id.* at 376
[16] *Id.* at 378.
[17] *Lemmon* v. *Cedar Point, Inc.*, 406 F.2d 94 (1969).
[18] 348 F.Supp. 540 (1972).
[19] *Id.* at 543.

occasion a business-machine salesman received his walking papers soon after earning a substantial bonus. He filed suit and was awarded most of the bonus money. An appellate tribunal sustained the verdict. As in *Zimmer*, the court detected an implied covenant in the employment contract. While not speculating whether "the requirement is implicit in every contract for employment at-will,"[20] it found commission systems imply promises not to discharge except for good faith.

Judges, through either the forfeiture or good-faith exceptions, have granted bonuses,[21] stock options,[22] and future commissions[23] to discharged employees. Additionally, state courts have relied on public policy theories to award damages to workers deprived of benefits.

The U.S. court for New York's eastern district reviewed the claim of Morton Savodnik[24] who was discharged to avoid pension vesting. The cause of action consisted of six counts, five of which failed. Among the unsuccessful pleas was one based on an implied obligation to terminate for cause. Though the court approvingly cited *Zimmer, supra*, it found plaintiff's contract theory was checked by the statute of frauds.[25] Nevertheless, it granted relief by turning to public policy.

The court reminded that plaintiff was a model employee who was fired for the ulterior purpose of evading pension-plan obligation. He deserved a remedy, it concluded, because "strong public policy in New York favor[s] the protection of integrity in pension plans."[26]

Judicial recourse to public policy to modify employment-at-will has been prevalent. As with contract cases, judges have felt motivated to stop "ignoring the economic and social realities of modern society."[27] Acting through public policy they have penalized employers for discharges designed to achieve a goal not favored by society. The court in *Leach* v. *Lauhoff Grain Co.*[28] capsulized this position when it observed, "[T]he exercise of a legal right, for an ulterior purpose, which serves to frustrate the exercise of a legal right of another while at the same time frustrating the public policy of the State, may be actionable."[29]

Results in individual cases vary with the clarity and strength of a specific public policy. Courts are most unequivocal when a criminal

[20] *Fortune* v. *National Cash Register*, 364 N.E.2d 1251 (1977).
[21] *Sinnett* v. *Hie Food Products*, 174 N.W.2d 720 (1970).
[22] See *Lemmon, supra* note 17.
[23] *RLM Associates* v. *Carter Manufacturing*, 248 N.E.2d 646 (1969).
[24] *Savodnik* v. *Korvettes, Inc.*, 488 F.Supp. 822 (1980).
[25] See *Harris* v. *Home Indemnity Co.*, 175 N.Y.S.2d 603 (1958).
[26] *Supra* note 24, at 826.
[27] *Id.* at 826.
[28] 366 N.E.2d 1145 (1977).
[29] *Id.* at 1148.

statute is violated. This tendence is apparent in *Perks* v. *Firestone Tire & Rubber Co.*[30]

Perks concerned the discharge of a 30-year, at-will production coordinator suspected of accepting favors from a supplier. The coordinator was released when he refused the company's demand to submit to a polygraph examination. The discharge was upheld by a lower court on a motion for summary judgment. It was reversed on appeal.

While not denouncing the traditional rule allowing termination without cause, the *Perks* court cautioned employers not to invade employee privacy. In this instance, it reminded, prevailing criminal law set policy by banning any requirement that an employee take a polygraph as a condition of continued employment. The public interest was so strong that the court held its violation "gives rise to a cause of action for tortious discharge."[31]

A California decision[32] displays similar reasoning. The West Coast case concerned a retail sales representative fired after refusing to participate in illegal price-fixing. He obtained relief from a court which declared that contract safeguards aren't necessary to protect those who reject criminal solicitations. It affirmed that "[a]n employee discharged for refusing to engage in illegal conduct at his employer's request may bring a tort action for wrongful discharge."[33]

Judges, however, have been less sure-footed when management's conduct, though not criminal, is morally blameworthy. In *Percival* v. *General Motors Corp.*,[34] a question of retaliatory discharge was placed in litigation. The plaintiff was the past mechanical development director of a major automobile manufacturer. He alleged that the corporation caused his release after 26 years. He believed that the termination was in reprisal for efforts to correct misleading public statements. In defense the corporation moved for summary judgment. This motion was affirmed by both trial and appellate courts.

The rejection of plaintiff's suit reflected judicial unwillingness to proceed quickly with a newly evolving theory. The appellate tribunal easily denied Mr. Percival his day in court. It explained that wrongful discharge actions depended on "breaches of well-defined public policy."[35] The court observed, "The mere fact that the discharge was

[30] 611 F.2d 1363 (1979).

[31] *Id.* at 1365.

[32] *Tameny* v. *Atlantic Richfield*, 610 P.2d 1330 (1980).

[33] *Id.* at 1332.

[34] 400 F.Supp. 1322 (1975).

[35] *Id.* at 1324.

unjustified does not give rise to a cause of action in the absence of contractual, statutory or public policy considerations."[36]

Similar hesitancy to define public policy too broadly has been manifest in other cases. New Jersey's supreme court, in *Pierce* v. *Ortho Pharmaceutical Corp.*,[37] disallowed an attack on an at-will discharge. The dismissed employee, a medical researcher, based her claim on upholding the Hippocratic oath. This rationale was found not satisfactory. The justices maintained that abusive discharge actions must be based on "clear mandate[s] of public policy"[38] in statutes or as derived "in case-by-case determinations."[39]

This conservatism springs from wanting to stop claims premised on violations of any public policy which is only "marginally affected by an alleged retaliatory discharge."[40] In summary, the judicial goal is to vindicate policy, not to reinstate workers.[41] However, in advancing this objective, judges have had difficulty defining public policy, and their perplexity hampers efforts to predict growth of this exception to at-will termination. Nonetheless, two areas are readily identified.

Courts in several states have granted relief to employees discharged for seeking workers compensation benefits. The seminal case is *Frampton* v. *Central Indiana Gas Co.*[42] In *Frampton*, the plaintiff was fired after filing a workers compensation claim for an arm injury. She brought action for wrongful discharge, demanding actual and punitive damages. When the case was dismissed for failure to state a claim on which relief could be granted, she appealed.

Indiana's supreme court confirmed her right to sue. The state's compensation plan, it reminded, was established to assist workers: "The Act creates a *duty* in the employer to compensate employees for work-related injuries (through insurance) and a *right* in the employee to receive such compensation."[43] Plaintiff's discharge, it concluded, was "a wrongful, unconscionable act and should be actionable in a Court of Law."[44]

To arrive at this holding, the *Frampton* court relied on specific

[36] *Id.* at 1325.

[37] 85 N.J. 58 (1980).

[38] *Id.* at 72.

[39] *Ibid.*

[40] *Sheets* v. *Teddy's Frosted Foods, Inc.*, 427 A.2d 385 (1980).

[41] In *Wehr* v. *Burroughs Corp.*, 439 F.Supp 152 (1977) an employer fired because of age discrimination was denied a wrongful discharge action. The court observed that public policy against discrimination was "preserved by other remedies."

[42] 297 N.E.2d 425 (1973).

[43] *Id.* at 427.

[44] *Id.* at 428.

statutory language. Three years later a Michigan court was presented with a similar issue. However, that state's compensation statute was more general than that of its Hoosier neighbors. Undaunted, Michigan allowed a wrongful discharge suit based on broad policy favoring workers compensation. It declined "to discourag[e] the fulfillment of this legislative policy by use of the most powerful weapon at the disposal of the employer."[45]

Courts have also supported policies favoring the judiciary. A case in this category was, in fact, the forerunner of the at-will doctrine's erosion. In 1959, the California supreme court explored a union business agent's termination.[46] Peter Petermann was hired to be a Teamster representative as long as "work was satisfactory."[47] He received no criticism until he was subpoenaed before a state Assembly committee. At that time the union's secretary-treasurer instructed him to commit perjury. Mr. Petermann ignored this directive, appeared, and testified truthfully. He was discharged and filed for declaratory judgment.

The court agreed that the union had attempted to coerce Mr. Petermann in derogation of perjury statutes. The law, it stated, "must encourage and not discourage truthful testimony. The public policy of this State requires that every impediment, however remote to the objective, must be struck down."[48]

In a similar vein, judges have guarded access to the most precious of raw materials, jurors. *Nees* v. *Hocks*[49] exemplifies the trouble an employer may expect when standing between judge and juror. In that matter, an employee called to jury duty was given a letter by her boss, asking that she be excused. She presented the letter to the court clerk, but also expressed eagerness to serve. She got her wish, but was discharged on her return to work.

A tort suit resulted in her employer's being ordered to pay both compensatory and punitive damages. The company's subsequent appeal didn't bear fruit. Oregon's supreme court commented, "There can be circumstances in which an employer discharges an employee for such a socially undesirable motive that the employer must respond in damages for an injury done."[50] Harming trial by jury is one of those circumstances.[51]

What will come of these beginnings? The judiciary can be expected to

[45] *Suentko* v. *Kroger Co.*, 245 N.W.2d 151 (1976).

[46] *Petermann* v. *IBT*, 344 P.2d 25 (1959).

[47] *Id.* at 26.

[48] *Id.* at 27.

[49] 536 P.2d 512 (1975).

[50] *Id.* at 515.

[51] See *Reuther* v. *Fowler & Williams, Inc.*, 386 A.2d 119 (1978).

nibble at employment-at-will as it adjusts an old rule to new values. This process won't produce uniform results.

The history of common law is one of evolution. While one form is changing to another, the shape of things to come isn't always apparent. Employment-at-will is moving toward a just-cause model. The rule which was "inflexible" for Horace Wood is bending to the complexities of our era.

How Arbitrators View Just Cause

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There are few experiences which equal the severity of discharge. It is no wonder it is considered to be the capital punishment of the workplace by industrial relations experts. No other action taken by an employer is more drastic than the denial to work and earn a living. Yet, the prospect of losing one's job has always been a reality of the market place. Professional arbitrators understand the need to analyze discharge actions with the utmost scrutiny.

Within nonunionized companies, employees are subject to the "employment at will doctrine." Under a collective bargaining agreement, discharged workers are almost always offered the protection of due process, a term which usually implies arbitration.

Neutrals are sensitive to the implications associated with termination. Economic repercussions are obvious. Few workers can sustain prolonged periods of unemployment. An extended period without work can place a family in such dire straits they may never recover. Arbitrators are mindful of how a job loss can take the bread out of the family's mouth.

We thus can identify the first rule in the judgment of a discharge. The reason(s) must be sufficient to require termination. There is no room for doubt or uncertainty when neutrals draft their awards. In the world of labor arbitration, there is a clear-cut requirement that the action taken by the company withstand the critical standards which arbitrators apply to discharges.

It might be appropriate for me to make a personal observation. In a nonunion setting management must bear the sole responsibility in terminations. Those with authority to discharge a worker must live with their consciences. When an arbitrator judges the appropriateness of a discharge, the burden falls upon the shoulders and conscience of the neutral. If a discharge is sustained, managers are theoretically absolved from any feelings of guilt. The onus rests with the arbitrator who assumes the role of judge and jury.

In recent years, some arbitrators have noted an increase in the tendency to submit grievances to arbitration. Fear of lawsuits and the duty of fair representation have probably contributed to this phenome-

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non. Discharge cases undoubtedly represent an example of disputes destined for the arbitration hearing.

Neutrals abide by the dictum that almost all evidence deserves attention. Testimony and exhibits are normally accepted liberally at the hearing and given appropriate weight when the award is drafted. One learns that a competent advocate can take a weak case and plead it with such sincerity that one would think the attorney's mother had been discharged. Arbitrators fully appreciate the responsibility a union has to construct a thorough and adequate defense for the grievant. Once you receive and accept the appointment, you are on your own, as isolated as any individual who is placed in a decision-making role.

Given this reality, it is little wonder the parties shy away from using inexperienced arbitrators. It is sometimes what is not said that causes the most problems. Neutrals are often confronted with the task of drafting an award with fragments of evidence. An advocate who has failed to do his homework or has not acquired the acumen the profession demands vicariously transfers his role to the arbitrator. There have been times when I have wondered why an attorney neglected to cite a relevant clause in the contract or failed to ask a pertinent question that would have reinforced his case. The reason is not always clear. It may have been deliberate!

The simplest explanation could be ineptitude or omission. Not all advocates arrive well prepared. Questioning the grievant ten minutes before the hearing considerably decreases the quality of the presentation. If such is the reason for a weak case, should the company or grievant suffer? The philosophy of arbitrators is mixed in regard to this issue. Some arbitrators feel it is not their responsibility to "construct" the case for either party. How many questions do you ask at the hearing? At what point does the arbitrator intercede? The grievant is entitled to a thorough and adequate defense. Yet, preparing an award with insufficient information makes the task more difficult and decreases the chances of writing a worthy decision.

But let's not avoid the reality of the process. A few years ago I encountered a rather unique and subtle situation in an arbitration. The company attorney was a young, unsophisticated lawyer who lacked expertise. His nervousness and prehearing questions revealed his inexperience in the arbitration field. The previous day he had handled a house closing, and I believe to this day it was his first labor case. The union attorney was a longtime labor lawyer who was very well known in the labor-management field. The case against the grievant was shaky, and there was little doubt the union would prevail. I was curious as to why the company sanctioned the use of such an inexperienced attorney, and

finally came to the following conclusion which was later confirmed. The grievant was the shop steward. His general conduct had left something to be desired and the company decided to correct the problem. However, they did not want him to be discharged. Matching the two attorneys at the hearing increased the prospect the union would be successful. They (the company) proved a point without jeopardizing their relationship with the union.

Yet, how can an arbitrator sanction a discharge when an advocate has failed to construct an adequate and thorough defense? Arbitrators must be prepared to live with their decisions, and professional ethics require a complete exploration of every pertinent facet germane to the grievance.

Every discharge case is fraught with the possibility that one party will be upset over the award. Even the most paternalistic employer is capable of irrational behavior without recognizing it has occurred. It is human nature to be less objective with one's own problems than those of others. If the "right" decision means future rejection, so be it. Such dangers are an occupational hazard.

The relevance of the entire agreement can illustrate the arbitrator's responsibility. A contract is normally the first exhibit introduced in the hearing. A failure to cite one or more clauses does not alter the fact that other clauses in the agreement are relevant to the dispute. How can an arbitrator disregard the entire contract? It may be necessary to strengthen the case of the prevailing party in order to satisfy one's self even when an advocate neglects his responsibility. Leave no stone unturned is a rule never to be ignored.

Experienced practitioners are familiar with the standard concerns arbitrators consider in their deliberations. Generally, the arbitrator wants to ascertain if the offense justified the action taken by the company. Certain violations are not serious enough to warrant discharge while other breaches of proper behavior may qualify as just cause. For instance, violating certain rules will automatically, and correctly, result in discharge. Stealing is a serious infraction employers will not tolerate. Fighting cannot be sanctioned for obvious reasons. Drinking while at work can lead to accidents and poor productivity, although alcoholism is judged somewhat differently today than it was in the past. An employer is justified in terminating workers who do not observe rules of behavior which constitute minimum standards of proper and ethical conduct.[1]

[1] In an analysis by Robert D. Orzechowski (FDU) of discharge cases which appeared in the American Arbitration Association, *Summary of Labor Arbitration Awards*, arbitrators overturned discharge actions most often because of insufficient proof and belief that a lesser penalty was more appropriate. Arbitrators were persuaded by mitigating circumstances such as poor communication, an otherwise good work record, failure to follow progressive discipline, mental illness, etc. Reinstatement without back pay was found in 16 cases and

The issues are not always simple by any means. Long-term employees do sometimes steal property and drink on the job. Agonizing over extenuating circumstances can extend well beyond the actual time spent writing an award.

Arbitrators need not follow precedent in their deliberations. Each case is judged on its own merits. It is, in fact, very difficult to abide by a rigid prescribed course of action in a human relations field.

Imposition of a lesser penalty may provide a fair alternative to discharge. Denying a worker pay for a specified period of time is sometimes such an acceptable solution. After all, the purpose of discipline is to modify unacceptable behavior. One must regard discharge as a punitive step or an admittance the grievant is unable or unwilling to modify his behavior. Punishment implies getting even, while lesser disciplinary action can convey the seriousness of one's conduct short of termination. An arbitrator should not, however, assume a managerial role by usurping the traditional authority vested in the owners. Arbitrators were never meant to be proxy managers.

Deciding appropriate discipline is a challenge. I am sure many industrial relations officials have felt compelled to support a manager who in the fit of anger yelled, "You're fired!" Once such a step has been taken, the company may find it necessary to support a supervisor. This is a real strength of arbitration. Adjustment of the penalty provides management with a solution to a difficult political problem.

Companies have sometimes been unable to sustain discharge actions when they have failed to follow a progressive pattern of discipline. Absent an extremely serious violation of behavior, it is necessary to show that an employee has been adequately informed about the seriousness of his actions and given an opportunity to reform. Of course, the workplace is not a rehabilitation center or reform school. It is unfair to ask an employer to tolerate chronically poor work habits.

Recently, management has focused their arguments toward contemporary areas of crisis. These concerns are an outgrowth of structural and economic changes which could very well have an impact on the outcome of arbitration decisions. After all, arbitrators do not live in a vacuum.

The first is the precarious position of many heavily unionized industries. Faced with falling demand and poor profit margins, companies find

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with full back pay in 15 cases. In four cases the arbitrator awarded partial back pay and in seven awards the reinstatement was made conditionally. His research revealed that absenteeism and insubordination were the two most common reasons for sustaining discharge. It should be mentioned that the AAA awards cannot be deemed an accurate statistical indication of actual percentages since a significant number of cases are not published. Nor does the selection of cases published necessarily constitute an accurate barometer of cause.

it advantageous to remind the arbitrator how detrimental a poor worker can be in a recession economy. It is inferred that survival prospects improve considerably if such workers can be dismissed. There is no question that when firms close, the good worker pays the same penalty as the poor worker. There is a strong moral argument for not accepting poor work habits or retaining personnel who do not maintain minimum levels of efficiency. In effect, the arbitrator is given the responsibility of cleansing the workforce of undesirables. Unions reverse the argument when describing the difficulty which the unemployed face in today's labor market.

A second claim made at the hearing involves the enlightened management argument. The concern about employee welfare is far more common today than it was in previous decades. Fear of lawsuits along with morale problems have changed the manner in which a great many firms approach discharge. Corporate policy demands substantial reasons before an employee can be discharged.

The third item is an innuendo regarding the excessive protection provided by the contract. Discharging a union worker, it is suggested, is virtually impossible since most arbitrators reverse termination actions. Under this argument the arbitrator is given the task of balancing the distribution of power between management and labor. If the arbitrator fails to accept this role, he ensures the continuation of managerial ineptness.

There are arbitrators who advocates believe never uphold terminations.[2] For whatever reason applies, these neutrals cannot bring themselves to sign an award which finalizes the separation process between employer and employee. Once such a reputation is established, management is likely to consider the person unacceptable in discharge grievances, unless, of course, they prefer not to have the action upheld.

But, there is an important distinction. Arbitrators reinstate workers because the company has failed to abide by the "rules of the game." Having neglected to follow through on evidence requirements or contractual rights, they accuse the arbitrator of leniency or incompetence.

Each of the points mentioned does contain some elements of truth. Neutrals are obligated to anticipate the impact their decisions will have upon the workforce after they have disappeared from the scene. Never compound existing problems or create additional difficulties is sound advice when drafting an award.

In spite of the clear requirement that arbitrators should not compound managerial problems, neutrals have a professional responsibility not to

[2] Comparable examples exist in all walks of life: The professor who never fails a student, the judge who is lenient, and the employer who tolerates poor work habits.

undermine the ethical foundation upon which the system is built. A fair number of discharge cases have been mishandled in such a way that the arbitrator has no choice but to order reinstatement. One cannot neglect the obligation to consider mitigating circumstances and due process in discharge cases.

Although this may be inferred at the hearing, an arbitrator cannot save an economically troubled firm or eradicate the problems created by poorly trained supervisors by upholding an improper termination.

One additional point should be made on this subject regarding the limitations which arbitrators face as human beings. Although some arbitrators believe differently, they do not possess superhuman powers of judgment. We are in the final analysis mere mortals.

One must never forget that defining just cause is a far simpler task than recognizing when it exists. An arbitrator ultimately must feel comfortable with the decision. Perhaps, just cause eventually becomes a matter of being able to retire at night with an untroubled feeling.

Summarizing this topic in a few words is without question an impossible assignment. However, it doesn't preclude me from trying. A company must observe the substantive and procedural rights a worker deserves under the collective bargaining agreement. Such is the essence of industrial jurisprudence. Inherent within this system of "justice" is the expectation that management has not acted in an arbitrary or capricious way. "To be sure, no standards exist to aid an arbitrator in finding a conclusive answer to such a question and, therefore, perhaps the best he can do is to decide what reasonable man, mindful of the habits and customs of industrial life and of the standards of justice and fair dealing prevalent in the community, ought to have done under similar circumstances and in that light to decide whether the conduct of the discharged employee was defensible and the disciplinary penalty just."[3]

It is, perhaps, the lack of rigidity which is the real strength within the process. Each case is judged on its merits. All facets of the dispute become relevant, or at least deserve some attention in the study and preparation of an award. In the final analysis, the burden rests not upon management, but on the arbitrator.

Conclusion

In rendering decisions on discharge grievances, arbitrators consider a variety of items. While just-cause requirements are not always easy to ascertain, there is certainly some structure to the arbitrator's deliberations.

[3] Frank Elkouri and Edna A. Elkouri, *How Arbitration Works*, 3d ed. (Washington: Bureau of National Affairs, Inc., 1979), p. 626. View expressed by Harry H. Platt.

Their concerns include the appropriateness of a discharge penalty, due-process guarantees, contract provisions, past record of the grievant, mitigating circumstances, and the impact an award will have on the future relationship of the parties. Arbitrators often feel great pressure from labor and management in discharge cases. Yet, in the final analysis it is the arbitrator who must be comfortable with his or her award. It is apparent that arbitrators will experience more pressure in future years as the economic system goes through structural changes in unionized industries. Arbitrators must be prepared to deal with these issues realistically while still adhering to the ethical principles inherent within the process.

Discharge: A 1982 Employer's Perspective

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Today's Environment

Three factors in the 1980s have had a significant impact on employee/industrial relations in the framework of discipline and discharge, as seen from the employer perspective. These are growth of employee participation through quality circles or quality-of-work-life programs, the prolonged recession in the U.S. economy resulting in a reduction in the adversary nature of collective bargaining, and the legal challenges and modifications to the doctrine of "employment at will." These elements have impacted on discharge from a conceptual and practical basis. Although the mechanics of discharge have seen limited change, employers have begun to take a different point of view of discharge.

Management has accepted (voluntarily or otherwise) the principle that the application of the right to discharge as a business decision requires restraint and procedural due process. This applies to union and nonunion workers as well as those who have managerial responsibility. There are fewer and less distinct differences in the manner in which procedural due process is applied by the employer in union and nonunion environments.

In turn, two major institutions—labor unions and the courts—have departed from their traditional mission on the subject of discharge. Unions have demonstrated that they are more receptive to accepting their share of the responsibility for a productive and efficient workforce. At one time unions assumed it was their sacred duty to "protect the working man." Today many major unions are faced with large percentages of population on layoff and have come to recognize that they can better serve the job security of their memberships by supporting increased productivity. Employees who fail to meet minimum standards can no longer expect the union to jeopardize the jobs of other members by blindly condoning and defending unacceptable job performance and violations of reasonable rules.

The courts at both the federal and state levels have moved further away from the principle of "employment at will." No longer does the employee survive at the pleasure of the employer. There are many instances in which the court has ruled discharge unjust or abusive.

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Employers must exercise caution and propriety or risk costly legal entanglements.

Finally, faced with the competitive forces in the international business community, especially in major industries that have been heavily organized, a new program has developed to find a mutual basis for problem-solving. Whether called quality circles, quality of work life, employee participation, or productivity improvement programs, the fact remains that these efforts have established a new rapport between employee and employer. The employee is better informed and more greatly involved in what happens in his own work environment. He has begun to develop a share of "ownership" in the decision-making process. This has substantially contributed to a more restrained use of discharge on the part of the employer which results in an improved sense that "justice has been done" in the eyes of the employees when discharge is necessary.

Discharge for Cause

It is a long-standing, well-recognized principle that the employer has the right to discharge an employee for "just cause." Whether the employee is covered by a collective bargaining agreement or not, the right to discharge is essential to the operation of a business.

While the definition of "just cause" may vary, certain well-accepted tests exist to determine whether or not an employer has just cause for discharging an employee. The tests usually include:

- Was the employee adequately warned of the consequences of his conduct?
- Was the employer's rule or instruction reasonably related to efficient and safe operations?
- Was the violation or a rule sufficiently and fairly investigated before discipline was administered?
- Did the investigation produce evidence and proof of the employee's involvement or guilt?
- Were the rules and any subsequent penalties applied even-handedly without discrimination?
- Did the penalty suit the seriousness of the employee's offense and past record?[1]

It is accepted that different types of employee actions are viewed with different degrees of seriousness. Certain forms of conduct are considered gross misconduct. In such cases, an employer may appropriately enforce discharge for an initial occurrence. Such offenses or violations usually

[1] Bureau of National Affairs, *Grievance Guide* (Washington: BNA, 1982), pp. 1-136.

include theft, fighting, gross insubordination, willful destruction of company property, and certain other serious acts that affect the employer's business.

More commonly, employees are discharged as a result of cumulative acts of unacceptable behavior. These acts include absenteeism, tardiness, violation of safety rules, inattention to duty, loafing on the job, disobedience, creating disruptions in the workforce, horseplay, etc. A progressive disciplinary system is applied to "correct" these offenses. Progressive discipline is a series of documented steps designed to serve several purposes: (1) Correct unacceptable conduct. (2) Document and record action taken. (3) Enlist the support of union or employee representatives in dealing with employee problems. (4) Establish the groundwork for discharge for "just cause."

The Human Resources Role—As It Has Been

The mechanics of progressive discipline have undergone little change over the years. Elements of the Human Resources executive's role in the process have remained equally constant. He serves in an advisory capacity, being certain that standards are fairly and consistently applied in the organization. He advises line management on past practices, collective bargaining impacts, legal ramifications, and other pertinent factors. It is also Human Resources' responsibility to maintain documentation on disciplinary actions taken.

The Human Resources executive should serve a key role in the investigatory process. He must gather data and evidence to ensure that an appropriate, factual pattern has been observed prior to a disciplinary decision. Sometimes this requires that he serve in the capacity of a "devil's advocate" to guide line management toward reasonable conclusions which ensure fairness and consistency. Ultimately, a determination is made concerning the corrective action to be taken. Occasionally the correction of a problem is deemed to be the purging of the ranks. This results when the employee misconduct is so severe to warrant his dismissal or when the employee's cumulative record indicates that his conduct is not being corrected.

Traditionally, management preached a doctrine that discipline was an attempt to "correct" behavior and that employees had to internalize self-discipline for any program to be successful. Under this rationale, discharge was an action designed to deal with persons unwilling to conform to reasonable standards.

Likewise, the employee representative or union was placed in the role of "protecting the working man." Union stewards were trained in the adversary nature of discipline and admonished to guard employee rights.

The burden of proof rested with the employer, and the emphasis was on the adversary nature of the procedure. A high percentage of discharge matters were ultimately referred to a third party for final determination.[2]

The Human Resources function has also been called upon to wear other hats. Frequently, in large industrial plants with strong unions, the Human Resources function was looked upon as almost an ally of the worker. The line supervisor, caught up in the emotional overtones of what he considered unacceptable employee conduct, would turn to his colleague in Human Resources for "support." Instead he would find the official appearing to take the part of the employee. Human Resources would grill the supervisor concerning the circumstances of the event and attempt to dissuade him from taking disciplinary action or convince the supervisor to ameliorate the level of discipline. This was part of the mission to "keep the lid on" which varied according to the proximity of the date the contract expired.[3]

Concession Bargaining and a Change in Adversary Roles

Due to the economic recession, which has caused widespread layoffs and numerous plant closings in major segments of American manufacturing, 1982 has been highlighted by a number of concessionary collective bargaining agreements. The phrase "concession bargaining" was coined to describe events in automobile, trucking, meatpacking, rubber, and steel industry negotiations. It suggests a major departure from the traditional framework of collective bargaining. Recognizing the problems of employers, some union negotiators have agreed to significant concessions in exchange for job-security guarantees and limitations on plant closings. However, this phenomenon is not new to the American economy. Labor history is full of instances where employees have demonstrated a willingness to sacrifice present or short-term economic gains for the hope of future job security.

The BNA Report on concession bargaining of 1982 showed 91 bargaining situations resulting in 31 cases of ratified "give back" contracts. Included within this figure is a reduction in the size of wage settlements.[4]

Whatever statistics show, one major point should not be overlooked. The simple fact is that the parties to collective bargaining agreements are finding it necessary to become less adversarial and less antagonistic in their relationship. Whether this is a lasting effect remains to be seen.

Some experts and opinion leaders view a trend favoring a positive

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[2] Robert Coulson, *The Termination Handbook* (New York: Free Press, 1981), Chs. 1 and 4.

[3] Coulson, Chs. 2, 3, 5.

[4] Bureau of National Affairs, *Labor Relations in an Economic Recession: Job Losses and Concession Bargaining* (Washington: BNA, 1982).

change in the relationship of labor and management. In return for union wage and benefit concessions, management should be prepared to give up some of its traditional prerogatives. Many union and business leaders are enthusiastic about this trend. In seeking a silver lining to every cloud, both sides are convinced that the opportunity has never been greater for "chipping away the antagonisms of the past and establishing a new fruitful relationship built on cooperation by management and labor."

Other points of view from the management ranks take a different tack. Some hard-liners are opportunistic and, remembering the big settlements won by unions in the past, advocate squeezing every bit of "give back" possible out of labor. This polarized approach characterized the failure of the parties to reach agreement on the Basic Steel Pact. Unions are not always willing to sacrifice "hard earned" gains.[5] One need only note the position of the IAM and UAW in the past few months.

Concession bargaining is far from a trend. Unions are political by nature and tend to react to situations. To assume that the persons who negotiate labor agreements are suddenly going to depart from Samuel Gompers's labor objective of "more" is unrealistic. Due to widespread layoffs and corporate red ink, many realize that the adversarial process of employee-employer relations no longer works in the best interests of either party.[6]

Companies that cannot compete with international competitors had to get lean and divest unprofitable and marginal operations. When plants close and/or curtail, workers are laid off. Workers on layoff do not pay union dues. Thus, the leaders of organized labor have a pragmatic stake in restoring employment levels. Since it is employers who provide jobs, unions appear to have logically concluded that a need exists to help themselves by assisting employers. Concurrently, pressures have been generated by unemployed workers who, through the negotiating strength of their union, have solidly entered the middle class.

It is no surprise that autoworkers, steelworkers, and truckers were earning from $30,000 to $40,000 per year. When these people, who have adopted the consumer habits and lifestyles available at their level of earnings, lose their jobs, several things happen. They become resentful of all persons and things to which they associate a causal relationship to their plight—that is, the company, the union, foreign competition, and, eventually, their former workmates who are gainfully employed.

In translating these developments to the issue of discharge, some sound conclusions can be reached: (1) Unions are becoming less tolerant

[5] A. H. Raskin, "Frustrated and Wary, Labor Marks His Day," *The New York Times*, September 5, 1982.

[6] Bureau of National Affairs, *Bulletin to Management*, September 16, 1982.

of those within their ranks who abuse work rules and do not carry their fair share of the load. (2) Employers, by keeping their workforces better informed and enlisting participation and input on those things that affect employees' jobs, substantially reduce antagonism and significantly increase "ownership" in why things are done the way they are.

As a result, as long as documented evidence is presented and procedural due process is followed, discharge has become far less of a labor-management battleground than it was in the past.

Employment at Will

The employee's protection from arbitrary discharge following the completion of a reasonable probationary period of employment is not new. When the employee is covered by a collective bargaining agreement (which applies to less than 20 percent of the workforce) or is covered by Civil Service (which applies to even less), this right is one of the basic facts of life. For the majority of employees who are in nonunion or professional or managerial positions, this right is not mandated. These employees are covered by the American common law doctrine of "employment at will."

Up until the last decade, the doctrine of "employment at will" was taken for granted in the United States. The employer had an unabridged right to terminate the employee, just as the employee had the right to quit whenever he wished. This was staunchly upheld in our legal system, even in situations which would seem outrageous. However, scholars who have observed this process note that, since the mid-1960s, there have been substantial modifications to employment at will. The "at will" doctrine has been whittled down significantly.

First, state and federal statutes have been enacted which repudiate the logic of the "at will" doctrine and attack it in a piecemeal fashion. In 1964 Congress passed Title VII of the Civil Rights Act which prohibits discrimination against the handicapped. States have followed with their own employment laws. Other specialized laws limit the employer's freedom to discharge for garnishment, influencing voting choices, service as jurors, refusal to take a lie detector test, and special provisions for veteran protection and civil service. Other legislation limiting employers' freedom to discharge and protecting workers is contained in the Occupational Safety and Health Act which provides protection for the "endangered" worker.

Second, there has been a number of significant court decisions attacking the "at will" doctrine. These decisions ran the gamut of implying a contractual right to termination only in good faith; finding

implied, in fact, job-duration terms; imputing constitutional protection; and imposing legal obligations against abusive or retaliatory discharges, particularly those offensive to public policy.[7]

Decisions have been rendered by courts in favor of employees discharged for refusing to commit perjury, union activity, filing for worker's compensation, or reporting violations of the law by the employer. Some courts have held that job security is one of an employee's legitimate expectations based upon an employer's statements. Some courts hold that employment is for an indefinite term and statements made orally or in an employee manual may create enforceable rights to such employment unless terminated for just cause.

In some jurisdictions, public interest laws have been established to protect employees who "blow the whistle" on their employers for activities deemed against the public interest. In the area of academic freedom, educators created enough controversy that many institutions of higher learning have installed due process mechanisms that provide impartial review of personnel decisions affecting faculty members.[8]

Although the law is uneven and decisions in different jurisdictions may vary significantly, one thing is clear. The doctrine of "employment at will" no longer gives employers carte blanche in dealing with employees who are not covered by a collective bargaining agreement or protected by civil service regulations. At all levels of employment, employers are voluntarily establishing due process procedures, guided by legal advice.

Quality Circles and Their Impact

Almost everyone in American industry today is familiar with quality circles or another form of employee participation. These groups of people meet voluntarily on a regular basis to identify, analyze, and solve quality and other problems in their area. Ideally, the members of each group come from the same work area or do similar work so that the problems they select are familiar to all of them. Individual groups or circles vary from as few as three members to as many as 15 or more. Membership is voluntary. No one is required to participate, and no one is kept out.[9]

This concept has been successfully applied in more than manufacturing environments. Quality circles, or a form thereof, are used in merchandising, hospitals, banking, insurance, public utilities, government, and the

[7] Machinery and Allied Products Institute, *"At Will" Employees and Trends of the Court to Prohibit Wrongful Discharge* (Washington: MAPI, March 24, 1982).

[8] Coulson, Ch. 4.

[9] Donald L. Deever, *Quality Circles* (Red Bluff, Calif.: Quality Circle Institute, 1979).

military. The concept has been applied throughout countries in Asia, North and South America, Australia, Africa, and Europe.

One of the principles associated with quality circles has been the establishment of area of appropriate interest. It is not the prerogative of the quality circle to deal with issues that belong in collective bargaining. While some unions were very skeptical initially, most employees have accepted quality circle activities, if properly implemented. The spirit of voluntarism is retained, and some very significant examples of allegiance to the program have been demonstrated. A recent *New York Times* article detailed the story of organized employees at the Jones & Laughlin Aliquippa, Pa., works who continued the program in spite of layoffs.[10]

This leads to the obvious spillover effect of these kinds of programs. Influential representatives from both sides of the bargaining table have advocated a partnership role for labor and management. Douglas Fraser of the United Auto Workers urges the expansion of input, participation, and power of working people so that they might have a meaningful voice in corporate decisions from the start. He adds that labor must support efforts to improve quality and productivity because jobs are at stake.

While business leaders such as Paul Thayer, CEO and Chairman of LTV Corporation, are less enthusiastic about shared responsibility for decision-making, he is firmly behind the need for stronger and better exchange of information. Thayer notes that "the sharing of ideas, criticisms, suggestions and knowledge of the task at hand is the key to intelligent, effective decisions that will benefit everyone. Management must have this input from all employees, union represented or not, and labor leaders equally must seek information if their advocacy is to be informed and appropriate to the local situation."[11]

These examples are illustrative of the more open style of communication between labor and management. This has been reflected in many areas, including how discharge is handled. By close communication throughout the disciplinary process, employers are finding that unions are demanding more responsible conduct from their members.

The Human Resources Role—As It Should Be in the 80s

We have discussed discharge and the factors that modify and influence its implementation. We have also discussed the Human Resources role. There are two other key areas that deserve examination—areas where the

[10] "Steel Is Troubled But Teamwork Continues," *The New York Times*, September 5, 1982.

[11] "Can Labor and Management Form a More Successful Partnership?" *Wall Street Journal*, August 3, 1982.

Human Resources function has an opportunity to provide its greatest influence and most constructive input on the whole subject of discharge. These are *hiring* and *coaching*.

Discharge must be viewed as a breakdown in the employment system. Discharge really begins with the decision to hire. This is true at all levels of employment. The hiring process can best be defined as identifying and specifying the personnel needs of the organization and finding the individual with the skills and track record of achievement who can meet those needs. This principle is applicable from an entry-level hourly assignment to a key executive post.

If one were to divide the hiring process into three parts—finding the candidate, interviewing the candidate, and referencing the candidate—one prominent expert points out that 90 percent of all hiring mistakes could be prevented through proper referencing of a candidate.[12] Too frequently, hiring decisions at the executive level are made on the basis of personal chemistry and/or the interviewer's perception of the candidate's ability rather than the candidate's track record. On the other end of the continuum, too frequently hourly wage hiring decisions are made on the basis of nepotism, intraorganizational patronage, or reliance on the interviewing skills of a junior personnel official.

Whatever the level of assignment, the best indication of a candidate's anticipated performance and potential is revealed by the level of his achievement, accomplishments, and conduct in other employment situations. Thus, the review of any candidate's track record, which includes achievement claims, personal habits, education, conduct, working relationships, work-related problems, and eligibility for rehire, is the only legitimate basis for a hiring decision.

The coaching process refers to those steps that managers take to get their subordinates to do what they are supposed to do. It is based on a handful of key beliefs that are simple and reasonable. These are:

1. Management is getting things done through people. The manager needs his people more than they need him, and his rewards are based on what they do rather than on what he does.
2. It is the manager's job to do everything possible to enable his subordinates to be successful.
3. When an organization employs an individual, the organization does not buy that individual, his mind, or his values. The organization rents his behavior.
4. The manager should not attempt to interpret people's

[12] Norman Sanders, *President's Guide to Attracting and Developing Top-Caliber Employees* (Englewood Cliffs, N.J.: Executive Reports Corp.), Chs. 3, 5, 7, 8.

> motives and attitudes. Instead he should interpret what people do in terms of the alternatives they see available to them.[13]

Behavior modification is the means for a manager to manage people. The process of managing is directing employee behavior to the appropriate behavioral alternatives and providing additional alternatives so that employees do what they are supposed to do.

The Human Resources role has a broad opportunity to influence what managers do when employees' performance does not meet certain standards. The Human Resources role should guide managers to proceed with an analysis so that behavior can be properly directed. One simple but successful system is to ask the manager to: (a) identify the unsatisfactory performance; (b) determine whether it is worth his time to redirect; (c) make sure that the subordinate is aware the performance is unsatisfactory and that he knows what is supposed to be done; (d) remove obstacles beyond the subordinate's control; (e) show the subordinate "how to do" what is being asked of him; and (f) make sure that a negative consequence does not follow performance or a positive consequence follow nonperformance.[14]

Summary

Discharge is undergoing change. It is not as easy to discharge employees from a legal standpoint, but no longer is unacceptable performance blindly tolerated and defended. The way a company must manage to compete effectively in the 1980s mandates a different role for the Human Resources function. Hiring decisions must be carefully made and based on substantive and researched evidence that predicts employee success. In turn, to support that success, managers must understand how to direct and/or change employee behavior, for it is that behavior that determines whether the managers will be successful in their jobs.

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[13] Ferdinand F. Fournies, *Coaching for Improved Work Performance* (New York: Van Nostrand Reinhold), Chs. 4, 5, 6, 7.

[14] Fournies, Chs. 8 and 9.

How Unions View the Discharge of Workers

JOYCE D. MILLER
Amalgamated Clothing and Textile Workers Union

Unions view the discharge of a worker past the probationary period as a drastic measure—the ultimate penalty. On the one hand, workers must be protected from unfair discharge. On the other hand, keeping an employee who deserves to be discharged can be an unfair burden on both the employer and co-workers in the bargaining unit.

We, in the labor movement, look to employers to explore every other possibility before discharge. The entire disciplinary scheme is designed not to discharge, but to correct deficiencies a worker has. Employers are too quick to disregard the entire purpose of a disciplinary system.

Increases in discharges are due to the recession—to high unemployment. There is a large labor supply to choose from. With high economic competition in our industry, more attention is given to quality and production. The employers in many cases are too quick to disregard the entire purpose of the disciplinary system: to warn employees and give them every opportunity to rehabilitate themselves and become better employees.

We expect to see that an employer has attempted thorough corrective action unsuccessfully prior to discharge. We do not see ourselves as protectors of incompetence. We cannot, and do not, protect incompetence or the breaking of reasonable rules. We attack rules that are unreasonable. We protect the rights of those whose actions have not warranted discharge.

Discipline and discharge must be done fairly and consistently for just cause. The aim of discipline is to make better employees.

It is to the employer's advantage to keep a trained and experienced worker on the job; many employers do not realize that and are too quick to discharge. An employer has an investment in a trained worker. If a way can be found to rehabilitate the worker, it is to the employer's advantage, to the worker's advantage, and to the union's advantage. That is the reason the ACTWU has set up alcohol- and drug-abuse programs, as well as programs for handicapped workers.

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At the discharge level, we examine the case to see if all other avenues have been exhausted prior to discharge. When we investigate a discharge we look for the answers to the following questions: (a) What did the employee do (with great specificity)? (b) What, if any, part of the contract has the employee violated? (c) How has the employer treated other employees under similar circumstances? Most cases are not black and white—they are in the gray area. Even if the employer is right, the employee will seek to keep his/her job. This is what our members are paying dues for. This is our job—to help even when the member is wrong. They need our help less when they are right than when they are wrong.

Arbitrators are complaining about the new breed of attorneys representing employers and workers. There is less willingness to resolve cases and more emphasis on legal technicalities.

The duty of fair representation has caused unions to pay more attention to how workers are discharged. Depending on the contractual language, the union that fails to represent a worker in a discharge case, regardless of the merits of the case, may be sued by the employee. This has resulted in fewer resolutions of cases in the early stages of the grievance procedure and in more cases going to arbitration. When there is any doubt at all, we put in for arbitration rather than risk a lawsuit.

In the past, if our investigation concluded that the employer was correct, we explained to the worker why the employer was correct. Now, with the duty of fair representation, most cases are in the gray area; the union will run the risk of a lawsuit and it is our obligation to represent a worker where we know he or she is wrong.

This has had great impact on how a union views discharge. Many more matters are arbitrated. Our exposure is much greater. Back pay can really add up.

The rank and file are much more sophisticated and knowledgeable of their rights and they want the union to fight much harder than it has in the past. This is partly due to the recession. In addition, they have access to the media and they read more. Now a worker is much more willing to file suit and take on their union, even if the union has done a good job. They expect their union to vigorously protect their contract, particularly in regard to discharge—and properly so.

Most discharge cases are not clear cut. In the past when a member did something obviously wrong, he or she was not likely to insist on being defended. Now, even if the worker knows that he or she is wrong, they want to be defended.

In the past a worker would accept the union's judgment, but now the member files a charge with the Labor Board and the Human Rights

Commission, and files suit against the company and the union at the same time.

Members see TV and the movies; they listen to the radio, read newspapers, hear talk in the shop. When a worker is discharged, he or she is not afraid to use all avenues they have heard about while asking their union to get back their job. They are not afraid to try. If a union isn't doing as much as it should do, then properly so; but even if the union is terrific and has done a great job for them, they will still file a suit. We do a good job, but we are sued anyway.

As an example—we got a person his job back; we did a good job. The arbitrator ruled in favor of the worker and the union. Then the worker sued to get back pay. The arbitrator ruled "yes" to the job, but "no" to the back pay. The case went to court and the court said we should have gotten back pay for this individual. The case is now on appeal.

In our experience, most duty-of-fair-representation cases have been dismissed. The burden is on the union now to arbitrate cases we normally wouldn't handle. We make our own investigations of discharge cases. We seek real specificity on why employees are discharged. What part of the collective bargaining agreement may the worker have violated? What is his/her previous work history? How have other employees in similar situations been treated by the employer? Has discipline been progressive? Are the standards the same across the plant?

We must protect workers from arbitrary and capricious discharge. We need more care on the part of management to document a person's misdeeds. If the arbitrator rules against the worker and the worker goes to court claiming that the union violated its duty of fair representation, and that the company violated the collective bargaining agreement, the worker is entitled to reinstatement and back pay. With rare exception, we always ask for reinstatement. This is our job. This is why our members pay dues.

DISCUSSION

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The employer's right to discharge an employee pursuant to the employment-at-will doctrine is a long-enduring, well-established principle. Whether the just cause doctrine satisfies justice in modern terms is something that concerns the courts, arbitrators, employers, unions, and, most important of all, the employee whether covered by a collective bargaining agreement or not. The four papers presented succeed in addressing the question posed by discussing the trends in discharge from the legal, the employer's, the arbitrator's and the union's perspectives.

The first paper by Westerkamp is notable for its explication of the new legal definition of just cause. The change in the doctrine is the result of many court challenges to the employment-at-will doctrine which was first announced in 1877. The main point of Westerkamp's paper is that the employment-at-will doctrine is moving toward a just-cause model. In the first instance, Westerkamp shows, through analysis of some bellwether court decisions, how they have nibbled away at the employment-at-will doctrine showing that where discharges were tortiary in nature, as when breaches of public policy were involved, they resulted in successful tort suits by the injured employee.

Other exceptions to the employment-at-will doctrine were developed by the courts. Westerkamp points out that where the facts indicated an implied contract and good faith and equity exceptions existed, judges have granted discharged employees bonuses, stock options, and future commissions. The paper certainly makes its point that the employment-at-will principle is moving toward a just-cause model though it appears to move unevenly and at an almost imperceptible rate if you look at it in the light of the number of successful litigants as against the potential for hundreds of thousands of claimants.

Rosen's study, "How Arbitrators View Just Cause," is notable for its discussion of the moral and ethical obligations of the arbitrators in making judgments in the context of the reality of the process. Rosen's view of his role as arbitrator is a reflection of those of his peers. His perception of his role as arbitrator, his view of the nature of the collective bargaining agreement and what the parties' expectations are of grievance arbitration,[1] are pertinent in today's climate.

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[1] Bureau of National Affairs, *Decisional Thinking* (Washington: BNA, 1982), Ch. 4.

Rosen's conclusion that in discharge grievances arbitrators consider standard guidelines which include careful analysis of cause and the possibility that an alternative form of discipline might be more appropriate is most valid in these times of common law and labor law changes and economic reform. His reference is important because few, if any, union/management contracts contain a definition of just cause. The use of standard guidelines for testing whether an employer had just and proper cause for disciplining an employee[2] is appropriate.

Kenneth N. Vernon's paper, "Discharge: A 1982 Employer's Perspective," is particularly important because of his very interesting description of his view of the human resources role in the 1980s and its great influence and most constructive impact on the whole subject of discharge, especially the inclusion of hiring and coaching to avoid a breakdown in the employment system leading to discharge. Vernon is of the majority opinion that discharge is undergoing change. His opinion is well developed by his analysis of the legal trends that influence change such as modification of the employment-at-will doctrine and other legal changes, and his observation that employers have begun to view discharge from a different viewpoint is readily evident in today's environment. And, although I agree that no longer is unacceptable performance blindly tolerated and defended, I find unions, because of fear of lawsuits by members for failure to properly represent them, are more litigious than ever before. Moreover, this trend is of critical concern to employers, too.[3]

Joyce Miller's presentation of "The Union's View of Discharge" is notable for its advocacy of the union's traditional role as management's adversary in discharge cases as defender of the union member. Discharge is still the most drastic penalty, if not the ultimate penalty, in this severe economic climate where employers are too quick to fire employees who are poor performers without proper attempts to rehabilitate them. In these instances where the disciplinary system has not provided due process for the union member, the union will defend them vigorously but, even in other situations, the union is constrained to represent all of its members because the members today are more aware of their rights and there is a large potential for lawsuits if the union fails to meet its duty of fair representation.

Because of this severe economic environment, arbitrators are bound to insure due process for union members. But beyond that arbitrators must look for every alternate measure short of discharge.

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[2] Bureau of National Affairs, *Remedies in Arbitration*, Appendix E, pp. 262-86.

[3] Jay E. Grenig, "Statute of Limitations in Fair Representation Cases" and Martin Wagner, "Have the Courts Extended a Sound Doctrine Too Far?" both in *Proceedings* of the 1982 Spring Meeting, Industrial Relations Research Association (Madison, Wis.: IRRA, 1982), pp. 483-87, 487-93.

VII. COMPARABLE WORTH: ISSUES AND PERSPECTIVES

Ending Sex Discrimination in Wage Setting

CATHERINE O'REILLY COLLETTE
AFSCME

Equal pay for jobs of comparable value, "pay equity" or "comparable worth," has become one of the key economic issues of this decade. It is also one of the most controversial. It is the purpose of this paper to review briefly the economic facts that have given rise to the pay-equity movement, to review the arguments on both sides, and, based on an examination of the pay-equity efforts in the public sector to date, to offer some insights about the future for pay equity as a method of establishing relative wages.

Background

One of the best-known statistics in the nation is that women who work full-time, year-round, earn 59 cents for every dollar male full-time, year-round workers earn. This ratio has not improved in 50 years despite passage of the Equal Pay Act (EPA) and the Civil Rights Act almost two decades ago.

A common public perception, but one that is not supported by research, is that women earn less than men because of differences in worker characteristics—for example, labor market attachment, seniority with the employer, work record, education, training, etc. Studies to date have explained from zero to 44 percent of the pay gap through analysis of human capital variables.[1]

The major cause of the difference in male-female earnings is the employment patterns of men and women. EPA enforcement cannot significantly reduce the wage gap because men and women for the most

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[1] Donald J. Treiman and Heidi I. Hartman, *Women, Work and Wages: Equal Pay for Jobs of Equal Value* (Washington: National Academy Press, 1981), pp. 20–21.

part do different types of jobs. A substantial portion of women work in a few occupational classifications which they dominate, and these jobs tend to be low-paying. Census data show that about half of all women workers are found in only 20 out of 427 occupations. Enforcement of Title VII of the 1964 Civil Rights Act has not resulted in large numbers of women moving into nontraditional jobs, although a few women can now be found in most occupations.

Sex segregation is directly related to low wages for women. The National Academy of Sciences study, *Women, Work and Wages: Equal Pay for Jobs of Equal Value*, compares the percent female in an occupation with earnings of incumbents in the occupation. The results of the regression showed that "each additional percent female in an occupation results in an average of about $42 less in annual income."[2]

There have also been a number of studies of public-sector workers consistently showing that most women workers and most jobs filled predominantly by women are concentrated in the lowest pay ranges. The percentage of male workers and male-dominated classifications increase in higher pay grades.[3]

Prescriptions

1. Pay-equity opponents recognize that there has been discrimination against women that has created barriers to women's entry into nontraditional jobs as well as barriers to promotional and training opportunities. The wage gap will be reduced as women move into male-dominated jobs. Opponents contend that this has already been occurring, that women have been increasing their representation in nontraditional jobs, especially in the professions. This trend will continue as a result of voluntary action by employers. While discrimination may exist in individual employers' decisions about whom to hire and whom to promote, there is no discrimination in the wage-setting process. Employers compensate employees based on the market. There is no intrinsic measure of job value outside of its market price. Any attempt to raise women's wages would be disruptive, inefficient, and too costly.[4]

2. Pay-equity proponents, principally women's organizations, and the AFL-CIO (including this author) contend that the sex segregation of the workforce and depression of women's wages are evidence of discrimi-

[2] Treiman and Hartman, p. 28.

[3] See, for example, *Pay Equity and Public Employment*, Report of the Task Force on Pay Equity (St. Paul, Minn.: Council on the Economic Status of Women, March 1982), and A. P. Trombley et al., *Disparities in Salary Levels of Jobs of Comparable Worth*, Study pursuant to LR 263, Nebraska State Legislature, December 5, 1978.

[4] A comprehensive exposition of this position is provided in E. Robert Livernash, ed., *Comparable Worth Issues and Alternatives* (Washington: Equal Employment Advisory Council, 1980).

nation. A number of institutional barriers exist for women entering particular occupations, and employers discriminate in promotion, access to training, and other terms and conditions of employment. Such discrimination should be eradicated through voluntary affirmative action programs and vigorous enforcement of Title VII.

More fundamentally, the method by which wages for women's jobs are determined also needs to be amended. Market wage rates reflect historic discrimination against women which has been built into present wage structures. There is evidence that pure competition does not operate in setting pay for women's jobs. The combination of an extreme shortage of nurses and low wages is but one graphic example.

Furthermore, other standards of job value can be established outside the market. Job evaluation can provide a mechanism for comparing unlike jobs within a firm for the purpose of establishing *relative* wages. The employer's general wage level is still subject to market considerations, collective bargaining, and ability to pay.

Finally, the cost of paying employees based on comparable worth has been exaggerated by opponents.

These arguments are supported by the experience of pay equity to date.

The Public-Sector Experience

Most of the pay-equity activity so far has occurred in state and local government. There are a number of factors that make the public sector rather than the private sector more fertile ground.

1. About half of all workers in the public sector are represented by unions—a rate much higher than in the rest of the economy. Public-sector unions, especially AFSCME, have taken strong pro-pay equity positions. In the absence of interest in pay equity by the Equal Employment Opportunity Commission, few individual employees have the power, expertise, or financial resources to document the problems, persuade their employers to correct wage inequities, or file charges and lawsuits. Unions have borne and will continue to bear the major responsibility for pressing the issue.

2. Unlike most other highly unionized industries, the public sector includes many women in traditional jobs—clerical workers, health-care professionals, and librarians, for example. Clericals and professionals remain largely unorganized in the private sector.

3. Public employers and their personnel practices are more subject to public scrutiny than their private-sector counterparts. Among mayors, governors, city and county council members are persons with a commitment to equal rights, or at least they do not wish to be perceived as being

opposed to equality for women. The state legislatures in California, Minnesota, and Connecticut have statutorily recognized pay equity as part of their state's pay and classification practices.

While pay-equity advocates are the exception among public officials, they are not unknown. Public management in Colorado Springs, Colo., introduced pay equity on their own initiative. AFSCME has been approached by several public employers offering to address the issue. The fact that the State of New York recently agreed in negotiations to provide $500,000 for a pay-equity study and that the City of San Jose, Calif., cooperated in a pay-equity study and was willing to negotiate implementation of the results is further evidence that pay equity may get a more favorable hearing from public employers than from private employers.

4. The San Jose, Calif., strike by AFSCME members in the summer of 1981, which resulted in $1.5 million in inequity adjustments for female-dominated jobs, as well as the Washington State comparable-worth study were widely publicized, especially among public-sector workers. The possibility of duplicating these efforts in other public jurisdictions was readily perceived by other public-sector workers.

There are more than 75,000 individual units of state and local government in the United States. At this point, probably less than 1 percent of these governmental units are considering pay equity, and fewer yet have actually changed their pay practices to base wages for each occupation on relative skill, effort, and responsibility.

However, there has been enough experience in the public sector to begin to make some generalizations about the feasibility of pay equity as a method of eliminating discrimination in wage-setting. The experience strongly suggests that pay equity can be implemented without the problems feared by the opponents.

- Everywhere there has been an analysis of public-sector workforces, it has been found that women are concentrated in a relatively few occupational classifications. Most public jurisdictions have a number of classes that are either exclusively male or exclusively female, and the majority of classifications are at least 70 percent male or 70 percent female. These studies also show that women are overrepresented in the lowest pay ranges and their representation steadily decreases at higher pay levels.[5]
- Job-evaluation systems have frequently been used to rank unlike

[5] Pursuant to SB459, the California Department of Personnel Administration published a report entitled *Comparable Worth: A Summary of Information Relevant to the Salaries for Female Dominated Jobs* in April 1982, which summarizes most of the public-sector studies to date. In addition, AFSCME has examined the occupational and pay patterns in a number of other jurisdictions with similar results.

jobs internally. Separate systems for different job families have been found to be unnecessary. The emerging view among public-sector users concerning job evaluation is that, while it is imperfect and is always subjective, it is a valuable tool for wage policy so long as there is a consensus among the people affected that the results are fair. In the States of Washington and Connecticut, in San Jose, Calif., and elsewhere, committees composed of employees and management worked with the consultant throughout the evaluation process. There have been no serious difficulties in comparing unlike jobs.

It is likely that most, if not all, job-evaluation systems contain sex bias which should be eliminated. Nevertheless, it is obvious that users of job evaluation are not overly concerned with perfection, but rather with a process that is perceived to be fair and acceptable.

- The results of comparable-worth, job-evaluation studies have consistently shown that female-dominated jobs pay less than male-dominated jobs with similar job-evaluation points. The parties involved have generally agreed on what the results prescribe in pay adjustments. Female-dominated jobs should pay the same as male-dominated jobs with equal points. There is no problem of trying to abstractly determine "worth." The pay rates for the male jobs are the standards, whether the male rates are determined by the market, by collective bargaining, or both. The issue leading to the San Jose strike was how quickly the pay gap was to be closed, not esoteric arguments over intrinsic worth.
- The public-sector experience also indicates that the cost effects of pay equity have been greatly exaggerated. It is estimated that it would cost only 2 percent of the State of Washington's budget to fully implement pay equity. In Minnesota, it is estimated that 2 to 4 percent of the annual budget would raise wages for female-dominated jobs part way to full comparable worth. As part of the New York State pay-equity study, a revenue forecast will be done to assist the parties in an orderly phase-in of the results of the study.

The Future

Pay equity will remain a key issue for years to come. By not precluding pay-equity claims under Title VII, the U.S. Supreme Court chose to keep open a door they could have slammed shut.[6] The major question is how quickly comparable worth will be introduced. There are a number of factors.

1. *Legal.* Obviously, additional federal court, and especially Supreme Court, decisions expanding *Gunther* would provide a tremendous incentive

[6] *County of Washington* v. *Gunther*, 101 S.Ct. 2242 (1981).

for employers to begin to implement pay equity voluntarily. There are a number of EEOC charges and lawsuits that are already pending. AFSCME alone has taken legal action against half a dozen public employers. Litigants on both sides will proceed cautiously, so it will be several years before significant new Supreme Court decisions come down.

2. *Enforcement.* The EEOC and the Justice Department under the Reagan Administration have shown little interest in investigating and litigating Title VII charges based on pay-equity considerations. Should a new administration in 1984 decide to pursue a more vigorous enforcement policy, it could provide a powerful spur to the movement.

3. *Collective Bargaining.* A number of unions have shown a varying amount of commitment to the issue. The degree to which women union members are able to make pay equity a boiler-plate issue will play a significant role in determining how rapidly pay equity is implemented. In the final analysis, decisions about how to compensate women's jobs will be made in a political context within unions and the community at large.

Comparable Worth—The Compensation Issue for the 1980s?

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The United States Supreme Court's decision in *County of Washington* v. *Gunther*,[1] although expected to clarify the comparable worth issue, has only served to muddy the waters. Clearly the Equal Pay Act[2] (EPA) provides no statutory basis for comparable worth claims. And even after *Gunther*, it is more than unsettled whether they can be maintained under Title VII of the Civil Rights Act of 1964 (Title VII).[3] So, if comparable worth is not cognizable under current statutory law, where will it find a home? Comparable worth advocates and detractors will attempt to resolve this issue in the 1980s.

Comparable Worth and the Equal Pay Act

Comparable worth undertakes to compare the intrinsic value or difficulty of different jobs within the same community, industry, or market area. It poses the question, "What is a particular occupation worth to an employer?" To some extent the doctrine involves an analysis of the content of the job, but it primarily examines the value an employer places on particular skills and jobs.

The Equal Pay Act only prohibits pay differentials when men and women do "equal work on jobs the performance of which requires equal skills, effort, and responsibility and which are performed under similar working conditions and in the same workforce."[4]

Ostensibly, the EPA was designed to equalize the position of men and

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[1] 101 S.Ct. 2242 (1981). The *Gunther* court "emphasize[d] at the outset the narrowness of the question before us in this case," stating that it was not called upon to rule on "the controversial concept of 'comparable worth,' under which plaintiff might claim increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their job with that of other jobs in the same organization or community." *Id.* at 2246.

[2] 29 U.S.C. § 206(d).

[3] 42 U.S.C. § 2000e et seq.

[4] 29 U.S.C. § 206(d). The EPA sets forth four "affirmative defenses" to the failure to pay equal wages. Wage inequalities are permitted if they result from (i) a bona fide seniority system; (ii) a bona fide merit system; (iii) a system which properly measures earnings by quantity or quality of production; or (iv) factors other than sex.

women in the workforce. But given the coverage of the Act, particularly the "equal work" requirement, there are discrimination claims which continue to fall through this net of protection.

Judicial Developments and Their Impact

Generally, courts have applied a narrow definition of "substantially equal," the standard used to compare jobs under the EPA. For example, in *Horner* v. *Mary Institute*,[5] the court refused to find an Equal Pay Act violation where a male physical education teacher was paid a higher wage than a female physical education teacher. Applying a standard which requires work to be "substantially equal in terms of skill, effort, and responsibility," the court found that the male teacher's job was significantly different from that of the female teacher, justifying the wage differential.[6]

Similarly, in *Taylor* v. *Weaver Oil & Gas Corp.*,[7] the court found the work performed by a male draftsman, who was paid higher wages than the female plaintiff, was not substantially equal to that performed by his female predecessor, even though he had less experience than she. The court observed that the male performed certain extra duties that required extra effort and time and which the employer valued. Thus, the plaintiff failed to establish an EPA violation. The court in *Taylor* and *Horner* limited the scope of their inquiry to the actual work performed and nothing more.

The theory of comparable worth, according to its supporters, remedies a more invidious form of discrimination. Proponents of the theory point out that there exists substantial structural wage discrimination against women. This discrimination, they argue, is evidenced by the fact that median weekly earnings for full-time wage and salary workers were $370 for men and $240 for women.[8] The disparity, they claim, appears to be caused by a concentration of women in low-paying jobs. For example, women clerical workers (who earn $236 per week as compared to $337 for men) tend to be concentrated in lower paying occupations such as clerks, typists, and secretaries. Indeed, it is true that entire groups of jobs "traditionally" held by a predominance of women have been underpaid.[9]

Comparable worth advocates posit that the equal-work standard does not remedy this form of discrimination; rather, it merely analyzes the

[5] 613 F.2d 706 (8th Cir. 1980).

[6] *Id.* at 715.

[7] 18 FEP Cases 23 (S.D. Tex. 1978).

[8] Statements on Pay Equity Before House Subcommittee on Compensation and Employee Benefits, Statement of Bureau of Labor Statistics Commissioner Janet Norwood, [1982] *Daily Lab. Rep.* (BNA) No. 180, at E-2 (September 16, 1982).

[9] *Id.*

content of a job and not the value an employer places on a particular occupation.

Given the narrowness of the holding in *Gunther*, it is unclear what effect, if any, it will have. Post-*Gunther* courts have recognized it does not stand for the proposition that comparable worth claims are actionable under Title VII, per se. However, courts are permitting plaintiffs to bring pseudo-comparable worth claims, for the courts do recognize that although a claim may not satisfy the "equal work" standard, it may still be cognizable under Title VII.

The Vitality of Comparable Worth After *Gunther*

The post-*Gunther* courts have been unwilling to accept comparable worth claims per se despite their willingness to recognize non-"equal work" claims. Nonetheless, in the 1980s employers may perceive themselves to be in a quandary. Advocates of comparable worth claim that employers should not be permitted to rely upon the marketplace value of certain jobs which are predominantly held by females. This, they argue, merely perpetuates discriminatory wage patterns.[10] Some courts have been reluctant to accept this point of view. In *Briggs* v. *City of Madison*,[11] the employer successfully pointed to market conditions and the difficulty of attracting qualified employees in explaining why male public health sanitarians were paid more than female public health nurses. The court stated that nothing in Title VII "indicates that the employer's liability extends to conditions of the market place which it did not create."[12]

More importantly, comparable worth's proponents may have been dealt a crippling blow under current law following the Court of Appeals for the Ninth Circuit's decision in *Kouba* v. *Allstate Insurance Co.*[13] It noted that *Gunther* held that the Bennett Amendment only incorporated the four affirmative defenses of the EPA into Title VII. Further, because the EPA does not strictly prohibit the use of prior salary as a "factor other than sex" (an affirmative defense) when setting pay even if it results in a wage differential, as long as an employer uses the factor reasonably in light of his stated purpose, then neither does Title VII prohibit its use.[14]

In *Boyd* v. *Madison County Mutual Insurance Co.*, the Seventh Circuit Court of Appeals held that a male supervisory employee, who was

[10] Statement of National Committee on Pay Equity, [1982] *Daily Lab. Rep.* (BNA) No. 180, at E-10 (September 16, 1982).

[11] 28 FEP Cases 739 (W.D. Wis. 1982).

[12] *Id.* at 750.

[13] 28 Nos. 81-5436, 81-4566 (9th Cir. Oct. 2, 1982).

[14] *Id.* at 3, 5.

ineligible for pay bonuses intended for female clerical employees, could challenge the policy under Title VII without proving that he was performing a job substantially equal to that held by women.[15]

In another decision, plaintiff, who was director of the public library, alleged that although her position might not be substantially similar to that of the other city department heads, it was of comparable value, thus making a pay differential impermissible. The court found that the librarian's position was not comparable to that of the city department heads who oversaw the distribution of essential services in the city. Even though it found for the defendant, the court did not question the propriety of bringing such a claim under Title VII.[16] In both of these opinions, the courts permitted plaintiffs to file suits based on the comparison of the intrinsic worth of different jobs, claims clearly not maintainable under the EPA.

It is unclear what effect, if any, the *Gunther* decision will have on the formal legal status of comparable worth claims. But the comparable worth doctrine, albeit in judicial limbo, will encourage employers in the 1980s to implement internal job evaluation procedures so as to measure accurately the worth of occupations.

Legislative and Administrative Developments

The less-than-satisfactory judicial disposition of the comparable worth theory has placed the question of its status where it properly belongs—in the legislative branch.

In 1981, the California legislature passed a law setting salaries of female-dominated state occupations in reference to comparable worth. The Hawaii legislature passed resolutions encouraging all employers to commit themselves to comparable worth.[17] As noted in testimony before the congressional committees considering amendments to the EPA, several states, including Illinois, Maine, Michigan, and Wisconsin, have funded job-evaluation studies to identify the extent of the wage depression in female-dominated jobs.

More significantly, Senator Edward Kennedy has promised to introduce legislation to amend the EPA to cover comparable worth claims. He has also asked Congress to pressure the Equal Employment Opportunity Commission (EEOC) to carry out its mandate under Title VII and issue comparable worth guidelines, so employers can meet the requirements of

[15] 653 F.2d 1173 (7th Cir. 1981), *cert. denied* 102 S.Ct. 1008 (1982).

[16] *Oaks* v. *City of Fairhope*, 515 F.Supp. 1004 (S.D. Ala. 1981). (The court also noted *Gunther* did not replace equal pay with a comparable worth standard.)

[17] Statement of National Committee on Pay Equity, [1982] *Daily Lab. Rep.* No. 180, at E-9 (September 16, 1982).

the law (which Senator Kennedy believes already encompasses comparable worth).[18]

In fact, the EEOC has not slated for publication in the near future any formal guidelines on comparable worth. It has only issued a field office memorandum instructing its compliance officers on how to handle so-called "*Gunther* claims." It reiterates that after *Gunther* Title VII is applicable to claims of sex-based wage disparity, without the necessity of establishing the equality of the jobs in question. The memorandum has opened the door for a woman to allege she is being paid less than a male doing the same job for another employer.[19]

EEOC chairman Clarence Thomas recently told a congressional committee that, given the unclear state of the law, it is extremely difficult for the EEOC to handle comparable worth claims. The EEOC, he said, was not sure whether it has authority under Title VII or the EPA to handle the claims.[20]

Federal legislation would certainly provide the definitive answer to the comparable worth debate.

Collective Bargaining and Other Voluntary Efforts

Organized labor has not been content to wait for the courts and the Congress to find a solution. By exercising "self-help," labor and other groups are trying to implement comparable worth. In September, AFL-CIO secretary-treasurer Thomas Donahue called narrowing the wage gap between the sexes "the bedrock principle of the labor movement."[21]

District 1199 of the New England Health Care Employees' Unions recently negotiated wage equity increases for predominantly female health care workers in Connecticut. A pay-equity fund equal to 1 percent of the workers' payroll was established to help meet the settlement. Local 101 of the American Federation of State, County, and Municipal Employees won a pay-equity raise of 5–10 percent for employees in predominantly female jobs.[22]

The organization 9 to 5: National Association of Working Women organized a publicity campaign to expose the John Hancock Insurance Company's low-wage structure. This led to a 10 percent wage increase for clerical workers in 1981.[23]

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[18] *Id.* at A-8.

[19] EEOC Advises Field Offices on Methods of Handling Wage Bias Claims Post-*Gunther*, [1982] *Daily Lab. Rep.* No. 178, at D-1 (September 15, 1982).

[20] EEOC Chairman Thomas Says Comparable Worth Issue Hard to Address Because Law 'Unclear,' [1982] *Daily Lab. Rep.* No. 191, at A-10 (October 1, 1982).

[21] Labor's Comparable Worth Push Encounters Internal Roadblocks, 4 *Emp. Rels. Rep.* 1 (September 30, 1982).

[22] *See* note 15.

[23] *See* note 15.

These voluntary, extra-governmental efforts may help alter the national wage structure, thereby remedying the wage inequities until or instead of any governmental action.

Finally, the Communications Workers of America and American Telephone and Telegraph agreed to form a joint committee to develop a new job evaluation system, incorporating comparable worth as a goal, for nonmanagerial employees. It is being field-tested for final recommendation in 1983.[24]

But organized labor has also met resistance from within its own ranks. A recent appraisal conducted by the United Food and Commercial Workers (UPCW) of its own efforts to close the wage gap revealed several difficulties. For example, there have been rank-and-file protests over negotiating the same wage for different jobs. The fear is that if a portion of the total wage package is used to boost female wages, there will be no money left for wage increases for other employees. There is also resistance to females entering male-dominated jobs by male *and* female employees.[25]

Conclusion

Clearly, then, the push will continue into the 1980s for a remedy for the type of discrimination to which the comparable worth doctrine is aimed. The courts, without further guidance from the legislature, will still have difficulties resolving the issue of whether comparable worth claims may be brought under Title VII. In the meantime, the individuals most affected by wage discrimination will try to alter the wage structure, perhaps rendering judicial and legislative action moot.

[24] *See* note 15.

[25] Labor's Comparable Worth Push Encounters Internal Roadblocks, 4 *Emp. Rels. Rep.* 1 (September 30, 1982).

Comparable Worth: The Measurement Dilemma

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Comparable worth has been argued strongly for several years now and is viewed by many as the compensation issue of the 1980s.[1] When viewed dispassionately, wage determination is the heart of comparable worth. It is causing practitioners and researchers, employers and employees to examine the particular practices and policies which determine wages. Perhaps this, if nothing more, makes the attention focused on the issue worth it.

This paper examines the measurement of comparable worth. It does not take sides, but rather notes some important issues involved in measurement. It examines several alternative ways in which wages are determined and reviews their relevance in measuring comparable worth. Finally, it briefly describes a study which measured comparable worth in one manner. The study's results and methods are described briefly.

The Measurement Dilemma

Measuring, or determining, comparable worth is often touted as the ultimate dilemma. Advocates of comparable worth often overlook the measurement issue and pursue the topic on moral or ethical grounds. People opposed to basing wages on comparable worth point to measurement with a sigh of relief saying that since comparable worth cannot be measured, there is no sense arguing the point further. Thus, measurement is a major reason for the lack of consensus over comparable worth.

We take the stand that the measurement dilemma is not *how* to measure comparable worth, but rather *what* to measure. The difficulty lies more in determining what to measure than in developing a measurement instrument. Comparable worth questions the basic wage determination methods used by employers. Specifying comparable worth

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[1] For two examples, see Donald J. Freiman and Heidi I. Hartman, eds., *Women, Work, and Wages: Equal Pay for Jobs of Equal Value* (Washington: National Academy Press, 1981), and E. Robert Livernash, ed., *Comparable Worth: Issues and Alternatives* (Washington: Equal Employment Advisory Council, 1980).

criteria thus depends on the basic assumptions or contingencies underlying wage setting within the firm.

Three dimensions help uncover some of the difficulties currently surrounding comparable worth measurement. They are aspects of the firm's wage policy, the type of internal labor market within the firm, and employee perceptions of equity.

Policy

Employers have various policies which guide wage determination practices. On one hand wages can be considered a price for labor, with wages merely a reflection of market forces of supply and demand. On the other hand, wages can be considered to reflect the contribution of individuals to the firm or organization. Those making the greatest contribution theoretically receive the highest wages.

The Firm's Internal Labor Market

The most important organizational characteristic for assessing comparable worth is the firm's internal labor market. At the extremes, internal labor markets can be open or closed.[2] Open internal labor markets have constant movement in and out of the firm at all levels. Closed internal labor markets have definite jobs called ports of entry where most hiring takes place, with other vacancies filled by promotion from within. The differences in filling vacancies in the two internal labor markets are important because they affect relevant comparisons.

Firms are usually not clearly open or closed. They usually fall somewhere along this continuum and may exhibit qualities of both open and closed simultaneously. Parts of the organization housing professionals are usually open, while administrative and production areas tend to be more closed.

Because of movement into and out of the organization, the open internal labor market jobs tend to be priced competitively.[3] Noncompetitive wages can result in either difficulties in finding people or artificially high wages. Interestingly, many comparable worth claims come from parts of the organization having relatively closed labor markets, including most female clerical jobs.

Employee Perceptions of Equity

Employee's perceptions of what constitutes equitable pay also influence

[2] Peter B. Doeringer and Michael J. Piore, *Internal Labor Markets and Manpower Analysis* (Lexington, Mass.: Heath Lexington Books, 1971).

[3] David Pierson, "Labor Market Influences on Entry vs. Nonentry Wages: Evidence from Minnesota Public School Districts," *Nebraska Journal of Economics and Business* (Summer 1983).

what comparable worth should measure. Equity is usually characterized as a comparison of an individual's inputs and outcomes as compared to someone else's. People feel equitably paid if the ratio of their inputs and pay are approximately equal to some relevant other's ratio as they perceive it. Defining inputs, outcomes, and who is the relevant other are all important for comparable worth measurement. Inputs can include what a person does on his or her job, or traits and skills brought to the job. Outcomes are wages or salaries.

Defining the relevant other gets at the heart of the comparable worth issue. Wage comparisons can be within or outside the organization. Comparisons inside the firm can be of people on the same job, or of people in different jobs.

Proponents of comparable worth compare wages for dissimilar jobs and argue that since outcomes, or wages, are easily compared, inputs should also be compared. People with comparable inputs, even on different jobs, should make the same amount of money. Employers would counter that the relevant comparisons are similar jobs in different organizations.[4]

These two forms of equity, internal and external, are an age-old compensation dilemma. The perfect wage structure balances the two such that both are achieved.[5] Reality, however, falls short of perfection because of many forces. It is not clear whether employees look more to internal or external sources when assessing their wage, but employees in closed internal labor markets probably tend to make comparison within the organization, while open internal labor markets foster comparisons with employees in other organizations.

These three dimensions are often interdependent. No single wage-determination process can be used successfully in all organizations. In other words, a definition of comparable worth can be advanced which is relevant for one organization, but be counter to the situation facing another organization. Looking at these three contingencies helps put employer wage-setting practices in perspective, and thus helps gain perspective on the comparable worth issue.

Comparable worth questions the basis for wage decisions. Advocates feel that wages should reflect contribution, not price. They feel that it is

[4] For a discussion of equity theory and the problems of specifying the relevant other, see Karl E. Weick, "The Concept of Equity in the Perception of Pay," *Administrative Science Quarterly* (December 1966), pp. 414–39; Richard D. Pritchard, "Equity Theory: A Review and Critique," *Organization Behavior and Human Performance* (May 1969), pp. 176–211; and Martin Patchen, *The Choice of Wage Comparisons* (Englewood Cliffs, N.J.: Prentice-Hall, 1961).

[5] David W. Belcher, *Compensation Administration* (Englewood Cliffs, N.J.: Prentice-Hall, 1974), pp. 418-20.

unfair (and perhaps illegal) to consider wages only as a price because prices reflect labor markets which have historically discriminated against women. If jobs have been allocated by the market in a discriminatory fashion, certainly wages determined by this market are similarly tainted. To correct for this discrimination and reliance on external pricing mechanisms, advocates of comparable worth argue that wage comparisons should be made within the firm using internal equity as the criterion.

Those opposed to comparable worth argue that external equity is the most important consideration for establishing wages. They argue that the external labor market places a price on labor just as other markets do for commodities. Given free choice, individuals can migrate to higher paying jobs. Over time this process will result in a clearing action such that wages will reflect a variety of influences, but not sex. Internal labor markets do not set wages, but only act as a mechanism to fill vacancies within the organization.

These considerations are critical for measuring comparable worth because the measurement dilemma is not how to measure comparable worth, but on what to base the measurement. Should wages be considered a reflection of contribution or price? Are internal labor markets closed or open? Should internal or external equity be preserved? Once these decisions have been made, the measurement becomes a matter of operationalizing the underlying concepts.

Measurement Methods

This section reviews four different methods for assessing comparable worth. Each is briefly explained and then compared to the three dimensions reviewed above.[6]

Quantified Job Analysis

In this method each job is evaluated using a previously developed job analysis questionnaire. Questionnaires focus on job content, the better ones honing in on specific behaviors a job incumbent engages in while performing the job. Value of the job may be inferred by examining the variety and complexity of behaviors it requires. This method is useful for establishing internal equity. Jobs can be objectively compared with each other based on job content, and compensation arranged accordingly. Comparable worth can be achieved because it becomes feasible to pay people who do "different" jobs the same wage for equal "contribution."

[6] For a technical discussion of these methods, see any wage and salary text, for example, Richard I. Henderson, *Compensation Management: Rewarding Performance*, 3d ed. (Reston, Va.: Reston Publishing Co., 1982).

Traditional Job Evaluation

The most common method of job evaluation uses a priori factors and weights. Jobs are evaluated on each factor. Weights reflecting "contribution" are applied to each factor. Compensation reflects the sum of the weighted factors for each job.

This method is useful for establishing internal equity. Jobs can be ranked by "contribution," and very different jobs can get the same number of points and the same compensation. However, it should be noted the compensable factors and their weights are a priori and subjective unlike the preceding method. It should further be noted that to the extent the compensable factors are comprised of such proxy variables as education or certain skills, the resulting distribution of job points may work against certain types of job holders.

The problem in using traditional job evaluation for assessing comparable worth is assessing internal equity. Often different systems are used for different parts of the organization because it is felt that no universal factors are relevant to all jobs. Using different systems within a single organization also allows employers to design different pay structures for different parts of the organization. This probably reflects perceived differences in external labor markets. Therefore, the more common use of this method is concerned with pricing and external equity.

Including Salary Surveys

External salary survey information can be used in conjunction with job evaluation. The organization checks the competition to determine wages paid for jobs similar to its own and establishes its wage structure accordingly. Contribution to the firm becomes secondary to pricing when job evaluation results are altered to reflect survey results. Internal equity also is threatened in these circumstances. The more open the internal labor market of a firm, the more likely survey information will supersede job evaluation results.

Using Prevailing Wages or Strict Market Pricing

This method occurs when an employer bases wages strictly on the going rate for a particular job. This approach ignores contribution, assumes an open internal labor market, and focuses solely on the external labor market. The focus is on external equity, not internal equity. In this approach there is little potential for assuring comparable worth for jobs with comparable contributions to the firm. Small companies and firms employing numerous professionals are most likely users of this approach.

The wage-determination methods outlined have dramatically different

underlying assumptions. Likewise, they differ in their ability to measure comparable worth depending on the underlying assumptions or contingencies which would guide a particular definition of comparable worth.

A Study In Which Comparable Worth Was Measured

A recent study by the authors was designed to measure comparable worth in the pay structure of a particular public-sector employer.[7] The study was undertaken for the union representing the employees in this organization. The expressed view of equity was internal.

Comparable worth was defined as existing when jobs of comparable content were paid equally. Thus contribution was defined as the important underlying mechanism rather than a pricing mechanism established by the external labor market.

Six jobs predominantly held by women and five held primarily by men were compared. These female jobs included five clerical jobs and a nursing job. The five male jobs were both skilled and unskilled. Two additional jobs held by approximately equal numbers of men and women were chosen to determine if men and women reported job content differently.

A quantitative job analysis instrument was used to measure job content. Questionnaires were mailed to job incumbents and 1125 were returned, for a response rate of about 56 percent.

Responses were factor analyzed, resulting in an eight factor solution. No reporting differences were detected between men and women. Each respondent was scored along each of the eight factors. These factor scores were then used as a definition of job content for each of the respondents.

Factors were weighted by regressing the wages paid to the male jobs against the factor scores of the incumbents of the male jobs. This weighting process resulted in a valuation of job content according to whatever processes in the past had resulted in present wages being assigned.

The intent of the study was to determine if comparable wages were paid to jobs held predominantly by men and women. The regression analysis just mentioned modeled the wage-determination process existing for the male jobs. If comparable mechanisms, and hence comparable wages, existed for the women's jobs, then applying the male model to the women's job content information should result in predicted wages for the female jobs which did not differ significantly from the actual wages paid

[7] For a more extensive description of this study, see David Pierson, Karen Koziara, and Russell Johannesson, "Equal Pay for Jobs of Comparable Worth: A Quantified Job Content Approach," Working Paper, Temple University, 1982.

to the women holding these jobs. When this was done, with the exception of a nursing job, the predicted wages for all female jobs were greater than the actual wages paid to the incumbents of these jobs. The average wage difference was 15 percent. Thus if job content is used as the measure, and the pricing of male jobs is used as the criterion of assessing worth of job content, these particular female jobs in this study were, with only one exception, found not to be comparably paid.

This study does not prove the existence or nonexistence of comparable worth in this particular organization. It shows, however, that using an approach consistent with one interpretation of the contingencies outlined, comparable worth as defined did not underlie the wage determination process. Had a different set of assumptions been used the results might have been different.

Summary

The study outlined above illustrates the measurement dilemma facing the comparable worth issue. The dilemma is not how to measure comparable worth, but the set of assumptions to use when choosing a measurement method. Once these assumptions are clarified, a measurement method can be selected to determine if an employer's wage setting is consistent with comparable worth.

Finally, different groups will have very different views of the relevant assumptions to be made when measuring comparable worth. These differing views reflect the lack of consensus on what constitutes wage equity. Because wage equity can be defined many ways, the assumptions on which comparable worth measurements are based at this point in time reflect power relationships and political considerations rather than a general consensus over the meaning of comparable worth.

DISCUSSION

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National Committee on Pay Equity

This discussion of the three papers presented on comparable worth will concentrate on three major points: (1) the nature of the problem, (2) the current range of pay equity activities, and (3) sources of sex bias in the wage-setting process for predominantly female jobs.

The Nature of the Problem

The wage gap between men and women workers is one of the oldest and most persistent symptoms of sexual inequality in the United States.

The persistence of the wage gap illustrates its relative immunity from significant economic, demographic, and political changes of the past. The growth of the white-collar industries with their demand for female labor, the massive entry of women into the labor force, and the development and enforcement of state, local, and federal antidiscrimination laws have not reduced the wage gap. This configuration of facts lends a strange, out-of-history quality to the wage gap and underlines the need for direct intervention.

We think that now is the time to *directly challenge* discrimination in compensation against predominantly female jobs where most women are employed. We support equal pay for equal work, affirmative action, job training, and child care. But our own history and the experiences of other countries tell us that these policies are not enough to prevent discrimination in wages against women's work.

The policy of comparable worth is uniquely suited to reach the complexities of our modern economy. It is a straightforward extension of antidiscrimination efforts under the Civil Rights Act of the past 18 years. It is also innovative and permits us to correct structural bias against whole occupations.

The Current Range of Pay Equity Activities

1. State and Local Government Comparable Worth Studies

We estimate that over 50 governments have performed comparable worth studies in the last several years. These have been triggered by

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collective bargaining, legislation, executive order, budget appropriation, and personnel department action. Many of the studies have been guided by committees consisting of representatives of labor, management, and women's groups. Virtually every study shows undervaluation of women's jobs.

2. State and Local Government Commitment to Close The Wage Gap and Establishment of a Process to Do So

California, Hawaii, and San Francisco have passed legislation or resolutions committing themselves to making comparable worth a key factor in wage-setting for their own employees. A 1982 Minnesota law established the state's commitment to comparable worth and a procedure for earmarking a certain amount of the budget for pay adjustments. Every week we receive calls from people in and out of government who want copies of model legislation.

3. Union Bargaining

Labor unions, leaders in the pay-equity movement, are negotiating studies, winning wage-equity increases, and filing charges and lawsuits in the private, but primarily in the public sector. There are objective problems unions face in promoting pay equity, but unions are becoming stronger allies. For example, the AFL-CIO (with which 101 unions are affiliated) unanimously endorsed a strong pay-equity resolution at its November 1981 convention. The National Committee on Pay Equity now has about 13 international unions as members as well as the Coalition of Labor Union Women and the Coalition of Black Trade Unionists.

4. Nonunion Upgrading

Nonunion workers and organizations have also been successful in pay-equity efforts. For example, 9 to 5 has won comparable worth increases, and the American Library Association has worked with its members, both employers and employees, to win pay equity.

5. Litigation

We believe that Title VII does apply to comparable worth. *IUE* v. *Westinghouse* and *Gunther* v. *Washington* explicitly state that Title VII of the Civil Rights Act does apply to wage discrimination cases in which men and women do not fill exactly the same jobs. These decisions are important comparable worth victories because opponents of pay equity argued that the application of Title VII was restricted solely to equal work situations. Charges and lawsuits are being filed under Title VII. We

do not think that the EEOC is playing the leadership role it can and should in this area.

The Sources of Sex Bias in the Wage-Setting Process for Predominantly Female Jobs

Why is the work of women undervalued and underpaid? There are theoretical reasons rooted in culture, psychiatry, history, and economic and social relations. These get translated from theory to practice when employers set wage rates for jobs. We want more case studies of wage-setting to identify sources of bias, but we do know enough now to identify some of the sources.

1. Some employers use no formal systems for wage determination. This opens the door to negative stereotypes about women's work.

2. Job evaluation results may not be followed by the employer and women's wages may be reduced below male jobs of comparable worth. This was done by Westinghouse.

3. Bias may be found in the theory and application of the job evaluation system. For example, those factors found in women's jobs may be left out or underweighted. We welcome more research and development in the area of measurement. We also believe that we know enough *now* to begin reducing sex bias.

4. There may be inaccuracies in job analysis and job descriptions which cause employers to undervalue women's jobs.

5. Finally, we believe that sex bias enters wage-setting when employers rely on the market. (a) The NAS report, *Women, Work, and Wages*, concluded in part that the market incorporates many obstacles, including discrimination. When wages for women's jobs are determined through reference to market rates, that employer often is incorporating prior discrimination by other employers into his own wage structure. (b) Employers may rely differentially on market forces depending on the sex composition of the jobs. For example, many hospitals are facing a shortage of nurses. Yet wages do not appear to be rising. Instead we read of fancy job fairs, international recruitment efforts in the Philippines and elsewhere, staff shortages, and overscheduling of nurses. (c) Finally, there may be sex bias in the surveys used by an employer to determine prevailing wage rates. For example, a survey for women's jobs may concentrate on lower paying firms.

We believe that the standard of comparable worth, or internal equity, should be adopted for wage determination, with wages for predominantly female jobs raised to match those of comparable male jobs.

Pay equity has been hailed as a "sleeping giant" and the "issue of the

80s." Admittedly, these calls have good public relations value. But the more we meet and work with people and groups across the country, the more convinced we become that these descriptions are, in fact, accurate. Comparable worth has a deep economic and emotional appeal to working women and their supporters. We know we face opposition. But we are optimistic and determined.

VIII. LABOR-MANAGEMENT COOPERATION

Area-Wide Labor-Management Committees: Where Do We Go from Here?

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A distinctive characteristic of American industrial relations is that labor and management have traditionally chosen to interact as adversaries within the context of collective bargaining. The process relies on relative economic strength as the primary determinant of wages and working conditions, eschewing cooperation between labor and management. Nevertheless, throughout the 20th century, especially during wartime or when economic crisis affected specific industries or firms, a cooperative mode of interaction was tried through joint committees established to address issues not readily resolved through collective bargaining. Advocates of these committees predicted that they would become a permanent feature of the industrial relations system, but, in fact, most of them disappeared, either because the crisis which gave rise to them abated, or they began to be perceived as impinging on the bargaining process, or labor or management decided too much power was being ceded to the other party.

In more recent years, cooperative mechanisms have been tried in a variety of forms: quality-of-work-life programs, quality circles, theory Z management programs, work-study groups, and work-innovation programs. Most of these efforts focus on problems at an individual plant or firm, but some have been structured to address industry-wide concerns. In contrast, *area-wide* labor-management committees have been established to facilitate the interaction of representatives from companies and

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unions in a specific geographic area to address economic problems affecting the entire local community, with an emphasis on job retention.[1] In this paper we will: (1) review where and how area-wide committees have been established, (2) describe their structure and programs, (3) discuss how they have been funded, (4) examine recent federal policy, and (5) conclude with some reflections on their future.

Where and Why Area-Wide Committees Have Been Established

Most of the area-wide labor-management committees (ALMCs) established to date are located in the Northeast and Midwest sections of the United States. Although the communities in which they are found vary in size, political structure, and industrial mix, they are all localities in which unemployment is high; companies and unions are perceived as having poor labor-management relations; the population and, hence, the labor force are declining; there is a high degree of unionization; and the local economic base is deteriorating. Obviously these factors are interrelated. Although local leaders in these communities, especially those representing labor, have tended to discount the fact that their community suffers from a poor labor-management image, they nevertheless came to believe that the labor-management climate should be changed if the community was going to be perceived in more positive terms. Local business leaders also recognized that hostile labor-management relations prompt employers to leave, and a poor labor-management image discourages firms from locating new plants in the area, ultimately reducing job opportunities.

Many ALMC communities have experimented in the past with cooperative labor-management programs aimed primarily at minimizing strikes, but these efforts usually failed due to poor organization and a total reliance on voluntary services rather than funded operations. In more recent years, a plant-closing, a strike of long duration, or some other immediate crisis signaled that something in addition to collective bargaining was needed. These kinds of triggering events were symptomatic of a chronic crisis requiring a long-term remedy and a new approach. It was against this background that groups of determined individuals, usually acting on their own initiative, came to decide that a formal, funded organization along the lines of an ALMC was what their community needed.

Although an ALMC had been established in Toledo, Ohio, in 1945, it

[1] For a more detailed analysis, see Richard D. Leone, Michael F. Eleey, David W. Watkins, and Joel E. Gershenfeld, *Operation of Area Labor-Management Committees* (Washington: U.S. Department of Labor, Labor-Management Services Administration, 1982).

was not until one was created in Jamestown, New York, in 1972 that this mode of cooperation began to flourish.[2] The Jamestown ALMC was the first to obtain federal funding and hire a full-time professional staff. Since the Jamestown committee was well publicized in the national press, leaders of other communities came to visit Jamestown and invited Jamestown ALMC staff to visit their areas. Through these exchanges, community leaders contemplating an ALMC gained an understanding of the elements required to make such a committee effective. Jamestown, therefore, served as (1) a proponent of the concept, (2) an information and technical resource center, and (3) the prototype ALMC model of the 1970s. As a consequence, today there are approximately 30 such committees in operation across the United States.[3]

Structure and Functioning of Area-Wide Committees

The adversarial nature of collective bargaining begets terms of employment acceptable to both labor and management. It is not, however, a purely logical process, but rather a power confrontation that can produce outcomes detrimental to the community as a whole. Because it focuses on mutual self-interest, the parties find it difficult to weigh the broader impact of their actions on the community at large. To gain this perspective, a different institutional arrangement is necessary which permits labor and management to abandon their adversarial roles and embark on joint programs which serve the community's needs.

It is essential that the chief local spokesmen of both business and labor serve on the area-wide committee. For political and symbolic purposes, ALMCs should have an equal number of representatives from both sides. These representatives must feel that the actions taken by the committee are to their mutual benefit, and in the absence of a formal mandate from their respective labor and management organizations, they must be certain that decisions reached by the committee will be viewed favorably by their constituents.

Area-wide committees usually meet once a month, and a consensus must prevail before they embark on any specific program. The Jamestown model, moreover, showed that to remain viable, a committee must have a permanent professional staff, since those serving on the committee have other responsibilities. Therefore, all ALMCs have sought outside funding,

[2] Charlene Gorda Constanzo and Joel E. Gershenfeld, *A Decade of Change: The Ten Year Report of the Jamestown Area Labor-Management Committee* (Jamestown, N.Y.: Jamestown Areawide Labor Management Committee, 1982).

[3] For a listing of area-wide labor-management committees, see *Resource Guide to Labor Management Cooperation* (Washington: U.S. Department of Labor, Labor-Management Services Administration, September 1982), pp. 190–92.

mainly to hire an executive director whose primary responsibility was to implement and assess the committee's programs.

As for the programs themselves, ALMCs have engaged in four types of activities: (1) sponsoring dinners, conferences, and seminars to improve labor-management communications, (2) establishing worksite committees, (3) serving as mediators in labor disputes, and (4) promoting economic development.

Improving Communications

A main goal of most area-wide committees is to improve communications between labor and management. Unless business and labor representatives are able to first change their perceptions and understanding about the other's responsibilities and roles, an ALMC cannot accomplish any other significant task.

In the early days of most ALMCs, those who were leading the local effort often gathered informally to "break bread" at a lunch or dinner. This served to unfreeze the conflict relationship and increase communication, and in turn allowed the emerging committee to undertake more specific programs. Once established, the committees continued to undertake these social activities, and added to them educational activities such as conferences and workshops. These ongoing events provide the foundation for the consensus necessary for the ALMC to agree on other programs.

Worksite Committees

As noted previously, the formation of a joint committee of workers and managers to address common problems faced by an individual plant is not new. Jamestown, however, was the first area-wide committee to help local companies and unions set up their own committee structures. Since then it has become evident that not only are ALMCs capable of providing technical assistance in the establishment of a worksite committee, they can also function as channels through which companies and unions can investigate the pros and cons of a worksite committee without having to commit themselves prematurely. Furthermore, an area-wide committee can serve as a local resource center and provide supportive services, especially to those small and medium-sized firms most in need of them.

Facilitating the Collective Bargaining Process

As a community organization with a mandate to improve the area's labor-management climate, an ALMC might be expected to involve itself in collective bargaining disputes. In fact, however, most area-wide committees have taken a public position of noninvolvement in negoti-

ations and grievance handling in order to avoid any connotation of interference with the process of collective bargaining or contract administration. Despite this public position, individual ALMC members and some executive directors have occasionally served as mediators at the invitation of the principals. This has been highly informal and conducted with great discretion.[4]

Economic Development

The economic development challenge for a community is twofold. It must work to stem job losses caused by closing and cutbacks, and it must target its job-creation efforts toward existing smaller firms.[5] Compared with other economic development groups, ALMCs have potential advantages in both these areas, though they are not always realized in practice. Through its worksite committee programs and its contacts throughout the local labor and business community, an ALMC could place itself in position to facilitate "early warnings" and channel assistance to existing employers who may face cutbacks or closings, or may be preparing to expand or move.

In most communities one or more economic development agencies already exist. In larger cities ALMCs do not have the resources to take the lead position in the regional development thrust, but they *can* help keep firms in the area and help firms expand by providing a support network for dealing with local government more effectively and obtaining funds necessary for expansion, modernization, or survival. In smaller communities, however, it is possible for an ALMC to stimulate and help existing economic development agencies. This necessitates a subtle balance between preserving an ALMC's independence and, at the same time, not encroaching upon the traditional domain of existing agencies.

Funding Area-Wide Committees

Although state, county, and city governments provided some financial support during the 1970s, most ALMC funds have come from three federal agencies: the Economic Development Administration (EDA), the Appalachian Regional Commission (ARC), and the Department of Labor under provisions of the Comprehensive Employment and Training Act (CETA). None of the legislative mandates governing the authority of

[4] See, for example, Robert W. Ahern, *The Area-Wide Labor-Management Committee: The Buffalo Experience* (Buffalo, N.Y.: Buffalo-Erie County Labor-Management Council, November 1979), p. 16.

[5] See David L. Birch, *The Job Generation Process* (Cambridge, Mass.: M.I.T. Program on Neighborhood and Regional Change, 1979).

these agencies explicitly authorized them to support labor-management cooperation in general or area-wide committees specifically. The Economic Development Administration, responsible for the largest proportion of federal support, viewed ALMCs as resource centers which facilitated the establishment of worksite committees. EDA assumed that the actions and programs of these worksite committees would increase productivity, a major agency goal. On the other hand, EDA also provided support for special projects, such as in Buffalo where it commissioned the ALMC to study the city's port facilities and funded an ALMC program for laid-off workers. The Appalachian Regional Commission, on the other hand, justified its support on the basis that positive labor-management relations are vital to the achievement of job retention and job creation, two major ALMC goals. CETA funds were provided by some prime sponsors because they assumed that ALMC programs would expand job opportunities.

While funding legitimates the existence of an ALMC in a community, fund-raising tends to occupy an inordinate amount of the executive director's and staff's time and diverts the committee's energies from programs. Since the early 1970s, no funding source has provided a continuous guarantee of ALMC support. Committee staff must reach out for new sources each year, and this mixed funding stream has often required the tailoring of the ALMC's goals to meet the funding agencies' priorities. As with other organizations, swings in the level of outside funding, along with interruptions and discontinuations, have often threatened the long-term viability of ALMCs.

In the late 1970s, the three federal agencies providing ALMC funds began to gradually withdraw their support, and today support from these sources has disappeared altogether. Given the grass-roots nature and community-wide goals of ALMCs, some have argued that local funding is the appropriate test of a committee's acceptance and effectiveness. This, however, fails to recognize that reliance on only local support may overpoliticize an ALMC's deliberations and program choices. Others have suggested that ALMCs should become self-supporting, with local labor and business providing the resource base necessary to mount specific programs. This latter approach also raises several serious questions. First, it is not likely that new ALMCs could convince labor and management groups who have rarely cooperated in the past to contribute jointly to an organization which has yet to demonstrate its local usefulness. Second, most local unions do not have the resources to provide 50 percent of an ALMC's support, and if management contributes a disproportionate share of the funds, it might feel justified in bringing to the committee such issues as changes in work rules and other contract provisions which could

jeopardize the ALMC's existence. Nevertheless, in some areas such as Cumberland, Maryland, local unions and employers have agreed to include provisions in their collective bargaining agreements calling for a specific amount per worker per hour to be used to support the local ALMC. Even if this procedure is adopted in other areas, it alone would probably not provide sufficient funds to maintain the programs ALMCs have embarked upon to date.

Federal Policy: The Labor-Management Cooperation Act of 1978

In early 1976 Congressman Stanley Lundine introduced the Human Resource Development Act, which called for a "national commitment" to an economy of full employment and economic stabilization.[6] The Act advocated incentives to stimulate capital formation and the retraining of laid-off employees, and called for labor-management cooperation. Since many provisions of the Act were similar to the Humphrey-Hawkins Full Employment Act, the labor movement, along with others, withheld its support out of fear that its enactment would preclude the passage of the Humphrey-Hawkins bill.[7]

In 1977, Representative Lundine introduced another version of the Human Resource Development Act, but representatives of the Department of Labor had serious reservations and testified, among other things, that some provisions of the Act were redundant and that worker participation had produced uneven results in the past and would not work without job security.[8] Although the AFL-CIO did not testify, a prepared statement from its legislative department was unofficially circulated which stated that the bill was "a license for outsiders to muck about in the delicate balance of labor-management relations."[9]

In 1978, however, the labor-management cooperation provisions of the Human Resource Development Act were added as a rider to the Comprehensive Employment Training Act. This self-contained legislation, entitled the "Labor-Management Cooperation Act of 1978," identified its

[6] As mayor of Jamestown, Lundine had played a central role in the formation and operation of the local ALMC.

[7] U.S. Congress, House, Subcommittee on Manpower, Compensation, and Health and Safety of the Committee on Education and Labor, *Oversight Hearing on the Comprehensive Employment and Training Act*, 94th Cong., 2d Sess., 1976.

[8] U.S. Congress, House, Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, *The Human Resource Development Act of 1977: Hearing on H.R. 2596*, 95th Cong., 1st Sess., 1977; and U.S. Congress, Senate, Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Human Resources, *The Human Resource Development Act of 1977: Hearing on S. 533*, 95th Cong., 1st Sess., 1977.

[9] Andrew J. Biemiller, "Statement to the Subcommittee on Labor Management Relations of the House Committee on Education and Labor, House of Representatives on H.R. 8065," October 20, 1977.

objectives as follows: (1) to improve communications between representatives of labor and management; (2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness; (3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process; (4) to study and explore ways of eliminating potential problems which reduce competitiveness and inhibit the economic development of the plant, area, or industry; (5) to enhance the involvement of workers in making decisions which affect their working lives; (6) to expand and improve working relationships between workers and managers; and (7) to encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through federal assistance to the formation and operation of labor-management committees.[10] These objectives clearly reflect many of the principles and practices of ALMCs.

While the Federal Mediation and Conciliation Service (FMCS) had been given a minor role in previous legislative proposals, it was charged with implementing the provisions of the Labor-Management Cooperation Act of 1978. Funding levels were authorized for 1979 and 1980 but final appropriations were not forthcoming until the Spring of 1981, and only after extensive lobbying efforts. The 1981 authorization provided FMCS $1 million dollars: $700,000 for area-wide committees, $100,000 for worksite committees, and $200,000 for industry-wide committees. The regulations subsequently adopted by FMCS provided that grants to existing area-wide committees could be for up to two years, and grants to new ALMCs could be for three years. An underlying premise of this is that ALMCs should eventually become self-sufficient. In the summer of 1981, FMCS awarded funds to eight area-wide committees, four of which were new ones. When funding under the Act was reduced for fiscal year 1982, FMCS eliminated industry-wide and worksite committees and awarded grants in the late summer 1982 only to area-wide committees, funding a total of six, three of which were new.

The Future of Area-Wide Committees

In 1981 and 1982 a total of seven new ALMCs were established through funds made available under the provisions of the Labor-Management Cooperation Act. In the preceding two years, however, no new committees had been able to hire a staff, and some existing ones had been compelled to make substantial cuts in their programs. This indicates that

[10] *Federal Register*, Vol. 46, No. 238, p. 60645, December 11, 1981.

federal support is required if area-wide committees are to increase in number and be able to maintain their programs.

To date, most ALMCs have been located in the Northeast and Midwest sections of the country, and there is nothing to suggest that this pattern will be greatly changed. The Northeast and Midwest areas remain more susceptible to plant closings, high unemployment, and other economic crises that historically have served as catalysts in the establishment of ALMCs. While this economic environment is conducive to a grass-roots response, these very same communities are the least likely to be able to generate resources to maintain new institutions such as ALMCs.

Regardless of the stability of funding, the ALMC concept will continue to face some resistance because labor and business view the collective bargaining process as the most appropriate vehicle for resolving their differences. But even in an improving climate, recovery will not be uniform throughout the nation, and some type of community-wide collaborative effort between labor and management will be required to transcend provincial interests.

The programs a specific ALMC may embark upon will differ, but they will continue to respond in accordance to the specific needs of their locales. As a general rule, ALMCs should not identify too closely with other power centers in the community and at the same time make certain that they do not present a threat to them. As Trist has noted, they must demonstrate to other local organizations that their power is complementary rather than competitive, and simultaneously demonstrate to the public at large that they occupy a separate territory and are better equipped to resolve certain problems that affect the community as a whole.[11]

Whether the nation should adopt a comprehensive industrial policy is currently being given serious consideration. As this debate ensues, it is advisable also to consider the role area-wide committees might serve as part of a broader approach to improving the industrial health of the nation. If the structuralists are correct in their diagnoses of why the American economy has lost is competitive edge, then area-wide labor-management committees may play a larger role in improving communications between labor and management, and in facilitating certain adjustments in our institutions which may be necessary to remove the structural barriers.

[11] Eric Trist, "New Directions of Hope: Recent Innovations Interconnecting Organizational, Industrial, Community and Personal Development," John Madge Memorial Lecture, Glasgow, Scotland, November 3, 1978.

A Process Analysis of Labor-Management Committee Problem-Solving

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Historically, the relationship between collective bargaining and problem-solving has been fragile at best. When problem-solving has emerged within the context of collective bargaining, it has often been short-lived and somewhat inconsequential and superficial. On the other hand, problem-solving has served such devices as quality circles, employee involvement, and quality of work—programs that tend to be used more frequently in nonunion companies. Thus, it has seemed difficult, at least heretofore, for problem-solving to be an active strategy when collective bargaining is present.

If, indeed, there is a growing acceptance, or even a mandate, to move towards greater collaboration between labor and management, it seems appropriate to briefly highlight the practice and potential of problem-solving in the context of collective bargaining. We will draw chiefly on our own experience with a state level labor-management committee. Although this committee is limited to the public-sector context, it is our belief that the process questions and issues are nevertheless typical and ought to have relevance, broadly speaking, to the practice of labor-management problem-solving.

The focus of our discussion, the New York State Continuity of Employment Committee (COE Committee), was established in April 1976 to address the delicate issues of public-sector worker displacement in the face of funding cutbacks. The COE Committee emerged out of a

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collective bargaining agreement between the State of New York and the Civil Service Employees Association and remains in existence today. The Committee is composed of an equal number of union and management representatives and is chaired by a neutral outsider.[1] Its mission is to find jointly acceptable "solutions," ways to preserve employment, or at least to minimize the negative effects of displacement.[2] This mandate is similar to that of the Armour Automation Commission and, more recently, of local level labor-management efforts in the retail food industry (Ray 1980).

Critical Problem-Solving Issues

The analysis of the COE Committee experience is organized around a set of issues or dilemmas which appear to be critical to the success of problem-solving: (1) time frame of the process, (2) commitment and support for the problem-solving endeavor, (3) intraorganizational role conflicts, and (4) institutional relationships between collective bargaining and problem-solving. For each area, the nature of the obstacles to problem-solving will be identified as well as the in situ problems faced by the COE Committee, followed by some case illustrations of techniques for enhancing the effectiveness of problem-solving.

Time Frame

One impediment to problem-solving is the short-run, bottom-line results orientation so prominent today. Labor-management problem-solving takes time and the benefits, typically, are only seen over the long run. During the course of the COE Committee, especially early on, positions were taken by both sides that could only be explained in terms of short-term tactics.

As a result, it was necessary to move the time horizon further out into the future. For example, one of the research projects specifically directed itself to be the proposition that in the short run there might be higher costs associated with the expedient strategy of layoffs (see Greenhalgh and McKersie 1980). The chairperson as well as the staff continually invoked long-run benefits and issues in order to shift the time horizon while also identifying *mutual* short-term advantages.

[1] The role of a neutral-mediator type chairperson in a labor-management committee can be particularly important as will be noted. The second author served in that capacity while the other authors served as staff researchers.

[2] Between 1976 and 1979, New York State (as employer) managed its workforce without resort to layoffs—in part, due to the studies and demonstration projects conducted by the Committee. Thus, through a process of labor-management cooperation, displaced workers were retrained and referred to openings in other agencies. For a more complete description of the human resource policies and mechanisms that were used, see Jick (1977) and McKersie, Greenhalgh, and Jick (1981).

Leadership Commitment and Support

Commitment of key people on both sides is a necessary ingredient to the practice of problem-solving. Yet, in the absence of strong, secure, statesman-type leaders on both sides of the bargaining table, such commitment can be difficult to realize. In the public sector this instability is especially pronounced in light of the high turnover among officials and the relative inexperience of union leaders. The combination of weak commitment and limited authority from key individuals represents a formidable obstacle.

In light of the above, various techniques were used to enhance affiliation with the process and to stimulate commitment. For example, the Committee regularly briefed the principals—that is, the CSEA president and the Governor's Office of Employee Relations—to make sure they felt identified and connected to the work of the Committee. In addition, two special briefings were held with the Governor himself so as to involve his office in supporting the process. Together, such activities gave the Committee's work a higher profile and increased the institutional backing.

Another important strategy was to find ways by which Committee members could become attached to other Committee members and to the work of the Committee. Such steps largely involved elements of team-building. For example, meetings were held in a neutral setting and, on at least two occasions, in special settings where Committee members could get to know each other more informally, thereby developing a spirit of camaraderie. As a result, members became sufficiently comfortable to "level" with each other and to share their own organizational problems *across* the table.

In addition, all decisions of the Committee were subject to the "unanimity" rule. Individual rather than factional voting reinforced the importance of each individual's vote. While an individual could oppose a decision and express "unreadiness," an individual's concurrence would reinforce *group* ownership and responsibility. The development of such ownership was understood through full responsibility by the Committee for a sizable budget (approximately $1 million for the first three years). Finally, some of the Committee members embraced the work of the Committee through public appearances, panel presentations, a TV appearance, and a university seminar.

Role Conflicts and Intraorganizational Demands

As Driscoll (1981) observed, a participant in collective bargaining who is asked to engage in cooperative problem-solving faces conflicting expectations of appropriate behavior from various role senders. Ultimate-

ly such individuals cannot separate themselves from their constituents, and thus the problem-solving process intersects with what might be called "bargaining within the ranks" (Walton and McKersie 1965). Devices to enable Committee members to handle this potential role conflict included: (1) shielding Committee members from sensitive information or activities, (2) publicizing the benefits of Committee programs, and (3) using the chairperson neutral to link with union and management principals.

One technique for "shielding" Committee members was to move the implementation of programs that might have some adverse consequences for rank and file into different agencies, thus allowing union leaders to say, "Oh, that is not something I did—it was done by an administrator." Or, when one union member repeatedly affirmed, "If you tell me anything, I will have to report it to my members," he subsequently was not told certain things that he would just as soon not have heard regarding timetables for closings and similar sensitive data. By contrast, those who could handle this role conflict were put on a subcommittee—a type of secretariat—to review overall workforce plans.

Another way to deal with the role conflict is to put the best foot forward and to tell constituents about the accomplishments that sprung from the problem-solving process. Thus, the Committee developed a newsletter, provided reports, and used numerous forums to inform people about its "good works." Finally, the neutral chairperson served as a type of intermediary or mediator within the respective management and union organizations. Rather than having the Committee member go back to his principals or constituents and explain what needed to happen and thereby trigger some awkward discussions, the chairperson "ran interference" and dealt with the opposition within the organization by the authority of his office as chairperson, by the rationality of the argument, and/or by the persuasiveness of staff studies. Together, these various techniques tended to buffer, if not mitigate, the natural role conflicts experienced by Committee members.

The Domination of the Adversary System

By far the most serious difficulty in getting problem-solving under way stems from the pervasive influence of adversarial norms, values, and practices. The concept of mixed-motive bargaining has always highlighted the tensions between integrative and distributive bargaining (Walton and McKersie 1965; Schlesinger and Walton 1976). Behavior appropriate for successful negotiations, for example, is rarely appropriate for joint problem-solving (Susman 1980). And many individuals, especially unionists, assume that only through distributive bargaining can they be

sure that they have gotten the fullest gains toward their objectives. To be highly competitive has become a part of North American culture in which one has not "bested" the opponents unless the opponent has been "pushed to the wall." Moreover, since problem-solving does not involve traditional pressures and deadlines, it is viewed by many as "soft" and producing only limited gains.

One dramatic illustration of the spillover occurred one year after the Committee began, when the State and the CSEA negotiated their contract. The tension at the main bargaining table was sufficiently strong that when the members of the Committee came together (although few were involved in the negotiations) they were imbued with the animosities and approaches of distributive bargaining. Until the distributive bargaining storm blew over, the work of the Committee was largely furthered through staff research and behind-the-scenes informal dialogue. The "spillover" problem is a critical impediment, one which has been the downfall, for example, of many QWL efforts which have stalled in the face of constraints and tensions borne from collective bargaining.

What can be done to minimize the adverse effects of the adversary system for the potential of problem-solving? On the basis of our experience, three techniques seem especially useful: (1) keep distributive channels open for handling spillovers and conflicts, (2) insulate the problem-solving process, and (3) differentiate problem-solving through rules and practices from the distributive forum.

One general technique for minimizing the spillover is to make sure that the channels for handling conflicts are open and effective. Thus, when CSEA members on the COE Committee began to challenge the *basis* of a state policy rather than its implications, the neutral chairperson urged them to go to the legislature and to feel free to use other forums for their power demonstrations. In other words, to protect the problem-solving process, the managers of that process have to make sure that the distributive bargaining channels are open and are being used actively so that frustration and animosity are not stored up, to spill over to the problem-solving process. While some assume that the cooperative mode of problem-solving ought, in time, to lead people to become cooperative in the adversary situation (for example, Scobel 1982), it is our experience that labor and management should be *encouraged* to use power, or else the problem-solving mode will have too large a load to carry.

However, in order to protect the problem-solving endeavor, it must be insulated wherever possible. Individuals and events that are key to the adversary process must be prevented from disrupting the problem-solving forum. For example, a union lawyer and a consultant who were retained by the union to bolster their bargaining objectives attempted to

extract information regarding workforce planning at a COE Committee meeting from one of the agencies. As a result, the chairperson discouraged any future involvement of them with the Committee's activities and thus insulated the collaborative mode from power bargaining practices.

Perhaps the most successful techniques used in our experience was that of differentiation. A "black box" rule was developed wherein the Committee avoided the conflictful issues of program changes and their rationale—and instead concentrated on the *consequences* of these program changes. This horizontal differentiation segmented the normal roles that members played in their organizations from that being required within problem-solving. Thus it was possible for them to take off their distributive "hats" and act differently within the problem-solving process. The differentiated role of the COE Committee allowed for exploration and consideration of implementation issues *as if* the policy were accepted. The advantage to this technique was that labor and management would be prepared with mutually acceptable approaches, developed collaboratively, if and when necessary.

Implications for Problem-Solving

This paper has examined the inside workings of a joint labor-management committee in order to offer some observations about the integrative bargaining process. Essentially there are three critical tasks:

TABLE 1

Techniques for Managing Typical Obstacles to Problem-Solving

Obstacles to Problem-Solving	Techniques for Enhancing Problem-Solving
1. Short-run orientation.	1. Introduce efforts to widen time-horizon.
2. Insufficient commitment by leaders to problem-solving.	2. Enhance affiliation with the process.
	Team building.
3. Intraorganizational counter-demands and role conflicts.	3. Preserve and fortify relations with principals and constituents.
	Credit parties with results.
	Use chairperson in mediator role within primary organizations.
4. Domination of the adversary system.	4. Keep distributive channels open for handling spillovers and conflict.
	Insulate the problem-solving process.
	Differentiate problem-solving from bargaining roles.

(1) to separate integrative bargaining from distributive bargaining, (2) to enhance the effectiveness of integrative bargaining, and (3) to separate integrative bargaining from the pressures of constituents and the bargaining that takes place within the ranks. It is posited that the problem-solving process can quietly do its own work as follows: by overcoming the tendency for every issue to be handled in combative and short-run fashion, by immunizing the process from the spillover of the adversary system, and by keeping the adversary system open and vital (among other techniques summarized in Table 1). The case of the COE Committee has underscored the delicacies inherent in such tactics and provided an opportunity to review their uses.

It would appear that management and labor often find themselves today in circumstances in which problem-solving, if effectively managed, can be mutually advantageous. Thus, it is likely to become increasingly important to design training programs and/or provide "on-the-committee" guidance to labor and management in the concepts and skills that are necessary to foster problem-solving.

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Problems and Opportunities in Implementing Cooperative Union-Management Programs*

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Increased union-management cooperation began in the 1970s and has continued unabated into the 1980s. Although the resolution of important workplace issues continues to be most commonly addressed within the traditional system of collective bargaining, there is increasing evidence of a wide array of cooperative efforts taking place. Thus, there have been increases in productivity-sharing plans—for example, Scanlon, Rucker, and Improshare; plant labor-management committees (L-MCs); area labor-management committees (AL-MCs); and quality of work life (QWL) projects. The widespread introduction of quality circles (QCs) over the past several years can be considered nothing short of overwhelming. All of these programs have a common basis—that is, they are structural interventions which attempt to generate greater worker interest, involvement, and effort toward achieving important organization goals.

It is unlikely that these changes would have occurred in the absence of sweeping environmental influences. The impact of foreign competition, the increased cost advantages and more modern equipment of the nonunion sector of the economy, and a change in the values, attitudes, and work behavior of much of the labor force have increasingly shaken the foundations of the traditional system of collective bargaining.

Whether, and to what degree, the increased levels of cooperation will continue, once economic conditions stabilize, is very much an open question. What is clear is that the current situation offers an opportunity for a long-term reshaping of many bargaining relationships. However, the success of cooperative efforts in the present "emergency" situation will likely determine whether these endeavors become a permanent part of

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the American industrial relations system or merely a temporary interruption in traditional adversary collective bargaining.

This paper is an outline of the opportunities and problems which these cooperative ventures offer. Two fundamental questions will be addressed: First, what can companies and unions accomplish through cooperation? And second, what are some of the difficulties encountered by the parties in developing and maintaining cooperative programs, and why do so many end in failure? This paper is based on an on-going study of cooperative union-management relations. To date, 33 union-management relationships have been the subject of intensive investigation. Included in the sample were nine Scanlon, five Rucker, and seven Improshare Plans as well as nine plant labor-management committees, two quality circles, and one profit-sharing plan. The cooperative efforts were studied over a four- to seven-year period. The research strategy included structured and unstructured interviews with key management and union personnel, collection and analysis of program documents and records including the minutes of meetings, and measurement of performance variables. The discussion presented in this paper is drawn from the qualitative data gathered through interviews and program documents.

Defining the Intervention

At the outset it is important to define the scope of the cooperative union-management interventions. One caveat to this section is that, in practice, there is significant local variation in the design and implementation of each program. Those described in this section may be considered the "generic" model of each type.

Productivity-sharing plans differ widely. Scanlon Plans are the best known and involve an employee suggestion program, committee system, and bonus formula based upon the relationship between sales value of production and labor costs. Rucker Plans also have a suggestion program, a more limited committee system, and a bonus formula based upon the relationship between "value added (sales value – cost of goods sold)" and labor costs. Improshare Plans generally have no employee participation and a bonus formula based upon engineering standards and actual hours worked.[1]

The other three cooperative efforts, Labor-Management Committees, Quality Circles, and Quality of Work Life Projects can be differentiated

[1] In-depth discussions of the three productivity-sharing plans may be found in the following sources: Mitchell Fein, *Improshare: An Alternative to Traditional Management* (Norcross, Ga.: Institute for Industrial Engineers, 1981); Carl Hegel, ed., *The Encyclopedia of Management*, 2d ed. (New York: Van Nostrand Reinhold Co., 1973), pp. 895–900; and Brian E. Moore and Timothy L. Ross, *The Scanlon Way to Improved Productivity: A Practical Guide* (New York: Wiley, 1978).

in several ways. L-MCs are composed of key management and union actors who meet periodically to discuss noncontractual issues (that is, issues not specifically addressed in the collective bargaining agreement.)[2] QCs are shop-level worker committees that attempt to use statistical and problem-solving analysis to improve quality and productivity in their work areas.[3]

QWL projects are more amorphous and varied and, therefore, more difficult to define. QWL interventions can range from cafeteria improvements and work-rule changes to flexible work hours, autonomous work groups, and job redesign and restructuring.[4] In this research, only autonomous work groups were actually investigated; the information on the other programs comes from the literature. Normally, L-MCs, QCs, and QWL projects do not have gain-sharing provisions, although there were instances in this research where productivity-sharing was added.

The Opportunities Possible Through Cooperation

The opportunities that are possible through cooperation are summarized in Table 1 and can be classified into three general categories—performance indicators, employee outcomes, and union-management relationship changes. Since this paper focuses on six major distinct types of plant-level cooperative programs, it is important to stress that each cooperative intervention can lead to a set of outcomes, some of which are unique to it, some of which are shared properties of all cooperative ventures. For example, all of these programs will normally lead to employees receiving more information about their jobs. This is a common property. However, the productivity-sharing plans tend to have a greater impact on productivity improvement than do plant L-MCs, QCs, or QWL projects.

There is also a question of degree of impact. Plant L-MCs are more likely to provide greater information about the company than a QC effort. At the same time, while productivity improvement is not the primary effect of QCs, it certainly might be a secondary effect.

To those involved in the research and practice of cooperation, this summary should not represent any new revelations. These outcomes have been reported in the academic and popular literature. Therefore it would seem appropriate to focus on aspects of the cooperative process not often

[2] Robert W. Ahern, *Positive Labor Relations: Plant Labor Management Committees and the Collective Bargaining Process*, Report prepared by the Buffalo-Erie County Labor-Management Council, November 1979.

[3] Donald L. Dewar, *The Quality Circle Guide to Participative Management* (Englewood Cliffs, N.J.: Prentice-Hall, 1980).

[4] Thomas G. Cummings and Edward S. Molloy, *Improving Productivity and the Quality of Work Life* (New York: Praeger, 1977).

considered. These are the special role of L-MCs and why cooperative efforts so often do not succeed.

The Special Role of Plant Labor-Management Committees

Plant L-MCs permit on-going discussions between key management and union actors. As a committee matures, and a sufficient level of trust and confidence is achieved, the committee's activities may be expanded to include subcommittees involving rank-and-file members and managers at lower levels in the organization. In addition, the committee's agenda may be expanded to include examination of contractual issues.

The L-MCs process is inherently slower than the process employed in productivity-sharing plans, QCs, and some QWL projects. The latter three accept the union-management relationship as it is and seek to implement workplace changes. In all three instances, improved labor-management relations is an assumed by-product of these efforts. Yet the cause of the demise of so many productivity-sharing, QC, and QWL efforts is that they fail to adequately prepare both organizations for the

TABLE 1

Summary of Opportunities Created
by Cooperative Union-Management Programs

Performance Indicators	Employee Outcomes	Relationship Changes
Productivity improvement	Increase job satisfaction	Attitude change among key actors
Reduce labor costs	Job influence and involvement	Union influence on key decisions
Quality improvements	Information about job and company	Reduce likelihood of future strikes
Product design changes	Commitment to company	Reduce grievances
Reduce absenteeism	Improve conditions of work	Better understanding of L-M issues
Reduce turnover	Improve supervision	Examine outdated contract language
Reduce tardiness	Reduce job frustration	Continuous study of on-going problems
Reduce accidents	Improve earnings	Facilitate technological change
Improve manpower utilization	Upgrade job characteristics	
	Increase trust	
	Increase job security	

major changes prior to implementation. Frequently, inadequate attention is paid to improving the parties' relationship once the effort has been made operational. Worse yet are those instances in which management attempts to implement one of the change programs without involving the union.

In contrast, the initial goals of L-MCs are to produce a change in attitude between the union leadership and the management and between workers and the management. The focus is on problem-solving activities and building trust. The L-MC process exposes the parties' entire relationship—historical, present, and future—for review and analysis. Problems can then be identified and jointly developed alternative strategies considered. This process is the mechanism for establishing trust and confidence. Thus, successful L-MCs permit the building of a solid foundation upon which further cooperative endeavors such as productivity-sharing plans, QCs, and QWL projects may be undertaken.

The Problems of Implementing Cooperative Programs

The odds seem to weigh heavily against long-term institutionalization of cooperative projects. Goodman's study of QWL projects with at least five years' experience found that 75 percent of them were no longer functioning and that none in a unionized setting was in operation.[5] In this research, similar findings can be reported on the life-cycle of ten plant interventions.

The first four to be terminated were L-MCs. One L-MC never started, although it was contained in the parties' national agreement; a second died after six months. In both instances there was no real commitment to change by either party. In the third case, the parties met often but never had the internal expertise to get the process moving, nor the wisdom to seek outside assistance. This venture terminated after two years. In the fourth case, the L-MC process led to a recommendation to implement autonomous work groups, a proposal that caused a severe division within both the local union's leadership and its membership, and was overwhelmingly defeated.

Three productivity sharing plans ended—one after three years and the other two after six years each. In all three instances, errors in judgment by management led to the perception that the bonus formula had been manipulated. In the latter two cases, 18-week strikes occurred, in part due to the productivity-sharing plan. The record is only three out of ten interventions surviving after six years. It is important to note, however,

[5] Paul S. Goodman, "Quality of Work Life Projects in the 1980s," *Proceedings* of the 1980 Spring Meeting, Industrial Relations Research Association (Madison, Wis.: IRRA, 1980), pp. 487–94.

that the three remaining efforts are successful after 8, 12, and 27 years, respectively.

Difficulties in Establishing the Cooperative Framework

There is evidence strongly suggesting that cooperation cannot be imposed at the plant level by actors external to the immediate bargaining relationship. This should serve as an instructive lesson to union leaders and corporate officials that national agreements on cooperation are not likely to succeed without a concerted effort to convince plant-level participants of the need for change.

Kochan and Dyer[6] have noted that the parties must agree on the goals of the cooperative program in order to obtain an initial commitment. A more fundamental problem stems from the parties' failure to agree on what the problems actually are. In an extreme situation involving an attempt to develop an Area Labor-Management Committee in a community where labor disputes had been severe, the principals failed to agree on what their problems were. Many participants refused to acknowledge the existence of any problems.

A final, and very common, problem is the parties' lack of skill in devising and implementing cooperative strategies. Although they can utilize external consultants, many of the consultants are not qualified to work in unionized settings. Union and nonunion settings are inherently different, a fact that must be recognized when devising change strategies. There appears to be a shortage of neutrals and consultants with both behavioral science training and a thorough background in the mechanics and implications of the collective bargaining agreement to assist the parties in formulating the change process.

Establishing the Boundaries Between the Cooperative and the Adversary Processes

The theoretical[7] and conventional[8] wisdom has been that the cooperative process should be kept separate from the negotiations process and the grievance procedure. This principle is frequently raised as part of the efforts to reduce resistance to initial participation in a cooperative venture. As a practical matter, however, such a separation may be impossible to achieve and maintain, as the cooperative and traditional processes are often intertwined. The cooperative process can be kept separate from negotiations and the grievance procedure only when the

[6] Thomas A. Kochan and Lee Dyer, "A Model of Organizational Change in the Context of Union-Management Relations," *Journal of Applied Behavioral Science* 12 (Spring 1976), pp. 59–78.

[7] Kochan and Dyer.

[8] Ahern.

parties are addressing minor problems. However, once the cooperative process goes beyond very simple issues and begins to address meaningful questions, it must inevitably overlap the negotiation and grievance procedures.

Meaningful change frequently requires modification of, or additions to, the collective bargaining agreement. A question often arises as to when and how this is to be accomplished. In some instances a memorandum of understanding is executed and appended to an existing agreement. In other cases, however, the parties delay change until the next round of negotiations and incorporate it into a new agreement.

A third issue is whether the cooperative process should be suspended during negotiations. The fear expressed in this situation is that aggressive tactics at the bargaining table in the pursuit of distributive goals will upset the tentative trust and good faith established in the cooperative process. No clear solution to this problem has emerged.

Factors That Interfere with Obtaining Continuing Commitment

One of the most serious problems has been the failure to adequately prepare both organizations for major changes. Plant management and the union leadership may reach agreements which are later accepted by their respective constituencies. However, because long-standing attitudinal or managerial issues are not addressed, no trust develops.

Difficulties stemming from this problem should not be underestimated. There are many managers and union members who are very skeptical of the benefits to be derived from cooperation. For cooperative strategies to be effective, there must be a sufficient number of these actors who see the instrumentality of the effort *prior* to implementation. These are the experimenters or risk-takers who take on the "pilot" project or provide the enthusiastic support in the program's critical, initial year.

Political pressures within the union can pose difficulties for even the most secure union leadership, and even a vocal minority can at times constrict the leadership's maneuverability. In the sample studied, several ways were found to reduce the likelihood of this occurring. First, the cooperative process was explained so that the membership had realistic understandings of it at the outset, thus initially defusing any charges that the leadership had been coopted or had sold out to management. Second, vocal skeptics were brought into the process by being given committee responsibilities or being invited to attend meetings as visitors. Third, union members were kept informed through posting of committee minutes and other union and company communication efforts. Fourth, and most important of all, management representatives were sensitive to the union's problem and avoided creating situations which might compro-

mise the leadership. Finally, in several situations, union leaders chose to play an oversight rather than a direct role in the program's operation.

Yet another problem is turnover of key union and management participants. The problems seem greater within management as local union leadership has tended to be more stable. Plant and industrial relations managers who are successful at building a positive relationship with the union are rewarded with pay raises and promotions. The problem lies in the treatment of successor managers who are unfamiliar with the past history and efforts to change the relationship and who have the difficult task of maintaining the cooperative program. The reward structure in most companies does not recognize the difficulty of the maintenance function.

The key aspect of productivity-sharing plans is the design of the bonus formula. Although never empirically tested, there seems to be a relationship between the perceived fairness of the bonus formula and worker commitment to the plan. Evidence continues to mount that unfairness in the administration of the bonus formula or actual manipulation of the format or ratios causes an abrupt loss of worker support, makes bargaining more difficult in the next round of negotiations, and leads to termination of the cooperative effort.

Conclusions

The level of union-management cooperation has increased dramatically during the past decade. Cooperative programs offer companies, unions, and employees the opportunity to make significant changes, leading to a series of potentially favorable outcomes. Some of these include improved productivity and quality; increased job satisfaction, job involvement, influence, and job security; union influence over key decisions; better understanding of labor-management issues; and reduced likelihood of future strikes. With all of these possible outcomes, why do so many cooperative efforts fail?

A plausible explanation is that the inherent obstacles to implementing cooperative programs have been underestimated. It must be understood that these ventures were experimental and that our industrial relations system has had limited experience with cooperative programs such as those described herein. Also, there are only a relatively few expert consultants and practitioners skilled in implementing change in unionized settings, and the methodology for accommodating the cooperative and adversary processes has yet to be fully understood. Finally, the strength of the adversary values among practitioners (union and management) of industrial relations may have been underestimated.

It is becoming increasingly clear that the 1970s period of experimenta-

tion is over. What was learned in the 1970s is being carried forward into the 1980s as the practice of cooperative union-management relations is implemented on a widespread basis. The nature of union-management relations in the 1990s will be significantly influenced by the success of these cooperative interventions.

DISCUSSION

JOHN A. FOSSUM
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The three papers delivered in this session are descriptive or prescriptive in nature, vary in their levels of analysis by examining one approach to cooperation across several geographical regions, suggesting several facets of an integrative bargaining approach to deal with one issue involving unions and a single employer, and comparing the effectiveness of several different types of union-management cooperation plans across many employers. As such, this discussion will not attempt to integrate and compare the papers. Because the papers are descriptive and/or prescriptive in form, there is little to comment on in terms of the research methods used or the interpretation of the results. Rather, what this discussion will focus on are the variables or situations that might be examined in the future and the research questions that these papers should lead us to address.

Area-Wide Labor-Management Committees

Leone's paper summarizes the creation and operation of Area-Wide Labor-Management Committees (AWLMCs). Obviously, the number of committees that have been formed and/or are currently operating is far smaller than the number of Standard Metropolitan Statistical Areas in the U.S. One would obviously find them to be the exception rather than the rule. The information in Leone's paper and Siegel and Weinberg's[1] recent review suggest that a troubled collective bargaining environment, a heavily unionized workforce, declining local industries, and concerned citizens appear to be necessary for the formation of AWLMCs. But several questions might be answered by future research.

First, it would seem that AWLMCs would require relatively many employers for success. Second, AWLMCs would be more likely where strong local control (ownership or decentralization for businesses and local strength for unions) existed. Third, the benefits of cooperation would have to be perceived as accruing to both employers and unions (for example, creation of employment in unionized organizations). Fourth, the absolute

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[1] Irving H. Siegel and Edgar Weinberg, *Labor-Management Cooperation: The American Experience* (Kalamazoo, Mich.: W. E. Upjohn Institute for Employment Research, 1982), pp. 75–98.

level of economic problems should stimulate the perception that AWLMCs might be necessary, and relatively greater difficulty for the area vis-à-vis comparison areas should also lead to their creation. Finally, consistently high levels of union penetration in local industries might be a necessary condition for the willingness of unions to participate in AWLMCs.

Labor-Management Committee Problem-Solving

Jick, McKersie, and Greenhalgh's case study leads to several broader questions that might be explored. While state collective bargaining legislation for public employees creates situations which may not generalize to the private sector, it is important to examine the roles of national and local union leaders in this and other situations in relation to the point at which problem-solving needs are perceived. One might expect that the deemphasis on pattern bargaining seen recently would increase local involvement. Differences in motives between local and national leaders given the goals of their units (for example, local job security vs. national interest in moving organizing to areas with expected growth) should influence the willingness to cooperate. More intensive studies of how union and management problem-solvers actually reach agreement would have practical applications and also supplement organizational behavior conclusions. Efforts to identify the types and intensity of role conflict which interfere with the achievement of consensus in problem-solving might be mounted.

Implementing Cooperative Union-Management Programs

Schuster's study of various methods of union-management cooperation and their implementation, maintenance, and effects is broad and thorough. Extensions of his research might examine some of the following issues: Union-management cooperation has generally been examined at the establishment level, even where programs have jointly involved corporate and international level officers. The degree to which participation in these types of programs is enhanced or constrained by the parent needs to be explored. The process by which cooperation programs are initiated and maintained needs to be generalized. Suggestions have been made that top-level support and resources are necessary and the commitment of lower-level employees may occur as a result of their involvement and reward. The conditions and methods leading to these outcomes needs identification.

A missing segment in the examination of union-management cooperation is the role of the shareholder. Where past profits have been increasing, shareholders may expect the trend to continue. If gain-sharing

is instituted as part of a productivity improvement program, shareholders may feel that the gains to be shared with employees are forgone earnings or dividends for them.

Finally, as in the case of AWLMCs, conditions necessary for the implementation of plant-level cooperation should be identified on a comparative basis. Why do they exist in some establishments within a company or industry and not in others? What are the threshold conditions necessary for management and labor to begin a program? Are differential implementation and/or success effects seen depending on which party made the first movement toward cooperation? Finally, are programs more likely to be successful in the long run if they are installed during periods of adversity or growth?

DISCUSSION

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The three papers describe three different structures for labor-management cooperation: cooperation at the plant level, at the area level, and at the state level. Since the "soft" technology which we call the in-plant labor-management committee has a history which dates back at least 60 years, it is understandable that the Schuster paper gives us more substance and definition than do the other two papers which present information on broader concepts of labor-management cooperation which are less than a decade old. I, therefore, will concentrate my comments on the Schuster paper.

All three presenters raise a number of basic issues on which I must comment to establish the position from which I discuss the papers. I perceive three such questions:

1. Is labor-management cooperation an evolutionary step toward some new and more positive level of labor relations? Or is it a temporary phenomenon engendered by the current economic difficulties the parties face?

2. What is the relationship between cooperative labor-management efforts and the collective bargaining process?

3. Can the in-plant labor-management committee be institutionalized?

My argument is straightforward:

1. Present collective bargaining agreements are clearly "quality of work life" documents since they cover the "basic" needs of employees for decent wages, reasonable hours, freedom from the financial burdens of medical problems and old age, an assurance against discriminatory treatment on the job, the benefits of due process, and other mechanisms of job security.

2. The in-plant labor-management committee is an evolutionary step in the collective bargaining process which permits the parties to address "higher order" needs such as achievement, recognition, involvement, and dignity which are not amenable to practical incorporation in the collective bargaining agreement.

3. If the in-plant labor-management committee is used as a vehicle for organization change, it can be institutionalized.

Let me be quite specific and offer this definition of an in-plant labor-

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management committee: the labor-management committee is an instrument for organizational change in a unionized firm. Through a series of on-going forums and joint problem-solving efforts, it leads to: (1) improved communications, (2) a better labor relations climate, (3) a short-circuiting of the bureaucratic hierarchy to improve decision-making and shorter response time, (4) decentralized decision-making, (5) deep involvement of hourly workers in workplace decisions, (6) a healthy, more humane, more adult work environment, and (7) as a direct result of these organizational changes, improved productivity, quality, and profitability.

Both Schuster and Jick et al. raise the issue of the relationship between labor-management cooperation and collective bargaining. From the above premises it follows that the question is not whether cooperation and collective bargaining can be distinguished, but rather how these two parts of the collective process interrelate. We have found that the following guidelines are pragmatically effective:

1. The labor-management committee is free to discuss and attempt to define all problems with the exception of specific problems related to "live" grievances.

2. Once it is determined that the solution to the problem requires a change in contractual language, the parties have two options: (a) defer the matter until negotiations: (b) set up a subcommittee under the negotiations structure of the parties to study it during the term of the contract and/or refer a side-bar agreement to the negotiating committee of the parties for execution during contract term.

The Schuster paper shows a sensitivity to this "boundary" question and almost gets to the above position when he indicates that "as a practical matter . . . the cooperative and traditional processes are often intertwined."

Schuster emphasizes that in most successful efforts the collective bargaining relationship had changed in the direction of trust, understanding, and the legitimizing of communications *before* the productivity or gains-sharing program was installed. I support this whole-heartedly. Twenty years ago when I was with Kennecott Copper I studied employee participation efforts, Scanlon plans, and the like and concluded that the most successful efforts took place in organizations which took considerable time to move away from the adversarial mind-set before the plans were introduced. There are many reasons for this, but the most important one is that until the union is fully involved in the development of the gains-sharing program, it will seem to all members of the organization that the program is another in a series newly sprung from the brow of Jove which mere mortals must simply accept.

Schuster outlines some of the perils of institutionalizing labor-manage-

ment cooperation. I concur with all of those that he raises and suggest that there are many, many others which we in the field are now discovering and which should be drawing much more attention from the academic members of this association. Let me suggest two areas where academia can be helpful. First, Schuster speaks of the lack of neutrals trained to guide organizational change in unionized environments. At Cornell I was trained as a generalist in industrial relations. The "institutional" approach required me to view industrial organizations as organisms which I had to treat as totalities. Since then the field has bifurcated and we now have a situation in which we have two separate fields which do not communicate with each other. In view of the organic realities I must deal with in the field, I find this regrettable. I would hope that efforts to remarry these two branches of industrial relations would multiply. Unless they do, the state of the art will remain in the current stalled position and we will not have the people and the techniques we need to modernize our industrial relations.

More specifically, assistance is needed in defining new roles which union and management leaders must play in the change process. Schuster sketches some of the problems faced by union leaders, but we need a much deeper understanding of this role transformation, especially of its political dimensions.

The difficulties of institutionalizing a cooperative process are indicated by the 75 percent failure rate for quality-of-work-life projects cited in the Goodman study. Other studies show similar death rates. Schuster cited three difficulties: imposition of the plan from above, lack of understanding regarding goals, and lack of skills by the parties and consultants. He later touches on the difficulty of getting and maintaining commitment and the special problem of turnover of key actors. But this is just the beginning. We are only now beginning to model the labor-management committee process, and the problems flowing from structure, mechanics, agenda, performance measurement, long- and short-range planning, process reinforcement, process renewal, orientation and development of members, etc. are only being defined. They are a long way from being understood.

But, due not in a small part to the work of Schuster, Tom Kochan, and a handful of others, we are much farther along the path to understanding than we were six or seven years ago.

The Leone paper is a summary of a very detailed report he did for the Department of Labor. I found the Leone report most helpful. It brings to the industrial relations community the first in-depth look at the far-ranging and, as far as I know, uniquely American area labor-management committee.

I would like to bring a few of the matters Dick discusses into finer

focus. The Buffalo-Erie County Labor-Management Council has successfully intervened in several long-term strikes. But what we did is not "mediation" in the sense of dealing with the substance of the issues between the parties. In most of the cases in which we have intervened, the parties were in extremis. The strike had gone on for a number of months and the company had indicated that if the union did not accept its "final" offer, it would shut down the plant. In all of those situations what we did, through the contacts and the "clout" of the Board, was to get to both parties behind the scenes to create a scenario to return the parties to the table and to the mediator. It is obvious that those who endeavor to create such a scenario must be sensitive to the issues between the parties to some degree, but, with one or two notable exceptions, we did not mediate the substance of the issues. That was left to the mediators, and since we have—and I know I am being parochial—the finest corps of mediators in the country, we were quite satisfied to restrict ourselves to the back-stage role. Indeed, we have been very careful to make it clear to the labor-management community that we are not another mediation forum they can run to when other efforts have failed. Such a perception on their part would, in my view, hurt and not help dispute resolution in the area.

Leone rightly focuses on funding. The grief funding has given us is massive. However, I cannot buy his conclusions regarding local funding. I feel that unless substantial local funding backs the initial decision to found an area labor-management committee, the probability of success of that committee will be very low. Recently I appeared at an FMCS conference in Washington with a group of executive directors from area labor-management committees which have become "institutionalized" in their communities. My colleagues on that panel were from Toledo (which set up an area labor-management committee in 1946), South Bend (which dates from the early 60s), and what is now called the Northeast Labor-Management Committee in the Boston area; interestingly, all of these labor-management committees had substantial local funding from the outset. Indeed, Toledo and South Bend have always been totally funded from local sources.

The obverse also appears to be the case—that is, a goodly number of area labor-management committees which have been funded totally with federal funds have failed. I cite the following: Sacramento, California; Clinton County, Pennsylvania (twice); Chemung County, New York (twice); and Pittsburgh, Pennsylvania. I would like to see any federal or state program to foster area labor-management committees require that such a committee prove local commitment by providing at least 35 percent of the initial budget from local funds. Further, all such committees should have a plan for eventual 100 percent local funding.

I would also offer a historical amendment to Leone's statement that the AFL-CIO opposed the Javits-Lundine bill. Biemiller did issue the press release quoted, but did not appear and soon thereafter took a position of neutrality. Currently the position of the AFL-CIO, as I read the statements of Tom Donahue and even the fiesty Mr. Winpisinger, is that they back labor-management cooperation as long as it is deeply embedded and controlled by the collective bargaining process. This keeps the process "honest," in Donahue's terms, and presumably prevents management from gaining the fruits of cooperation while "mugging the union at the plant gate," to use Winpisinger's colorful phrase.

I find the report by Jick et al. to be interesting and forward-looking. Clearly, they have ventured into a dark and unknown wood and come back relatively unscathed and bearing some important trophies. As one who is reasonably well acquainted with the internal and external policies of government CSEA units, I am somewhat awed by their venture. Frankly, since I have had no experience at a state-wide level, I was, at first, inclined to simply record the findings and pass on in silence. However, I cannot be silent on a few points where I think our private-sector experience may guide further state-wide public-sector efforts. In addition to eliminating the pernicious distinction between labor-management cooperation and the collective bargaining process, I would suggest that:

1. "Problem-solving" is not the genus of labor-management cooperative efforts, nor is it a species. It is a technique. When the authors speak of "problem-solving" as a form of cooperation rather than a technique applicable to all forms of cooperation, I believe they are led astray in the dark wood they have entered. Collective bargaining has always been a problem-solving technique: it has "solved" the problems of "distributive" bargaining over the years. True, the techniques it used may have been clumsy, heavy-handed, and very subjective, but it has proven successful in handling increasingly complex problems over the years.

2. The authors raise the problem of "role conflict." But I think this formulation of the problem is incorrect and not helpful. Clearly, a move toward cooperation necessitates a change in the roles played by each party and, during the change process, will lead to some role ambiguity. But why must the resultant situation be one of role conflict? Such a position assumes the status quo ante. Since it is the business of the cooperative effort to change that status, I suggest it is much more helpful to discuss the realities of role modification and growth rather than role conflict.

We are all at the cutting edge of dramatic changes in our industrial relations systems. And change they must if we are to compete in

international markets. I commend the courage of my colleagues not only for their eagerness to sally forth into deep and pathless woods, but for the forthright manner they put their experiences before us for constructive criticism.

IX. CONTRIBUTED PAPERS: CONCILIATION, ARBITRATION, AND INDUSTRIAL CONFLICT

Bargaining, Arbitration, and Police Wages

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In recent years a body of research evidence has emerged which suggests that unionized police officers receive higher pay than their nonunion colleagues. Similarly, another body of research evidence has emerged which suggests that the availability of compulsory interest arbitration independently may boost police or fire wages by a modest amount. In this paper we combine these two research streams by estimating the bargaining and arbitration impacts on 1980 police wages across a national sample of cities. Our results indicate that the collective bargaining process and the availability of arbitration have significant and positive effects on police wages.

Previous Research Findings

The increasing use of collective bargaining as a method of wage determination in the public sector has spawned the usual host of union wage impact studies (for two reviews, see Mitchell 1979; Lewin, Feuille, and Kochan 1981). At least six multivariate studies have singled out police union wage impacts for attention (Schmenner 1973; Ehrenberg and Goldstein 1975; Lewin and Keith 1976; Hall and Vanderporten 1977; Victor 1980; and Bartel and Lewin 1981). Taken together, these studies

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suggest that the union impact on police wages during the years 1962–1975 is (1) positive and statistically significant, (2) ranges between 5 and 15 percent, and (3) depends upon the sample, time period, and measure of unionism which is used. For instance, Victor found an 8 percent wage impact on his percent union membership variable, an 11 percent impact on a dummy variable measuring the presence or absence of a police union, and a 12 percent impact on a dummy variable measuring the presence or absence of a collective bargaining agreement (for a sample of 200 cities in 1975).

Bartel and Lewin were the only researchers in this group to test police unionism as both an exogenous and an endogenous characteristic. In their single-equation, exogenous model, they found a positive and significant 4–6 percent union wage effect (measured by the presence of a collective bargaining agreement). However, using a two-equation, endogenous model to test the possibility that police wages and unionism may be simultaneously determined, they found a positive salary effect of 10–15 percent, or more than twice as large as they found in their exogenous analysis.

These research findings suggest that in this study we should expect to find a positive bargaining wage effect.

A second stream of research has focused on the impact of compulsory interest arbitration on police and firefighter wages. The five studies in this category (Kasper 1975; Kochan, Ehrenberg, Baderschneider, Jick, and Mironi 1977; Somers 1977; Olson 1980; and Bloom 1981) have used a wide range of research methods and have tended to be quite state-specific (Kochan et al. studied New York, while Bloom studied New Jersey). Their results indicate that the availability of arbitration enables unions to secure modestly higher wages, but that the actual use of arbitration procedures (measured by arbitration awards) produces no net wage advantage. In particular, Olson's national study of firefighter wages found a modest but significant wage impact for firefighters located in arbitration states, but Bloom's study of New Jersey police wage outcomes found no significant difference between arbitrated and negotiated settlements.

These findings are intuitively appealing, and they strongly suggest that the net impact of arbitration can only be determined by comparing wage rates across states where arbitration is and is not available. Accordingly, we will perform such an analysis to determine the impact of the availability (not the use) of arbitration on police wages in 1980. Based on the modest wage effects discovered in previous research, we expect that arbitration's independent contribution to police wages should be rather modest and smaller than bargaining's impact.

Sample and Methods

Our sample consists of 698 cities over 25,000 population for which we obtained 1980 police wage information (minimum and maximum patrol officer annual salaries) and a variety of city characteristics data.[1] Using city responses to our survey form, we identified 452 cities with written police collective bargaining agreements in 1980 and 246 cities which did not bargain with police. We also identified 207 cities which were located in the arbitration states of Alaska, Connecticut, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Washington, and Wisconsin. All of these states have had compulsory arbitration statutes covering police since 1977 or earlier.

We will use a three-step method with these data. First, we will assume that police bargaining is exogenous, and we will estimate the bargaining wage effect via an ordinary least squares (OLS) multiple regression equation of the following form:

$$(1) \quad \ln WAGE = \beta_0 + \beta_1 INC + \beta_2 POP + \beta_3 DEN + \beta_4 HOUSE + \beta_5 GOVT + \Sigma_{i=1}^{3} \beta_{6,i} \cdot Region_i + \beta_7 \ln OPPW + \beta_8 CBA + e_1$$

where INC = per capita income in 1977; POP = city population in 1980; DEN = city population per square mile in 1980; $HOUSE$ = median value of housing in city in 1975; $GOVT$ = form-of-government dummy variable (1 = city manager form, 0 = all other forms); $REGION_i$ = regional dummy variables for $NORTHEAST$, $SOUTH$, and $WEST$ ($NORTH\ CENTRAL$ is the excluded category); $OPPW$ = log of the average manufacturing wage in the city in 1972; CBA = presence of a written police collective bargaining agreement in 1980; and e_1 = error term.

We hypothesize that β_1, β_2, β_3, β_4, β_7, and β_8 will be positive, β_5 negative, and the region coefficients ($\beta_{6,i}$) to be indeterminate (except that the $SOUTH$ region dummy should be negative). We have included the POP, DEN, and $HOUSE$ variables because they are proxies for a city's tastes for police services, and POP should capture any size-related wage effect. INC is a measure of a city's ability to pay, while $REGION$ should account for any regional wage variations. $GOVT$ measures the extent to which the city manager form of government is more efficient at providing police services and/or better able to resist police union wage demands than other forms of municipal government. $OPPW$ proxies an alternative or opportunity wage for police officers.

Second, we will assume that the demand for police bargaining is endogenous and hence that the demand for bargaining may be affected

[1] The data sources are available from the authors upon request.

by the relative level of police wages. To measure any wage-related variations across cities in police bargaining, we will use the following probit equation:

$$(2) \quad CBA = \alpha_0 + \alpha_1 \ln WAGE + \alpha_2 PSU + \alpha_3 GOVT + \alpha_4 INC + \Sigma_{i=1}^{3} \alpha_{5,i} \cdot REGION_i + \alpha_6 CBLAW + e_2$$

where $\ln WAGE$ = police wages in 1980; PSU = extent of private-sector unionization of state workforce in 1975; $CBLAW$ = existence of mandatory bargaining law covering police in 1980; and e_2 = error term.

We hypothesize that α_1 and α_3 will be negative, that α_2, α_4, and α_6 will be positive, and that the region coefficients ($\alpha_{5,i}$) will be indeterminate (except negative in $SOUTH$). From Bartel and Lewin, we expect that the $WAGE$ variable will show a greater demand for bargaining in low-wage cities. PSU provides a general measure of environmental support for police unionism, and $CBLAW$ provides a specific measure of legal protection for police unionism. INC should reflect a city's willingness to tolerate bargaining, and $GOVT$ should reflect city manager's resistance to bargaining. By simultaneously estimating equations (1) and (2), we should be able to obtain unbiased estimates of the demand for police bargaining and bargaining's impact on police wages.

Third, we will include an ARB variable in equation (1) to isolate any effects that the *availability* of arbitration may have on police wages. The addition of this term to the equation will enable us to specify the separate or independent effects of bargaining and of arbitration.

Results and Analysis

Table 1 presents the 1980 average annual minimum and maximum salaries in cities that do not bargain, that do bargain, in bargaining cities located in arbitration states, and in bargaining cities located in states without arbitration. These descriptive results suggest a large payoff to

TABLE 1

Average Police Salaries on January 2, 1980

	Minimum	Maximum
Nonbargaining cities (N = 246)	$12,426	$15,635
Bargaining cities (452)	$14,589	$17,964
Bargaining cities in non-arbitration states (250)	$14,688	$18,073
Bargaining cities in arbitration states (202)	$14,467	$17,830

collective bargaining and no payoff to arbitration, but we need to analyze them on a multivariate basis before we can draw any conclusions.

Table 2 presents the impact of bargaining on minimum and maximum salaries. The coefficients in the first column represent the results of our one-stage, OLS analysis which assumes that bargaining is exogenous. The results indicate that bargaining has a 7.4 percent impact on entry salaries and a 5.9 percent impact on maximum salaries.

TABLE 2

Bargaining's Impact on 1980 Salaries
(*t*-statistics in parentheses)

Dependent Variable	Exogenous Analysis	Endogenous Analysis
ln Minimum salary	.074 (6.14)	.213 (9.68)
ln Maximum salary	.059 (4.80)	.121 (5.26)
N	698	698

Note: The exogenous effects reported are the OLS coefficients on *CBA*; the endogenous coefficients were estimated using a Probit-OLS instrumental variables procedure. For the exogenous analysis the adjusted R^2 = .551 in the minimum salary equation and .560 in the maximum salary equation. All coefficients are significant beyond the .01 level using two-tailed tests.

The second column reports the results of our two-stage, probit and OLS analysis which assumes that bargaining is endogenous and in particular may be affected by the relative level of police wages. Our endogenous results show that bargaining's impact increases substantially on both minimum and maximum salaries to 21 and 12 percent, respectively. Other results (not reported here) show that the likelihood of police bargaining is higher in high-wage than low-wage cities. The latter finding is directly opposite to the Bartel and Lewin (1981) results, which showed a higher demand for unionism in low-wage cities. Our wage data are seven years more recent than theirs (1980 vs. 1973), and our sample is more than three times as large (698 vs. 215 cities), so it is possible that both sets of results are accurate for their time and place.

The Table 2 results say nothing about the possible impact of arbitration on wages. Accordingly, Table 3 presents the wage impact of arbitration when bargaining is assumed to be both exogenous and endogenous. While arbitration may affect both union and nonunion police forces, we found only five nonbargaining police departments in the 207 sample cities where arbitration is available.

The Table 3 results indicate that arbitration's availability has a positive effect on police salaries.[2] Three of the four equations indicate that the availability of arbitration independently raises police wages by 6 to 8 percent (that is, over and above any impact of bargaining). Similarly, these same three equations show that bargaining raises police wages by 4 to 8 percent. Obviously, in these three analyses the magnitude of arbitration's impact is larger than we predicted.

TABLE 3

Impacts of Bargaining and Arbitration on 1980 Salaries
(*t*-statistics in parentheses)

Dependent Variable	Exogenous Analysis		Endogenous Analysis	
	CBA	*ARB*	*CBA*	*ARB*
ln Minimum salary	.060* (4.86)	.059* (3.64)	.212* (8.48)	.001 (0.1)
ln Maximum salary	.040* (3.22)	.081* (4.99)	.078* (2.89)	.067* (3.53)

Note: The exogenous effects reported are the OLS coefficients on *CBA* and *ARB*; the endogenous coefficients on *CBA* and *ARB* were estimated using an instrumental variables procedure. For the exogenous analysis the adjusted R^2 = .559 in the minimum salary equation and .575 in the maximum salary equation.

* Significant beyond the .01 level, using a two-tailed test. Sample size equals 698 in all equations.

Our Table 3 endogenous analysis also indicates that bargaining has had a very hefty 21 percent impact on police entry salaries while arbitration has had no impact. We are not sure how to reconcile these results with the other Table 3 findings. A heavy majority of police officers in the typical department are located at the top step on the police salary schedule, so it is not clear why police unions have bargained so vigorously for increases in entry salaries. Similarly, it is not clear why arbitration's availability has had no impact on entry salaries—versus an almost 7 percent impact on maximum salaries—when we assume that bargaining and wages may be jointly determined.

The analyses presented in Tables 2 and 3 were performed with the inclusion of all the control variables discussed in the previous section, and most of our results were in the predicted direction (though some coefficients were not significant). In particular, the regional dummy variables captured some strong regional wage effects. For example, in the

[2] Sixteen bargaining cities in nonarbitration states in our sample have local compulsory arbitration arrangements. We reestimated our equations including these cities in the arbitration group. The results were virtually identical to those reported, although the arbitration effect was approximately 1 percent lower and the bargaining effect was about 1 percent larger (in both the exogenous and endogenous analyses).

Table 2 maximum salary equation, being located in the *SOUTH* produced a −5.3 percent effect, being located in the *NORTHEAST* produced a −11.8 percent effect, and being located in the *WEST* produced a 6 percent effect, compared to a *NORTH CENTRAL* location (and all these effects are significant at the .05 level). Also, the opportunity wage term was significant and strongly positive in all the Table 2 and Table 3 equations, and city size and per capita income also were consistently significant and positive. In other words, police pay levels respond to a wide variety of market forces which have little or nothing to do with bargaining or arbitration.

TABLE 4

1980 Dollar Impacts of Bargaining and Arbitration
(*t*-statistics in parentheses)

Dependent Variable	Exogenous Analysis		Endogenous Analysis	
	CBA	*ARB*	*CBA*	*ARB*
Minimum salary	795.3* (4.54)	962.4* (4.22)	2,879.3* (8.02)	172.3 (0.7)
Maximum salary	615.7* (2.95)	1,553.1* (5.72)	1,352.6* (3.07)	1,273.7* (4.12)

Note: The exogenous effects reported are the OLS coefficients on *CBA* and *ARB*; the endogenous coefficients on *CBA* and *ARB* were estimated using an instrumental variables procedure. For the exogenous analysis the adjusted R^2 = .546 in the minimum salary equation and .583 in the maximum salary equation.

* Significant beyond the .01 level, using a two-tailed test. Sample size equals 698 in all equations.

Table 4 presents the annual dollar results associated with bargaining and arbitration. Police unions have negotiated minimum annual salaries which are $795 higher (exogenous) or $2,879 higher (endogenous), ceteris paribus, than in nonbargaining cities. Cities in arbitration states pay entry salaries which are about $960 higher (exogenous) or no higher (endogenous) than cities located outside of arbitration states (over and above any bargaining effect). The arbitration location is much more pronounced on maximum salaries. The bargaining effect on maximum salaries is $616 ($1,353) according to our exogenous (endogenous) results. Location in an arbitration state independently raises police maximum salaries by about $1,550 and $1,274 under the two assumptions about bargaining, respectively.

Discussion and Implications

Our bargaining impact results are both consistent with and contrary to earlier research findings. Our exogenous results (Table 3) show that

bargaining without the aid of arbitration produces a 4 to 6 percent positive wage impact, which is a modest effect consistent with some previous research. We also found that location in an arbitration state independently increases wages by 6 to 8 percent. However, the bargaining effect increases and the arbitration effect decreases when endogenous analyses are used. These arbitration results are more robust than those reported in previous research, and they suggest that previous police union wage impact researchers may have been picking up an arbitration effect in their bargaining analyses (compare our Table 2 results with our Table 3 results). Our results indicate that future union impact research on police (and fire) wages needs to differentiate between bargaining performed where compulsory arbitration is and is not available.

Our results also indicate that the wage impacts of bargaining and arbitration depend upon the researchers' assumptions about employees' demands for unionism. Assuming that this demand is randomly distributed (exogenous) will produce one set of results, while assuming that this demand depends upon the level of wages (endogenous) will produce different results. There is no formula to indicate which assumption is more correct, so choices will be made on the basis of personal preferences (and computer program availability).

Our findings do not permit us to draw any conclusions about the actual use of arbitration. Our analyses also do not indicate whether these salary findings also apply to fringe benefits and work rules, or whether these 1980 findings also apply to earlier or later years. The results reported here are part of a much larger study of bargaining and arbitration impacts on police wages, fringes, and work rules during the 1975–1981 period. The results of this larger study will enable us to obtain a more informed impact picture than a one-year wage analysis can provide. In other words, the results reported here should be regarded as tentative pending more detailed investigation.

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Arbitrators' Backgrounds and Behavior*

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The arbitration of grievances is an established fact of the United States' industrial relations system. Today the vast majority of private labor agreements provide for arbitration as the final step in the grievance resolution process. An important and distinguishing characteristic of the American system of grievance arbitration is the voluntary selection of the arbitrator by the parties. Most often the parties choose an arbitrator from a list provided by either the Federal Mediation and Conciliation Service or the American Arbitration Association (Rezler and Peterson 1978).

Rarely, if ever, are the parties indifferent as to choice of arbitrator from the list provided. The arbitrators will usually be perceived as having differing value systems, based on assessments of their background characteristics (biodata) such as experience and education. In turn, these value systems, in conjunction with the "facts" of the arbitration case, may influence the arbitrator's behavior (Bankston 1976, Gross 1967, Landis 1977). Gross (1967, p. 55) asserted, for example, that "the values held by the arbitrator subtly influence his selection and organization of what he decides are relevant data, his emphasis of certain evidence and de-emphasis of other, his acceptance of a certain procedural method, his attitude toward prior arbitration awards, and his literal or broad reading of the contract." Ultimately, of course, such behavior may shape the nature of the decision rendered.

Belief in these theoretical linkages guides the parties to invest time and effort in the selection of arbitrators. Using a fishing analogy, Coulson (1967) suggested that the choice process the parties go through in picking an arbitrator is similar to the one a fly fisherman may use in choosing just the right lure to tempt a trout. In a more straightforward manner, Dworkin (1974, p. 200) noted that:

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* This research was conducted while the first author was on leave from the University of Wisconsin-Madison and at Ohio State University. The authors wish to thank Cathy Collins, Reba Leiding, Rufus Milsted and Grace Winslow for their assistance on this project.

> Thus it has become a time-honored tradition for both the company and the union to canvass lists of available arbitrators in an effort to provide some assurance, or at least a belief, that the chosen one is likely to support a particular position on the basis of the facts and circumstances involved.
>
> It is well known that companies and unions conduct extensive preliminary inquiry into an arbitrator's background and reported decisions prior to agreeing upon his selection. . . .
>
> In addition, parties utilize the services of agencies that purport to maintain an accurate box score on the performance of arbitrators.

Results of two research streams clearly indicate that biodata are, in fact, used in the selection of arbitrators. One stream uses direct questioning of labor and management representatives as to which, if any, biodata they use when choosing arbitrators (Lawson 1981, Retzler and Peterson 1978). In both studies the parties reported that they did consult and use biodata, particularly previous experience and educational background variables. Simple familiarity with the arbitrator was also reported as important.

The second research stream treats arbitrator caseload as a dependent variable and regresses it on various biodata (Briggs and Anderson 1980, Primeaux and Brannen 1975). Results of these two studies indicate significant caseload variance explained by biodata. Experience and education variables in particular were significant predictors.

Despite this documented use of biodata, there has been surprisingly little research investigating the theoretical link between biodata and actual arbitrator *behavior*. In a series of three studies, Fleming (1965) generally found that inexperienced arbitrators arrived at the same decisions as an experienced arbitrator (Fleming himself) when reading transcripts from a number of cases. Fleming also found, however, that agreement was less likely in "difficult" cases, and suggested that this may have been due to differing backgrounds of the arbitrators.

Westerkamp and Miller (1971) had ten labor lawyers read the decisions of four arbitrators (two experienced and two inexperienced) in a shortened version of a case involving denial of a promotion. The lawyers were then asked to rate the amount of arbitration experience they felt each of the four arbitrators had. It was found that experience ratings of the experienced and inexperienced arbitrators were not significantly different.

Finally, Nelson and Curry (1981), sent an edited-down discharge case transcript to 144 arbitrators, along with a brief biodata questionnaire (74 responded). The biodata (occupation, education, arbitration experience, and age) were then related to whether or not the arbitrators decided to uphold the discharge or order reinstatement. It was found that the older

and more experienced arbitrators were significantly more likely to uphold the discharge. There were no significant effects due to occupation and education.

The above results regarding the hypothesized link between arbitrator biodata and behavior is best characterized as mixed. Moreover, the studies have a number of limitations which suggest their results be interpreted cautiously. First, relatively small and geographically restricted samples were used, thus limiting generalizability of results. Second, generalizability may be limited by the use of very few cases, or even a single case, in the studies. Third, very limited biodata have been used as predictors in the studies. Finally, the studies employed only a single measure of arbitrator behavior (that is, whether the decision was for labor or for management). It is reasonable to assume that there may be multiple dimensions of arbitrator behavior.

Through the use of a different research strategy and methodology, the present study seeks to overcome the above deficiencies in previous research. Specifically, the study investigates the potential biodata-behavior link, using multiple dimensions of arbitrator behavior, for a large national sample of arbitrators over the entire range of case types found in grievance arbitration.

To accomplish this, archival data are used rather than data gathered through experimentation. It is critical to note that these data are easily accessible (for the most part), and they are thus precisely the type of data that labor and management representatives could (and do) consult when choosing arbitrators.

The study is oriented toward a general assessment of the likely utility to the parties of these biodata being used in this manner. As such, specific linkages between the various biodata and arbitrator behavior dimensions are not hypothesized. If linkages are not found, this could be a practical signal to the parties that consultation and use of biodata are not worthwhile. Should linkages emerge, however, this would not only have practical implications for the parties, but as well suggest the need for development of a theoretical base to guide future research.

Method

Data Sources

The first data source was Volumes 61 through 70 of *Labor Arbitration Reports* (LAR), published by the Bureau of National Affairs. These volumes contain the full-text arbitration awards and biographical sketches of 908 arbitrators for 1973–1978. Numerous criteria govern which cases are published in LAR, with the primary ones being: (a) the case involves

an issue of general interest, and (b) the arbitrator's reasoning is clearly understandable. Publication decisions are *not* based on the outcome of the case or the name of the arbitrator.

The second data source was a private arbitration reporting service which gathers and disseminates performance rating data and biographical data on arbitrators for management clients. The service also provides biographical sketches on arbitrators, and these were used in the 22 instances in which the LAR biographical data were incomplete.

Sample

It was decided to study the decisions of all arbitrators who had four or more cases published in Volumes 61–70 of LAR. It was felt that this cutoff point would ensure some minimal level of arbitral experience, as well as enhance the probabilities that performance rating data on the arbitrators would be available from the reporting service. There were 250 arbitrators who met the above cutoff.[1]

Complete case data were available for 1,869 cases decided by 250 arbitrators; cases involving multiple issues of interunion jurisdictional disputes, 115 cases in all, were not included in the case analysis. Thus, the final sample contained 1,754 cases. On average, the 250 arbitrators had seven cases published (SD = 5.7).

The average age and career length of the arbitrators were 60.1 and 30.9 years, respectively. These relatively high means, however, were accompanied by relatively high standard deviations (SD = 10.8 for age and 12.5 for career length), indicating a fairly heterogeneous sample. The arbitrators were currently employed in numerous occupations, with the two major ones being attorney (38.5 percent) and full-time arbitrator (25.2 percent).

Dependent Variables

Four dependent variables were created from the case and reporting service data. The first was *percentage for union*, defined as the percentage of the arbitrator's cases that were decided for the union. Both parties have an obvious interest in this measure of arbitrator behavior. The second dependent variable was *percentage modified*, defined as the percentage of the arbitrator's decisions that did not rule exclusively for the position of one of the parties. This variable was chosen on the basis of informal conversations with labor and management representatives, who suggested that a tendency to modify parties' positions was an important indicator of

[1] There were two additional arbitrators who met the four-case cutoff, but biodata were not available for them.

arbitrator behavior (some viewed such a tendency positively and others negatively).

The other two dependent variables were taken from the records of the management reporting service, and both represent overall performance ratings of the arbitrators.[2] Clients of the reporting service express to the service either "approval" or "disapproval" of an arbitrator after each case. The third dependent variable was thus *percentage approval*, defined as the percentage of approval ratings received by the arbitrator. The reporting service itself prepares and disseminates an arbitrator overall performance rating, labeled *consensus*, which served as the fourth dependent variable. The four consensus scale points and values were unqualified approval (4), approval with reservation (3), controversial (2), and highly controversial/unacceptable (1).

Intercorrelations among the dependent variables ranged from –.05 to .54. These relatively low intercorrelations suggest that the four variables were capturing different elements of arbitrator behavior.

Independent Variables

The independent variables represent the biodata gathered from the LAR and from the files of the reporting service. The specific data used were consistently available for every arbitrator. The data were placed in the following groups: personal characteristics, education, current occupation, past occupation, registration with arbitration services (for example, AAA), and professional activities.

Control Variables

Potentially, the mean levels of the dependent variables may depend on the types of cases (that is, issues) involved in the decisions. Since case types vary across arbitrators, if the parties choose particular arbitrators for particular cases, case type may serve as a source of contamination in the four dependent measures. To compensate for this possibility, case type is treated as a control variable.

The LAR classifies cases into 33 different types based on the issue involved (for example, seniority, transfer rights). For each case reported in the LAR, the case type was coded, and thus for each arbitrator the proportion of his/her cases falling into each of the 33 categories was then calculated. Thus there were 33 variables created whose relationships to the dependent measures could be controlled for.

[2] It should be noted that the performance ratings were compiled from all of the reports the reporting service had received from its clients pertaining to a particular arbitrator, not just the decisions published in the LAR volumes.

Analysis

For each of the dependent variables, the following stepwise multiple regression procedures were used. First, the 33 control (case type) variables were forced into the equation, and the other independent variables were then permitted to enter the equation stepwise. Each regression equation was computed using a forward selection procedure with a minimum F value of 2.0 for inclusion of an independent variable. Through this procedure case type is controlled for, and potential problems of multicollinearity among independent variables and capitalization on chance are reduced.

Results

Results of the stepwise regression were quite weak.[3] Across the four regression equations only 18 (out of 144 possible) of the independent variables entered the equations, and only 10 of these were statistically significant ($p < .05$). Although there was at least one independent variable which bore a statistically significant relationship with each of the dependent variables, relatively little of the overall variance in the dependent variables was explained in any of the models. The $\bar{R}^2$ for the dependent variable *percentage for union* was .16 with seven independent variables significantly related to the dependent variable. The $\bar{R}^2$ for the dependent variable *percentage modified* was .03 with only three independent variables in the final model. The $\bar{R}^2$ for the dependent variable *percentage approval* was .04 with four independent variables significantly related to the dependent variable. The $\bar{R}^2$ for the last dependent variable, *consensus*, was .06 with four independent variables in the final model. There was no independent variable which consistently appears in every formulation of the model. Moreover, the overall regression was statistically significant for only one of the specifications of the dependent variable—*percentage for union.*

Discussion

Results of the present study provide little support for the possible linkage between arbitrator biodata and behavior. By direct implication, therefore, results suggest that the consultation and use of biodata for selecting arbitrators is not likely to be a strategy with utility for either labor or management. The frequently noted, and often lamented, emphasis on age and experience in the selection of arbitrators, in particular, is challenged by these results.

Of course, the above conclusions must be tempered by consideration of certain limitations of the present study. First, from a sampling

[3] Tables showing all 36 of the specific independent variables, and specific results of the stepwise regressions, are available from either author on request.

perspective, the arbitrators and cases used may not be totally representative of the population of arbitrators and cases during the relevant time period. Unfortunately, it is not possible to address this issue directly since population values are not known.

A second set of limitations pertains to the dependent variables used. The percent union and percent modified dependent variables are based only on published awards in a five-year time period. In turn, their values may deviate from the "true" values that could be obtained by using all cases in which each arbitrator had participated. The two performance ratings reflect only a managerial perspective, and other perspectives (for example, union) may yield different evaluations of the arbitrators. Also, it is not known what specific behaviors of the arbitrators were taken into account when the ratings were made.

Finally, as previously noted, the purpose of the present study was not to test specific theoretical linkages between the various biodata and the dependent variables. Rather, the study sought to address the more pragmatic issue of whether, in general, choosing arbitrators on the basis of biodata would be a likely way to alter the types of arbitrator behaviors that would subsequently occur. While this approach is admittedly atheoretical, it does address and evaluate a widespread practice in the field of arbitration.

Clearly, the results and conclusions of the present study must be viewed as tentative pending additional research. That research should attempt to use larger and different samples of arbitrators and cases, incorporate additional kinds of biodata, and investigate additional measures of arbitrator behavior. Should the results of these studies replicate those of the present study, this would be strong evidence for revising current practice in the choice of arbitrators.

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DISCUSSION

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These papers provide little in the way of a common theme that can be singled out for discussion. Accordingly, I will consider the contribution made by each paper separately.

Bargaining, Arbitration, and Police Wages

Professors Delaney and Feuille make a valuable contribution to our understanding of the impact of compulsory interest arbitration. The strength of their research is based on their analysis of the effects of both bargaining and the availability of compulsory arbitration on wage levels. Moreover, they used a national sample composed of jurisdictions without bargaining, those with bargaining, and those with both bargaining and compulsory interest arbitration. Earlier studies generally examined the effects of either bargaining or arbitration in less comprehensive data sets, and tended to find significant effects only for bargaining. Here significant and positive effects were found for both variables. However, certain questions should be dealt with before we can fully understand the significance of their findings.

The first concern stems from the fact that several of the control variables were measured with data collected in the middle and early 1970s. For instance, employer ability to pay was measured in terms of 1977 per capita income in each city, and the opportunity wage for police officers was estimated with the 1972 average manufacturing wage in each city. Use of such data would be appropriate only if the major economic changes that have occurred throughout most of our economy since the mid-1970s resulted in fairly uniform changes in the control variables across nonbargaining, bargaining only, and arbitration jurisdictions up to 1980. In other words, the findings may change if 1980 measures of the control variables are used.

The second question involves the principal independent variables, arbitration and bargaining. More complete assessment of these variables in terms of the extent of the parties' experience with each practice, and the type of arbitration used, whether conventional, final-offer package, final-offer issue, or tri-offer should strengthen the study. Theory suggests

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that experience and the type of arbitration used should affect the parties' bargaining behavior and wage outcomes.

Finally, I would like to suggest an explanation for the authors' findings in the endogenous analysis that bargaining has its greatest impact, and arbitration has little or no impact, on entry-level wages. It is possible that employers were more willing to negotiate greater increases on entry-level wages because, with most police officers at a pay grade above the entry level, the cost of raising entry-level wages was relatively small. Unions emphasized such gains particularly during that period of increasing budgetary austerity, in the hope of at least establishing a base for future gains. The parties were able to negotiate such terms, regardless of the availability of arbitration, because of the combined effects of low initial cost consequences and growing economic pressure for cost containment.

Arbitrators' Background and Behavior

The findings presented by Professors Heneman and Sandver contained little support for the existence of a relationship between certain biographic characteristics of arbitrators and arbitrators' decisions or their post-decision acceptability to employers. Despite the weaknesses acknowledged by the authors, this research constitutes an interesting and promising approach to the investigation of the impact of arbitrators' characteristics on aspects of the arbitration process.

In addition to the limitations pointed out by the authors, there are specific questions that should be addressed concerning the dependent variables. For example, regarding the "percentage approval" variable, a wide variety of potential client criteria may have been used to make this judgment, such as decision outcome, personal demeanor, decision format and content, and decision promptness. Thus, the behavioral basis and practical implications of this variable may be difficult to assess. Likewise, the meaning of the consensus variable is unclear. Its top two levels may be based on client ratings and, if so, it probably adds little beyond the "percent approval" variable. If it is not based on client ratings, is it a meaningful reflection of arbitrator behavior?

It is interesting that the two dependent variables "percentage for union" and "percentage approval" were not statistically related. This indicates, as should be expected, that the employer's willingness to approve an arbitrator was not conditioned by a decision for or against the grievant.

The control variable "case type," though not examined in this analysis, may provide the most promising basis for future research. Various biodata effects may be detected within certain case-type categories. For instance, arbitrator age and training may demonstrate an association with

how discrimination cases, and discipline cases involving controlled substance abuse and alcoholism, are handled. Also, it would be interesting to determine if the parties have a tendency to select different "types" of arbitrators for the various case categories. In short, the authors have undertaken a new approach that may yet detect a basis for the parties' use of biodata.

X. CONTEMPORARY INDUSTRIAL RELATIONS IN JAPAN AND THE UNITED STATES: HOW SIMILAR OR DIFFERENT?

Labor Productivity and Industrial Relations in the United States and Japan

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The year-end of 1982 is a particularly poor time for any comparative reference to labor productivity in the U.S. and Japan. The U.S.–Japanese comparison quickly becomes a political, social, and emotional problem for many Americans. The mere fact that Japan, a non-Western country, has become an economic power compelling comparison with the U.S. irritates the "zero-sum" mentality of Americans. It may be yet another piece of evidence for "the slippage in our economic position," as lamented by Lester Thurow.[1] Thurow's alarmist rhetoric about the relative decline of America is echoed by an unabashed adoration of Japan by Ezra Vogel: "Japan as Number One"![2] It would be a miracle if such unusual euphoria over Japan's economic prowess (much of which is deliberately manipulated to shock Americans into doing something) did not invite emotional reactions to the mysterious economic power of Japan or the implied belittling of America. Sure enough, "Japan-bashing" has been on the rise in American politics in recent months, so noticeably that *The New York Times* was compelled to protest, "Bashing Japan Isn't the Answer."[3]

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[1] Lester C. Thurow, *The Zero-Sum Society* (New York: Basic Books, 1980), p. 4.

[2] Ezra F. Vogel, *Japan as Number 1* (New York: Harper Colophon Books, 1979).

[3] *The New York Times*, October 29, 1982.

Labor Productivity and Economic Growth

Two excellent articles already exist integrating the economic, technical, and institutional aspects of labor productivity and economic growth in the U.S. and Japan.[4] Updating the basic statistics, one may say that at this moment Japan's real per capita GNP is about 70 percent of America's and that Japanese manufacturing labor productivity may be a shade higher than American, although Japan's overall (economy-wide) labor productivity is about 70 percent of America's, corresponding to the per capita GNP differential.[5] On the basis of the U.S.–Japanese growth-rate differential in recent years, one may say that Japan gains on the U.S. at the rate of 10 percentage points per decade and that, barring catastrophic mistakes on the part of the U.S., the U.S.–Japanese parity in per capita GNP will be reached in 2010. But it is interesting to note that the estimates of Japan's potential growth rate by some Japanese economists are now as low as America's.[6] If they are right, then the 30-percent gap in per capita GNP between Japan and America will never be closed, putting America always comfortably ahead of Japan.

More fascinating questions are why the productivity differential between manufacturing and the rest of the economy is so wide in Japan and what it implies for Japan's future economic growth. A rapid productivity growth is a good thing, but if it occurs in association with a weak or weakening demand for output, it becomes a mixed blessing. According to a recent press report, for example, the U.S. manufacturing labor productivity (output per manhour) increased at a whopping 7 percent annual rate during the third quarter of 1982. However, very few rejoice at this news, because the strong productivity showing was a result of declines in employment and hours worked.[7] If we put it the other way, we get the all-too-familiar proposition: that is, a productivity increase without output expansion only eliminates jobs. To a large extent, this is also true for Japanese manufacturing. In recent years, increases in Japanese manufacturing labor productivity have been accompanied by sustained declines in manufacturing employment. The declines would have been greater if the foreign demand for Japanese goods had been weaker.

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[4] Ray Marshall, "Productivity, Industrial Relations, and Management Systems," in *Trade Unionism in the United States: A Symposium in Honor of Jack Barbash*, eds. James L. Stern and Barbara D. Dennis (Madison: Industrial Relations Research Institute, University of Wisconsin, 1981); Hugh Patrick, "The Future of the Japanese Economy: Output and Labor Productivity," *Journal of Japanese Studies* 3 (Summer 1977), pp. 218–49.

[5] For a review of some representative quantitative research findings, see Koji Taira, "Economic Growth, Labor Productivity and Employment Adjustment in Japan," Faculty Working Paper No. 909, College of Commerce, University of Illinois, 1982.

[6] For supporting as well as dissenting views, see the Economic Planning Agency of Japan, *Keizai hakusho 1981* (Economic White Paper).

[7] *The New York Times*, October 29, 1982, p. D15.

We now come to the crux of the structural problems created for Japan by the very miracle of Japanese manufacturing productivity. Japan's exports have reached a sizable proportion of world trade, and further increases in Japan's trade share would be difficult in the future. This means that Japanese manufacturing output cannot expand as fast as it has in the past. But labor productivity keeps increasing partly because the Japanese obviously believe in the blessings of unlimited increases in industrial labor productivity. Their belief is so strong that they are now gleefully looking forward to the ultimate of infinite labor productivity: that is, fully robotized unmanned factories. After a minimum of robot-related or robot-assisting workforce is retained, the bulk of manufacturing employment will be eliminated and reallocated to other low-productivity activities. Since overall labor productivity is an employment-weighted average of labor productivity in all the sectors of the economy, the elimination of employment from the most productive sector, manufacturing, means that Japan's overall labor productivity would be largely determined by commerce, services, and public-sector activities, all of which are well known for their low and stagnating labor productivity.

To make the story more fascinating, Japan has had no policy for productivity improvement in nonindustrial activities. In fact, if there was any concern about nonindustrial sectors, it was to discourage productivity improvement in them. This interesting nonindustrial policy is quite sensible, because if nonindustrial sectors have to absorb labor released by robotizing manufacturing, they must be kept inefficient enough to require large numbers of workers.[8] From the growing productivity imbalance between manufacturing and nonmanufacturing and the endless enthusiasm about unlimited manufacturing labor productivity improvement despite a slowdown in output expansion, one can conclude that Japan's overall economic growth rate will in due course be no higher than the growth rates of the least productive, least dynamic sectors in which almost all of Japan's employment will be found. Add to this the consequences of the efforts of other countries to limit or roll back the share of imports from Japan in their domestic markets. Unless Japan's own domestic demand compensates for the weakening of foreign demand, which seems unlikely, the expansion of manufacturing output in Japan will be effectively limited to the rate equal to or below the rate of economic growth in other countries of the world. Thus it is conceivable that the Japanese economy in the years ahead may grow at about the same rate as the U.S. economy. The Japanese, whose national pride

[8] Albert Keidel, "Planned Inefficiency: Domestic Consumption Industries," in *Business and Society in Japan*, ed. B. M. Richardson and Taizo Ueda (New York: Praeger Publishers, 1981), pp. 26–27.

obviously hinges on outperforming America in economic growth, may find this hard to accept.

The Employment System and Industrial Relations

But the Japanese will manage the ego-deflation well. They have already demonstrated the ability to manage the post-OPEC winding-down process without disturbing social or industrial peace (with a singular exception of 1974 when industrial conflict briefly flared up). Industrial peace critically depends upon how smoothly the required contraction of manufacturing employment is managed. Social peace likewise depends upon how well overall employment is maintained. On both counts, as we have seen, Japan has been successful by an ingenious combination of industrial and nonindustrial policy.

Japanese manufacturing employment peaked for all time in 1971 and has since been decreasing, now faster, now more slowly, bottoming out in the last couple of years. But anyone who has heard of Japan's famous "lifetime employment" would wonder how it was possible to reduce employment in Japanese industry. In addition to "lifetime employment," there are other apparently inflexible peculiarities in Japanese industrial relations, for example, a company compensation policy based on the employee's length of service (*nenkō* wage system) and "enterprise unionism," which confines the scope of a trade union to a single enterprise as contrasted to trans-enterprise industrial or craft unionism. These features—lifetime employment, *nenkō* wages, and enterprise unions—are often called Three Divine Treasures of the Japanese industrial relations system. By raising these characteristics to the divine altar, the Japanese obviously mean to worship them in earnest. For lack of time and space, let me take up only one of the three distinct features of the Japanese system, the one that is most enigmatic in relation to employment reduction—"lifetime employment."

The main characteristics of Japan's "lifetime employment" can be highlighted by what it is not. It is not for life in the first place. It is not employment security for the benefit of the employee. It is not universal throughout Japan. Hence, it is not typically Japanese. In fact, the origin of the management techniques of the Japanese employment system is American in part—the notorious "American Plan" of the 1920s. The Japanese employment system even today faithfully retains the American Plan's antiunion character, and the struggle against this well-hidden, but real potential of the Japanese employment system is in part the raison d'être of Japanese trade unionism. This list of what Japan's "lifetime employment" is not should serve as a warning against facile expectations

that a Japanese-type employment system may cure the ills of unemployment or worker demoralization in other countries.[9] Above all, "lifetime employment" is a very sophisticated personnel policy designed for workforce flexibility and labor-cost minimization, taking into account all conceivable human factors that could cause inefficiency and waste in production.

An essential feature of this personnel policy is to recruit, select, train, indoctrinate, and coopt an appropriate number (but no more) of loyal employees who would closely identify their personal well-being and life goals with the fate of their employer-firm, to the extent of creating what learned men in Japan like to dub in German—*Schicksalverbundenheit* (joint destiny). These coopted permanent employees are considered "members of the firm." Their interests in Japanese industrial jurisprudence are paramount over the interests of all others, such as stockholders or financial creditors. By definition, this elite corps of permanent employees falls short of the firm's total manpower requirements. The shortfall is filled by all kinds of expendable peripheral workers variously called casual, temporary, part-time, mid-career, nonregular, contract, etc. Women are rarely considered for permanent employment. In order to stick it out with them through the thick and thin of economic fluctuations, the firm makes efforts to cut the permanent corps of employees to bare bones. The firm often limits its operations to the main line of business by which it wants to be known to society at large and dishes out secondary activities to subcontractors, subsidiaries, affiliates, or suppliers. This stratified inter-firm grouping is another well-known aspect of Japanese industrial organization, useful for the employment flexibility of the leading firm.

The process of cooptation is necessarily a process of discrimination to determine who should be in and who should be out. For this purpose, the Japanese firm leaves no stone unturned in its search for information on job applicants' family backgrounds, personal records, tastes, habits, beliefs, etc. The extent and depth of intimate personal information concentrated in the files of the personnel office of a well-managed Japanese firm would horrify any average privacy-conscious American. The process that takes some workers into permanent employment naturally excludes others to become expendable, peripheral workers who are then used as a cushion, made thicker or thinner as business conditions demand, for the security of permanent workers. These, taken together

[9] See, for example, the U.S. Congress's futile exercise in "lessons from Japan," "Japanese Productivity: Lessons for America," *Hearing Before the Subcommittee on International Trade, Finance and Security Economics, 97th Congress* (Washington: U.S. Government Printing Office, 1982).

with the workers employed by multitudes of smaller firms, are really the typical Japanese workers by the test of numbers. For the managerial purposes of larger firms, their inferior wages and working conditions are a constant reminder to the "members of the firm" that the latter's privileges can be theirs only as a return for unwavering dedication and superior performance. All this suggests, if we may put it in an American perspective, Japanese employers are happily spared the agonies of "equal employment opportunity."

The personnel practices summarized above are naturally very costly. Not surprisingly, these are found mostly in large dynamic firms with complex technology and in need of constant innovations to win the game of market-share maximization as a sure route to long-run profit maximization. If one roughly considers 500 employees to be a minimum size of workforce justifying some elaboration of personnel policy, workers employed in establishments of this size and larger account for only a quarter of nonagricultural employment.[10] From this, one would further exclude practically all women workers and, most certainly, all nonpermanent workers. All things considered, then, the aggregate size of permanent employment in Japan would be no more than 10 to 15 percent of total nonagricultural employment.[11]

But, alas, "lifetime employment" is not for life even for the elite employees. In the first place, there is the mandatory retirement (*teinen*) with a meager lump sum at an age too early to retire from the labor force. For a long time, the *teinen* age was 55 in a great majority of firms. Now firms setting *teinen* at 60 are increasing, but so are the firms practicing pre-*teinen* weeding-out of unfit employees. During the period of the 55 *teinen*, there grew up a *nenkō* wage scale which allowed uninterrupted wage increases up to the very moment of *teinen*. At the same time, Japanese firms believed that the employee's job efficiency peaked at about age 40. Thus the logic of the *nenkō* wage system was that older workers were paid more than they were worth and that these payments were financed out of the savings retained by the firm from payments to the same employees below their productivity during their earlier, younger years. In case employees become more inefficient than expected from the *nenkō* model because of aging or burning out, firms can gracefully terminate them by requesting them to volunteer to resign. Compliance with such requests is rewarded by favorable terms of resignation like generous severance pay and outplacement services. In this and other

[10] Based on Employment Structure Survey, as reported in the Ministry of Labor, Rōdō hakusho 1981 (Labor White Paper), Appendix, p. 17.

[11] For more statistical exercises to show why lifetime employment does *not* exist in Japan, see Toshiaki Tachibanaki, "Labor Mobility and Job Tenure," Discussion Paper No. 181, Kyoto University Institute of Economic Research, 1982.

ways, Japanese manufacturing firms have brought about a desired degree of employment contraction. Moreover, all this has been done without damaging the reputation of the "Japanese" employment system and the Three Divine Treasures.

Conclusion

In the United States today, there are pervasive doubts about the ability of the U.S. economy to grow at a rate considered minimum for a healthy society. There is also the feeling that the American industrial relations system may have become incompatible with the requirements of rapid economic and productivity growth. By contrast, economic conditions and industrial relations in other countries look almost too good to believe. But since American and Japanese economic growth can be expected to converge thanks to the imperative of interdependence in the world economy, much of the current assessment of the relationship between economic growth and industrial relations, favorable to Japan and critical of the U.S., will likely evaporate.

Managerial Ideology and Worker Cooptation: The U.S. and Japan

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The U.S. Experience

For the greatest part of American economic development, workers posed no intellectual problem for employers. They were, for the most part, dismissed as inferior, immoral, and irresolute. However, the Civil War ushered in large-scale mass production, and the scientific management of F. W. Taylor came somewhat later. For the first time workers became a central factor in the production process as their productive effort was taken into direct account in factory management.

Taylor's theories can be thought of as a strategy that separated planning from performance at the shop level. Taylor asserted that neither the manager nor the worker could understand the "science" of work and the design of work systems. Between them he placed the industrial engineer, a certified expert who made decisions on how work was to be done. By doing this, Taylor not only stripped the worker of some of his control over the job, but he also stripped the supervisor of some of his functions of engendering loyalty and originality among workers (Bendix 1956).

In the 1920s the most strident proponents of Taylorism gave way to others advocating a "be kind to workers" ideology. In part as response to the fear that American workers might become infected with the Russian revolutionary virus, a wave of paternalism marked the new "American Plan" and the open-shop movement. Both were intended to convey the notion that persistent industrious effort could surmount any obstacle that stood in the way of success. Further, during this period many employers argued that workers should be given recognition in exchange for their open-handed cooperation. It was said that they wanted to take pride in their work, that they wanted to have a recognized status and needed to feel that they contributed significantly to the enterprise. Some said that workers also needed a sense of ownership if they were to achieve their

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fullest efficiency, and schemes of profit-sharing and stock ownership came into vogue (Bendix 1956).

At the same time that these sentiments were widely expressed in management journals, industrial engineers and personnel specialists were busy devising tests to measure individual "traits," classifying jobs, and guiding the worker into the job for which he was demonstrably fitted. Job simplification became the by-word. If the job could not be made to fit individual needs, reduce the requirements to the simplest tasks which could be performed by almost any individual. If it was difficult to enlist the creative contributions of workers in the design of the workplace, managers could at least attempt to create a sense of satisfaction among employees. What was being said is that if work holds no interest, at least show interest in the worker. As a result, he might become a more active agent in the production process.

The famous Mayo Western Electric studies showed that work groups provided a social organization that the productive process itself denied (Mayo 1945). The fact that groups might support management (as well as hinder it) appears to have impressed no important segment of American management. Rather than a new managerial strategy which would design work systems so as to encourage group performance, the "be kind to workers" ideology developed. A vast change from an earlier time when the worker was regarded merely as a source of labor service or a relatively unsuccessful participant in the competition for survival, it still focused on the worker as an individual producer. While introducing metaphors like "the team" or "the family," workers as individuals continued to be responsible for their own performance.

At the same time that the "family" metaphor became popular, managers were prone to complain about the lack of creativity among individual workers, an alleged absence of "initiative" and "drive" in the "good old fashioned American spirit." Of course the basic inappropriateness of the family metaphor is the fact that the family involves mutual and permanent commitments and affective bonds among its members, and these are alien to the American relations between the firm and its employees. Yet it continues to be asserted that many of the basic problems of American industry can be laid to the lack of interest and commitment of workers, still viewed as autonomous producers.They are, it is said, alienated from the goals of the company, the specifics of the job, and from work and from society. A solution to this alleged basic defect is now to be sought in management organizing the workers into groups or teams or circles and delegating to the unit some of the production planning and decision authority held by managerial and technical staff.

The Japanese case, increasingly offered as a model to be emulated, differs considerably.

The Japanese Experience

While there is no evidence that Mayo's work was read by any segment of Japanese management, the research of the Mayo group was entirely consistent with what was a cornerstone of Japanese social existence and, as it developed, industrial practice.

From the beginning of industrialization in the 1860s, Confucian thought, which was the dominant world view of virtually every segment of Japanese society, heavily influenced the behavior of Japanese entrepreneurs, much like early Protestantism helped shape the ideology and behavior of early English and American businessmen. However, significant differences in these ideologies need to be noted. A central aspect of Protestantism placed the individual entirely on his own, with only his Maker as his confidant. In contrast, Japanese Confucianism places loyalty to the Emperor and filial piety at the center of the national ethic. While early American businessmen were likely to exhort workers to greater effort as a route to individual salvation and later to satisfaction of presumed insatiable individual wants, their Japanese counterparts were likely to express a continuing concern for the national interest along with personal advantage.

Generally, Japan specialists and Japanese scholars accept the evidence that from the beginning of industrialization, Japanese managers deliberately rejected the creed of economic individualism. Instead, ideals of nation, state, and family, symbolized by the Emperor and including filial piety, were extended to industry and the factory. Japanese businessmen used the family analogue while appealing to workers in terms of the Confucian concept of spiritual ascendency through harmony and common effort. The enterprise was emphasized as a group in which all cooperated for the common good rather than an opportunity for individuals to pursue self-interest by exercising their own economic rationality. Indeed, the Japanese notion of self-interest suggests the merger of the individual and the group. From this point of view, individual fulfillment comes as a group process with individual interests identified as group interests and vice versa. Thus, Japanese workers view themselves as *belonging* to the firm and not merely employed by it. What often appears to outsiders as an inordinate willingness of Japanese workers to sacrifice for their employer is in actuality not at all self-sacrificing, but is for the benefit of each of them as individuals since it is a system of mutual obligations and trust among group or surrogate family members (Hazama 1971). For

example, while American employers use personnel management principles to control the day-to-day activities of workers as individuals, Japanese managers in large-scale firms use personnel management as a general strategy for the overall organization of the factory and as rough approximations of individual performance. Japanese managers know job classification, job evaluation, selection procedures, and training and promotion systems much as do their American counterparts. However, in Japan the output of this activity emphasizes the worker as an integral part of the work unit, a collective, and not as an individual actor.

In terms of the workplace, functional interdependence rather than job specificity is the Japanese organizational basis for utilizing workers. In order to improve the achievement of the entire unit, it is normal and expected that individual workers will cross job lines within the unit, and later will cross units. Such moves also occur among American workers, but being required to work out of one's job-specific classification is more often viewed by them as an imposition or a violation of contractual rights. The American system is predicated on the proposition that the efficiency of the entire system is the result of each worker performing his own job according to specified routines. In contrast, Japanese organizational structures and performance evaluation focuses on group performance and achievement.

A number of institutional practices flow from these Japanese views (Okochi, Karsh, and Levine 1974). They include so-called "life-time employment" for the workers who have "regular" or "permanent" status. This recognizes career interests which are more long term than the immediacy of the job. The result is likely to be a mutual commitment which suggests compromise and conciliation of differences rather than direct confrontations between individuals and between groups. Yet industrial confrontations frequently occur in the collective bargaining arena. While strikes are common, they occur in a form different from the American. Further, settlement mechanisms emphasize conciliation rather than an imposition as with arbitration.

A wage system based upon age and length of service (social criteria) rather than jobs is another distinctive practice. Still others emphasize the relevance of the group. For example, while recruitment is concerned with anticipated satisfactory performance after training, a worker is seen as a composite of social and personal characteristics which put a premium on "character," "thought," and "home environment" as employment qualifications. Interviews and background checks probe these attributes. If it is concluded that a job applicant cannot get along with his fellow workers, or comes from an unfavorable home environment, he is not likely to be

hired as a regular worker no matter what his work-related qualifications might be. Further, those who are thought to affect the morale of others adversely are likely to be rejected. It is not enough for a worker to perform his own duty impeccably. The Japanese work ethic puts a heavy emphasis on how one's conduct may affect others.

In practice, Japanese managers are compelled to recognize and emphasize individual ability even in the face of an ideology that rejects discrimination and competition among workers on this basis. However, a serious effort is made to reduce the resulting tensions by requiring all employees, commonly from the plant manager on down, to wear the same uniform with the same cap, to eat in a common dining room where the same food is served to all, and to exercise together before work and during organized breaks from work. Further, it is very common for the firm to sponsor retreats and weekends at company resorts during which work-unit members live and relax with their supervisors—some with entire families participating. The company anniversary, the annual New Year's celebration, and many other festive occasions are times for families of workers and supervisors to get together. All such activities have the function of reenforcing loyalty to and identity with the collective—from work unit to plant levels to the entire enterprise—as a family analogy.

So-called worker participation has become a cornerstone of the efforts of American managers to elicit workers' cooperation. But in Japan it is not a specific artifact of managerial control, but a general and integral aspect of the whole structure of reaching shop-floor decisions (Okochi, Karsh, and Levine 1974). Meetings are typically an indispensable part of the operations of Japanese large-scale enterprises. From the quality control circles and joint-consultation programs at the department and shop levels to the policy-making structures, meetings are numerous and long. While this may appear to a Western observer as not different from the U.S., it is very different in both process and substance. Since tasks are assigned to the work unit rather than to individuals, an individual's authority and responsibility remain unclear. The group needs to understand contemplated actions and policies before they are fixed. However, it is not the purpose of Japanese managers to formulate policies and make decisions based on collective wisdom. Policies and decisions typically have already been made by a few key staff groups prior to convening the many rank-and-file meetings. The basic purpose of the meeting is to establish mutual agreement in the group *before taking action.* This helps to explain why Japanese managers strive for unanimity, since anything less imposes upon the dissenters the same responsibility as upon the rest, an outcome with potential for latent conflict affecting the harmony of the group and its subsequent activities.

Conclusion

American managers of large-scale enterprises have readily shifted from one view of workers to another and have pragmatically altered or abandoned control strategies in accord with the continuing need to coopt workers. However, a determined consistency is noted in the classic thread that continues to be woven through whatever strategy is adopted. It is represented in the U.S. by a business creed which continues to express individualistic values and to support arguments for the presumed social virtues resulting from the unending pursuit of individual self-interest. "A note of individualism sounds through the business creed like the pitch in a Byzantine choir. We have heard it repeatedly," wrote Sutton and his colleagues in their celebrated study of the *American Business Creed.* They characterize the ideal firm as one in which the individual is responsible for his own fate to the exclusion of a whole range of moral responsibilities to others. "The creed stresses the individual's responsibility for his own welfare and warns against the dangers implicit in more collective responsibilities" (Sutton et al. 1956).

The American experience is accompanied by the espousal of a democratic rhetoric expressing the worth and merit of individual effort, at the same time that "ordering" and "forbidding" remains the basic control strategy. The current interest in Japanese management represents the shortcomings of the American management ideal, but remains consistent with a constant search for solutions to "the labor problem" in modern large-scale enterprises.

Japan's experience has been substantially different. Rather than being the result of some mysterious system that was invented by clever managers and populated by docile workers content with long hours, low pay, and obeying orders with robot-like reliability, Japan's most recent industrial advance was achieved largely by the same route which ushered in industrialization in the 1860s. While ideology has undoubtedly played an important role, it is not argued here that it has been decisive. Rather, industrialization has been largely due to a per capita savings rate several times higher than the American, to the acquisition of the most advanced technology available in world markets, to the systematic efforts to obtain nonproprietary information, and to arranging patent and licensing agreements. These activities are buttressed by vigorous government support of research and development programs in universities, in industry, and in government laboratories, all concentrating on commercial applications which improve quality while reducing production costs. All of this occurs in a cultural milieu which is as unique to Japan as ours is to us. While we place the risks and costs of being a worker almost entirely on the worker with only job seniority as the ultimate source of security, Japanese large-

scale employers do make a significant effort to protect and husband their "regular" workers who are the core of their labor forces. The employment guarantee for these workers rewards versatility as well as length of service. In addition, all sorts of amenities are provided these workers: housing subsidies, medical care for themselves and their families, education opportunities, recreation facilities, bonuses at least twice and in some cases as many as four times a year, amounting to as much as six or more months of regular pay, and still others. While such benefits in part replace national investments in social overhead, they reward and reciprocate the commitment of workers to the goals of the firms which employ them, and they are all items for collective bargaining between unions and employers.

Still other differences are evident. While Americans assign pay to jobs and not to workers, the Japanese system essentially rewards the worker as measured by age, sex, and education. In this sense, it is largely a social wage rather than a job wage system. While the Japanese encourage versatility, Americans tend to reward specialization as we continue to rationalize tasks into the smallest measurable components and hold workers accountable for the performance of each component. Work performance in Japan constitutes career development for the regular workers. In the U.S., seniority on the job is the basis for employment security. In Japan, individual worker output is tied only loosely to the wage system. The job redesign movement, including the quality control circles, actually constitutes a career enlargement program rather than job enlargement or an employee suggestion system.

Finally, Japanese managers appear to accept the worth of involving their regular employees in the affairs of the business to an extent far exceeding anything found in the American experience. And, very importantly, after many years of intense open conflict, they also now appear to accept the democratic unions which workers have created to protect and advance their own collective interests as workers and employees and to bring a considerable measure of democracy into their workshops. There is little evidence that American managers share these values with their Japanese counterparts.

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Japan's Postwar Industrial Growth and Labor-Management Relations

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The Japanese economy during the past decade or two has attracted considerable attention from abroad primarily because, in contrast to the economies of the U.S. and other advanced countries, it has experienced a remarkable productivity increase since the 1960s and was outstandingly robust in overcoming the impacts of the oil crises of the 1970s.

Particular attention has focused on Japanese management and industrial relations practices. Japanese-style management, which is heavily imbued with Japan's culture and traditions, is viewed as the principal source of the nation's industrial success. In this paper I will examine the validity of this popular view and attempt to suggest an alternative and more realistic explanation of Japan's "industrial success."

The Stereotyped Image of Japanese Labor-Management Relations

A stereotyped image of Japanese management, so popular and widely shared among foreigners, also exists among the Japanese themselves. According to this view, Japanese management has three unique features: (1) lifetime commitment of workers to the firm, (2) the length-of-service reward system, and (3) enterprise unionism as a partner in the firm. These three features, which one could legitimately describe as integral elements of industrial relations, imply that workers are immobile and committed to their employer in return for that employer's implicit guarantee of employment throughout their working careers, that wages are determined not by skill but by length of service and age, and that unions are docile and cooperative with management.

Also implicit in this image is the notion that Japanese society embodies some anthropological peculiarities that emphasize homogeneity, groupism, harmony, and a consensual nature of the people.[1] In other words, Japanese management and workers are seen as a basically homogeneous group of people within an enterprise who cooperate harmoniously as if they were members of the same family.

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[1] A typical conceptualization of such cultural peculiarities of Japanese society may be found in Chie Nakane, *Japanese Society* (Berkeley: University of California Press, 1970).

This stereotype has been criticized by serious industrial relations scholars[2] who have pointed out some *facts* about the Japanese employment system—that it is governed not by traditional culture but by market forces,[3] that there is ample evidence of elements of conflict in Japanese workshops,[4] and that the implicit employment guarantee for older and long-service workers is found more typically in American and European firms than in their Japanese counterparts.[5]

Nevertheless, the stereotype persists in spite of all the empirical criticism, and recently it appears to have gained even greater popularity among foreigners as well as the Japanese themselves—but with a new connotation. The new implication is that the recent performance of the Japanese economy is "proof" that Japanese-style management is highly conducive to productivity improvements since it effectively involves and motivates employees to work toward corporate goals by taking advantage of the employees' commitment to the firm and their harmonious cooperation within work groups.

Responding to current worries over stagnating productivity in the United States, some even go so far as to propose that Japanese-style management be transplanted and adopted as a new American management technique.[6]

Criticism

In my judgment, this recent assertion that Japanese-style management is the key to Japan's industrial success has serious defects in terms of both methodology and policy implications.

Methodological deficiencies include the following: (1) the management style of successful firms is misinterpreted as being the *cause* of their success; (2) other, and often independent, factors that contribute to the industrial success of Japanese firms are neglected; (3) the many cases of unsuccessful Japanese business corporations that also have typical Japanese-style management systems are ignored, consequently depriving the observer of an opportunity to identify the real factors that differentiate the successful from the unsuccessful cases; and (4) an understanding of

[2] A pioneering work that opened the door for subsequent empirical research was Solomon B. Levine, *Industrial Relations in Postwar Japan* (Urbana: University of Illinois Press, 1958).

[3] Koji Taira, *Economic Development and Labor Markets in Japan* (New York: Columbia University Press, 1970).

[4] Robert E. Cole, *Japanese Blue Collar* (Berkeley: University of California Press, 1971).

[5] Kazuo Koike, "Internal Labor Markets: Workers in Large Firms," in *Contemporary Industrial Relations in Japan*, ed. Taishiro Shirai (Madison: University of Wisconsin Press, forthcoming).

[6] For example, see William Ouchi, *Theory Z* (Reading, Mass.: Addison-Wesley, 1981), and Richard T. Pascal and Anthony G. Athos, *The Art of Japanese Management: Applications for American Executives* (New York: Simon and Shuster, 1981).

the dynamic evolutionary process of Japanese industries and business is lacking.

Any policy implications that might be derived from a less-than-complete analysis of Japanese-style management would be erroneous in at least two respects: (1) The idea that there is some sort of formula in Japanese-style management that could be applied to produce the successful performance of American firms is problematic. Management style in Japan is the *result* of success, not the cause of it; at the very least, such a cause-effect relationship is spurious. (2) The idea that there is some guarantee that the Japanese will enjoy industrial success as long as they maintain "Japanese-style management," which they will because they are Japanese, is totally unrealistic. Despite the prevalence of Japanese-style management, Japan's industries were not successful only a few decades ago, and innumerable troubled and unsuccessful Japanese firms do and always did exist in various segments of the economy.

Why, then, is this impressionistic view of Japanese management asserted so often, and why has it gained such phenomenal popularity? I suspect that the explanation can be attributed to the absence of well-balanced and comprehensive information on relevant aspects of the total complex of the Japanese industrial relations system.[7] While much has been written on labor-management relations in large, successful private firms, very little is known about the public sector, female workers, or small firms, for example—nor have these areas even been investigated.

Another serious deficiency is the paucity of information on, and the lack of an adequate understanding of, the historical and dynamic process of development, particularly during the 1950s when the foundation for subsequent industrial growth was being constructed. A discussion that sheds some light on this phase alone could suggest an alternative interpretation of the causes of Japan's industrial success and quite different policy implications. Let me now proceed to elaborate on this subject.

An Alternative Explanation of Japan's Industrial Success

Experience of the 1950s

The Japanese economy survived drastic external shocks during the 1970s thanks to the solid foundation on which it was built. Since the economy was totally destroyed in the 1940s due to World War II, that foundation must have been constructed in the 1950s and further developed during the rapid-growth period of the 1960s.

[7] Shirai, ed., *Contemporary Industrial Relations in Japan*, attempts to provide a comprehensive treatment of the total complex of Japanese industrial relations, covering in particular the aspects relatively ignored in past research.

Unfortunately, information available in foreign countries on the Japanese experience during the 1950s is relatively limited in contrast to what is known about the immediately preceding period, the late 1940s, when Japan was controlled and carefully watched by the occupying Allied Forces, and the subsequent period of rapid economic growth—the 1960s—when Japan's "economic miracle" attracted the attention of foreign observers.

The 1950s began with the Korean War. Although the war brought about somewhat of a boom, it was shallow and short-lived, and after it had passed, serious economic problems remained.[8] While Japan's economy was preparing to participate again in the world market by endeavoring to revive after the destruction of World War II, to dampen the postwar hyperinflation, and to restore the free market system, it was still far from being able to attain "economic independence." Moreover, the detachment of Japan from the Asian market, particularly China, due to the Korean War threatened to jeopardize prospects for the reconstruction of the economy, then just beginning.

Under such constrained circumstances, Japan was seeking ways to attain both economic independence and an improvement in her standard of living. The principal strategy chosen—reflecting both a national crisis-consciousness and a popular desire to catch up with advanced Western nations—was to promote exports by thoroughly "rationalizing" industry.

Emphasis on Quality Goods

The most important and promising tactic conceived by industry managements and policy-makers under the prevailing conditions of economic hardship was to improve the quality of Japanese products. Production of high-quality goods at low cost was thought to be the key to winning in the international competition, and corporations thoroughly and systemmatically mobilized both their human and their physical resources to work toward achieving this goal.

They pursued it by introducing foreign technological and managerial know-how, on the one hand, and, on the other, by investing in new capital equipment in order to make the best use of the technological innovations. In this process of technology transfer, Japanese industries introduced a number of useful innovations of their own which helped to adapt the new technologies to actual production processes so that they would work most effectively under local conditions. An example of this adaptation is the

[8] Both Japanese financial organizations and the U.S. government, notably John Foster Dulles, then U.S. Secretary of State, had rather pessimistic views about the foreseeable prospects of the Japanese economy following the postwar reforms. See Eleanor Hadley, *Antitrust in Japan* (Princeton, N.J.: Princeton University Press, 1970).

efficient parts-supplying system, now widely practiced by Japanese auto makers, with its minimum inventories and many tiers of suppliers. The development of a system such as this may be considered a notable advance in social engineering.

Fostering New Labor-Management Relations

To involve and motivate workers in the effort to achieve Japan's "economic independence," the corporations needed the understanding and cooperation of the unions. Up until the mid-1950s, labor-management relations were far from peaceful and harmonious, as the popular stereotype of Japan's industrial relations implies. Unlike today, annual man-days lost per 10 employees were 4.6 for the late 1940s and 4.5 for the first half of the 1950s, figures roughly comparable to the American experience of the 1970s.[9]

During the hyperinflation and economic disorder in the years following World War II, the unions, which had emerged spontaneously in most large and medium-sized enterprises, frequently resorted to violent strikes and even attempted workers' control of production in their efforts to further the economic welfare of their members. Sanbetsu-Kaigi (Congress of Industrial Unions), organized in 1946 on the initiative of Communist leaders, quickly became the instigator of radical disputes in various sectors of the economy, and over the next several years almost every major industry was involved in bitter strikes.[10]

Beginning about the mid-1950s, however, the tide began to turn. Both at the level of individual firms or plants and the national labor federation level, "economic" unionism, with realistic and reasonable platforms, became increasingly more popular than "political" unionism, with its radical and revolutionary slogans. This process of change was neither smooth nor easy. It may be viewed as an eventual outcome of repeated experiences with prolonged labor disputes, strike defeats, union splits, and internal union struggles during a stagnant and difficult phase of the economy.

Some labor scholars have described this process as merely the political

[9] In the 1970s, average annual man-days lost per 10 employees in Japan was 1.1, in contrast to 5.1 for the U.S., 2.0 for France, and 0.5 for West Germany.

[10] Some of the notable examples include the 56-day strike of Toshiba unions and strikes in the power industry in 1946; a renowned attempt at a general strike led chiefly by public-sector workers in 1947; a large-scale strike of postal workers in 1947; antidismissal disputes and strikes by the Hitachi union and by the National Railway workers in the late 1940s; a 63-day strike of coal miners; a power industry strike in 1952; steel workers' strikes in 1954, etc. For further details see Gorō Yamazaki, *Nihon Rōdō Undōshi* (History of the Japanese Labor Movement) (Tokyo: Rōmugyosei Kenkyujo, 1966); Wakao Fujita and Shobei Shiota, eds., *Sengo Nihon no Rōdō Sōgi* (Labor Disputes in Postwar Japan) (Tokyo: Ochanomizu Publishing Co., 1977); and Ministry of Labor, *Shiryō Rōdō Undōshi* (Documents of the Labor Movement, Annual Report), yearly.

battles among labor leaders, the defeat of postwar "independent" unionism, or the emergence of union "racketeers" aided by managements. However, it is difficult to conceive that unionism as a mass movement could be easily realigned only by the political maneuvers of a handful of union leaders or by the manipulations of companies. A more plausible explanation is that the redirection was largely a spontaneous choice of the working mass responding to the perceived economic crisis. Capturing sensitively this increasingly popular sentiment among workers, young and alert leaders formulated a new model of unionism, and to the extent that the new model was compatible with the interests of managements, those managements backed the unions and worked with them in fostering a new kind of labor-management relations.

In other words, cooperative labor-management relations were not bestowed upon Japanese corporations from the beginning; rather, they were constructed deliberately, and at considerable cost, through the interactions of some union leaders and management in the limited segments of industries who responded to and took advantage of the revealed choice of the workers.

Development of Information-Sharing Systems

The new labor-management relationships thus constructed now provided a highly functional basis on which to build an elaborate fabric of information exchange and sharing, not only between management and labor but also among the workers themselves.

Let me mention three notable components: (1) a *joint consultation system,* which operates as an effective channel of information exchange between management and labor on a wide range of issues affecting business activities and workers' interests; (2) an *enriched role of first-line supervisors,* who act as effective pivot points in the information flow thanks to their dual function as both the lowest level of management and the most experienced leaders in the workshop; and (3) the *small-group activities* within the workshop, such as the well-known QC circles, which operate as the basic unit of information-sharing among workers as well as performing their primary function of improving product quality.

It should be borne in mind that the well-structured internal labor markets of Japanese corporations have been highly instrumental in making these organizational devices operate effectively. In such labor markets, since skills are developed largely through internal training and experience encompassing a broad range of different, yet related, jobs, workers tend to learn and understand more than they otherwise might about the relationship of their jobs to other aspects of the complex corporate organization and activities.

This pattern of internal labor markets originated in the early phase of Japanese industrialization within a limited segment of Japanese industry and was diffused widely among major firms during the inter-war period, around the 1930s. However, it should also be emphasized that many of the organizational arrangements mentioned here were introduced and developed during the 1950s and were effective in mobilizing the existing stock of human and physical resources to revitalize the Japanese economy out of the wreckage of the war.

This information-sharing network, containing these and other organizational arrangements, has been indispensable in mobilizing and motivating employees toward the achievement of chosen corporate goals. As mentioned above, most of these arrangements were introduced and developed during the 1950s, as the parties took advantage of the new labor-management relations climate.

Industrial Structure and Industrial Policies

Finally, let me call attention to a very important, yet often overlooked, factor that contributed substantially to increasing the productivity of Japanese industries—that is, the industrial structure of the economy with its unusually large and well-developed sector of intermediate-input industries such as steel. Taking full advantage of economies of scale, these industries produced cheap and high-quality basic inputs which, in turn, reduced material costs for other industries, enabling them to increase productivity.

Moreover, the oligopolistic, yet strongly competitive, organization of individual industries has also helped low and competitive product prices to materialize. Here, again, the basic patterns of industrial structure and organization were constructed during the 1950s, aided by the government's industrial policies.

Conclusion and Policy Implications

In lieu of a conclusion, let me summarize three major implications and lessons we can extract from the actual experiences of Japanese industries.

1. The Japanese postwar industrial success is largely the result of the operation of the basic social, economic, and engineering systems of industrial production which were constructed in the 1950s and developed further in the 1960s. We should not, of course, underestimate the basic stock of human and physical capital resources and the level of industrial technology that Japan had already accumulated before the war. However, it is undeniable that strategic choices and intentional efforts which the actors in industrial relations systems pursued during the postwar reconstruction period were critical in mobilizing and activating such

resources toward vigorous industrial growth. The peaceful and harmonious industrial relations that have attracted the attention of foreigners rest on the successful performance of such remarkable systems.

2. To the extent that success has been achieved by intentional efforts to construct an appropriate industrial system, at a particular historical phase, the same success will not necessarily be guaranteed automatically for the future. Indeed, since the mid-1970s basic-material industries such as petrochemical, aluminum, and various chemical industries have been suffering painfully from changes in external conditions. And even the so-far relatively successful industries such as auto and electronics, which have now acquired a large share of the world market, will not be able to operate without taking into account more seriously their impacts on and repercussions from affected countries. Domestically, there are growing problems and symptoms, such as the rapid aging of the labor force, large government deficits, increased friction and mismatches in the labor force. Whether the Japanese "industrial success" will become a story of the past or continue to be maintained for the future depends critically on whether Japanese society can employ another set of new and appropriate strategies to adapt its structure viably to contemporary external as well as domestic conditions.

3. The single most important lesson we could extract from the Japanese experience, and one which is perhaps universally valid, is the effective development and utilization of human capital in corporate organizations, particularly human resource management strategies which include at least the following three elements: (a) systems of skill formation through both systematic training programs and continuous on-the-job training; (b) flexible allocation and reallocation of human resources through various forms of transfers across job lines; and (c) securing the workers' understanding of the constraints and priorities of corporate operations through the joint problem-solving approach of management and unions.

DISCUSSION

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These three very thoughtful papers on the Japanese industrial relations system lead to the following conclusions:

1. While it is overstated and stereotyped, the "Japanese management system" (JMS) is an important cause of Japanese economic performance. However, the "U.S. model," like the JMS, also is usually stereotyped and masks great diversity. Well-managed firms all over the world probably have common characteristics. The JMS, as usually defined, applies to a small but important part of the Japanese workforce. As these papers suggest, for example, probably only 10–15 percent of Japanese workers are really secure. American workers—especially older workers—actually have greater job tenure. Moreover, there are well-managed firms in the U.S. and in Japan. Indeed, since U.S. productivity is higher, most American firms probably are better managed than Japanese firms. The difference, of course, is that the management systems in some basic American industries, together with public and societal policies and institutions related to those systems, have caused those industries to lose their competitive position relative to the Japanese. It is in these industries that the contrast between the JMS and the American model is so important.

2. There is some difference between Professors Karsh and Shimada over the extent to which the JMS derives from Japanese cultural or anthropological forces. Clearly, the JMS is not entirely unique or due to cultural forces, but it is equally clear that the JMS has been compatible with those forces. There is considerable international borrowing and adapting in economic organizations and industrial relations systems, but successful leaders in each society adapt policies, mechanisms, and institutions to their own realities. Moreover, the forces underlying both economic and industrial relations systems are dynamic, so models survive only if they are flexible enough to adapt to new realities. Those who consider the JMS to be a "model" should recall that there have been other models which no longer invite emulation.

3. It is extremely difficult to establish conclusive proof of the connection between productivity and a management system—though there are

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micro models that show that management, technology, worker participation, and other parts of productivity-enhancing programs have been successful in improving productivity. Although it is inherently difficult to measure the impact of different factors on national productivity, the evidence is very strong that management and industrial relations systems have important impacts on productivity.

4. The JMS was made possible by:

(a) An *international economy* conducive to Japanese expansion. Especially important was the fact that the typical American management system in *basic* industries was not very competitive because it was based on: oligopolistic pricing; heavy concentration on large domestic markets; short-run profit maximizing (which causes long-run technological viability to be neglected); adversarial relationships with labor and government; and an authoritarian individualistic personnel management system.

(b) The compatibility of other systems of which the JMS was a part. Facilitating processes include: a coordinated, cooperative national economic policy that encouraged exports and maintained relatively secure and stable economic conditions; low real interest rates; high debt-equity ratios that facilitated longer-term management decisions encouraging training and, most important, "life-time" employment for key workers; government protection and encouragement of Japanese industry until it was ready to compete; policies to promote savings, capital formation, and the development (or adaptation) of technology; and a relatively homogeneous population with a strong sense of national identification.

(c) A system of less secure "shock absorbers" to protect the more secure core, including: subcontractors; a secondary labor force (women, older workers, minorities, the less well-educated); production-sharing with Third World countries rather than immigration; a bonus system within each firm that constitutes a large proportion of the annual income, providing wage flexibility and probably better understanding by workers of the enterprise. Because of the "shock absorbers," productivity is very uneven—very high in some industries and low in others, and overall only about two-thirds of the U.S. average.

Is the Japanese system transferable?

Parts of the system clearly are—though it is questionable that these can really be considered the "Japanese" system—but attention to quality, participative management systems, employment security, greater attention to technology and productivity, group incentive systems, and efforts to develop consensus are parts of good management systems in the U.S., Europe, and Japan. Similarly, national consensus-building mechanisms and economic and industrial policies that facilitate more productive management systems clearly are transferable—since Austria, Switzerland,

and Germany have developed such policies. It will be difficult to develop productive management systems in an environment of uncoordinated, contradictory, unstable, and confusing economic policies.

Finally, is the JMS viable?

The viability of the system is unknown. We do know that the U.S., British, Swedish, German, and other systems have been "models" in the past but have failed to adapt to new conditions. Clearly, there are strains which will modify the JMS, so its viability depends on its ability to adapt to new realities. The tensions within the JMS include a world economic environment which will compete with and offer greater resistance to Japanese exports; technological innovations; domestic demographic and economic changes, especially the aging of the workforce (incidentally, I am not as convinced as Professor Taira that older workers are less productive); and the changing size-composition of plants. In Japan as in the United States, most employment growth has been in relatively small plants, undoubtedly caused in part by changing information technology.

DISCUSSION

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Ray Marshall has admirably covered most points raised for discussion by the three papers. However, I would like to draw special attention to a highly important aspect which I feel each of the papers touches upon only lightly. This is the institution of labor-management collective bargaining in Japan compared to the United States. In my view, collective bargaining in Japan has assumed a vigorous role in the postwar decades; and, while its structure, procedures, and issues take some different forms than in the U.S., as an exercise of economic and political power between and among the industrial relations actors, it is very similar in the use of inducements, threats, and tradeoffs.

The basic point is that collective bargaining on a broad scale has been steadily evolving in Japan for 35 years. It has not withered away as once feared. Japanese experience with collective bargaining is now almost as long as it has been in the United States since the passage of the Wagner Act. Indeed, American collective bargaining under the Wagner Act largely became the model for Japan to follow. U.S.-inspired laws established much of the legal framework for labor relations as the result of the Allied Occupation. The new Japanese Constitution, promulgated in 1947, went even one legal step further, by embodying in its very own provisions labor's rights to organize, bargain collectively, and engage in disputes. Since then there has been no serious attempt in Japan to water down these constitutional principles, even though the implementing laws have undergone revision, especially for the public sector. The force of these laws in Japan, I would contend, has continued, if not strengthened, over these years, and as in the U.S. represents a basic factor to emphasize in studying the contemporary Japanese industrial relations system. In this regard the flourishing of collective bargaining in postwar Japan owes much to the American example.

Collective bargaining in Japan, just as in the U.S., was a product of political and economic reform. In the Japanese case, the extent of this reform was probably even more dramatic than in the U.S. under the New Deal. Unlike the U.S., its antecedents had been extremely limited. The industrializing experience of Japan had been relatively short, barely half a

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century, under conditions of a "forced march" led by a highly centralized government, in which there had been considerable discouragement, if not outright suppression, of a nascent labor movement. Indeed, rather than gain great power as American unions did in World War II, what trade unionism there was in the Japan of the 1930s was thoroughly dissolved and labor-management collective bargaining held totally incompatible with the totalitarian Japanese state. As a footnote, I should recall that the main segment of the prewar labor movement in Japan, until suppressed, had already emulated the American "model" of collective bargaining and business unionism. This emulation paralleled the Japanese management interest in U.S. employer ideology as expressed in the "American Plan" of the 1920s, which in his remarks Professor Karsh pointed out.

Japan's postwar experience with unionism and collective bargaining, once the political radicalism shifted to economic emphasis by the 1960s, was also built to a major degree upon the American example. In the period immediately following the surrender, unionism and collective bargaining swept through the major industrial sections of Japan and have remained robust to the present. Japanese unionism, with its 70,000 basic units and 12.5 million members, in fact, has not suffered the proportionate decline as in the U.S. A noticeable difference with the U.S. has been the more general acceptance by most of Japanese management, despite a degree of resistance, of labor's basic rights. While this acceptance was facilitated by legal amendments in the late 1940s and early 1950s that favor a decentralized structure of enterprise-level unionism and collective bargaining, it proved to be a durable outcome of the democratic reforms. American advocates for adopting Japanese management style techniques in U.S. industry often overlook the fact that unionism and collective bargaining are widely accepted and entrenched institutions in Japan's system of industrial relations. Where unionism and collective bargaining have gained a foothold, and hence protected by law, little resembling a drive for a "union-free" environment obtains in present-day Japan.

Needless to say collective bargaining has not assumed the form in Japan as found in the United States. It is the American system which is quite unique. As in Western Europe, Japan has a less confrontational or adversarial union-management relationship, undoubtedly to a great extent a result of a common sense of continuing crisis and vulnerability, economic and political, as Professor Shimada notes. On the other hand, it is too facile an exaggeration to label the relationship as totally consensual, mutually loyal, or management-dominated. Even though the level of overt labor-management hostility has been low compared to the U.S. (but certainly not in comparison with, say, West Germany, Sweden, Norway, Austria, Netherlands, or even France), this is much more the result of

mutual recognition by the parties of their respective power than of any long-standing "cultural" proclivities for harmony and family-like groupism. While, unlike their American counterparts, the Japanese have not developed highly specified and detailed collective bargaining agreements, there are frequent rounds of intense negotiations over key issues. Not only are there the annual "struggles" over general wage increases and seasonal bonuses, but also a wide range of bargaining activities that deal with the human impact of technological change, transfers, layoffs, staffing levels, retirement and severance allowances, hours of work and overtime, pension plans, worker grievances, and the like. Both sides are usually highly active in pursuing their respective interests in these matters. A major function of the unions in the large firms is to make sure that management honors its commitment to preserve jobs and careers for the regular workforce members. In turn, the unions have often tended to moderate their wage and other cost-imposing demands, not unlike American concession bargaining, in light of employer ability to pay and competitive market position within the context of a continuing economic crisis. I am happy to say that much of all this will be clearly set forth in a new publication shortly, *Contemporary Industrial Relations in Japan*, edited by Professor Taishiro Shirai, to which Professor Shimada is a leading contributor.

One should not conclude either that collective bargaining in Japan is wholly decentralized to the enterprise or plant level. Far more than gets reported in the Western media and popular literature takes place at the supra-enterprise level. The national industrial federations and labor centers, as well as the employers' associations, make important inputs, at least informally, into the negotiating process and the outcomes, so that the Japanese bargaining structure is actually a mixture of centralized and decentralized entities much like the American. In the process, too, government plays a key role, especially in national-level issues such as the general wage increase and bonuses. The government itself is a major unionized employer and considers collective bargaining settlements highly important for fiscal and monetary policies.

In Japan, formal joint union-management consultation has become a permanent feature of industrial relations over the past 30 years, probably far more so than in the U.S. Most joint consultation plans are established by union-management agreements with the same participants as in collective bargaining. Essentially they are complementary to collective bargaining, and often the lines are blurred between the two activities. Nonetheless, I would contend that joint consultation in Japanese industry would never have emerged in its present form without collective bargaining as its base. Despite initial fears that joint consultation, dominated by

management, would displace collective bargaining, this has not proven to be the case. Rather it has strengthened sharing of information and ease of communications between the parties useful in the bargaining process. Further, it has permeated, formally and informally, down to the workshop level and up to the industrial and national levels, the latter often on a tripartite basis including government. This system is a far cry from the hierarchical relationships of the prewar period and the "labor front" of the militaristic era, as it recognizes the autonomy of the respective parties.

Finally, in light of these developments in postwar Japan, I would expand on the question of managerial ideology in Japan portrayed by Professor Karsh. Familyism and cooptation may well have been an appropriate depiction for managerial ideology in the prewar era, and, as such, I would fully agree with him that it would be futile to attempt to impose this ideology upon present-day American workers. But, similarly, I do not believe that, despite the strength of internal labor market structures, Japanese unions and their members today accept it either. In most cases where there has been well-established unionism, Japanese management, in fact, has abandoned much of this philosophy, albeit reluctantly. Modern management in Japan recognizes the validity and power of autonomous unionism and power-based bargaining and has accommodated these realities into their thinking and practice. This was the result of conscious policy as a new generation of professionally trained managers rose to direct major enterprises in present-day Japan. Pragmatically, by and large, they learned to respect and deal with the unions as independent entities and in turn sought to foster joint consultation and information-sharing with the union without undermining collective bargaining. To do otherwise was at their peril. To the extent that this integrative approach has worked, contemporary Japanese managerial ideology has also undergone transformation toward a model of industrial democracy. As Professor Karsh suggests, it is a point well worth considering by American industrial relations policy-makers.

XI. MEDIATION OF GRIEVANCES

Grievance Mediation: An Alternative to Arbitration

STEPHEN B. GOLDBERG AND JEANNE M. BRETT
Northwestern University

Labor arbitration was developed as a means by which employees could challenge an emloyer's actions other than through a strike or a lawsuit. The advantages of arbitration over the strike are obvious; its advantages over litigation were thought to be that it would be faster, less expensive, less formal, and more attuned to the realities of the industrial world.

In some respects, arbitration has been quite successful. Strikes during the term of a collective bargaining contract are rare and, with the exception of the bituminous coal industry, do not constitute a major national problem. Arbitration is also faster, less expensive, and less formal than most civil litigation.

Still, there is a sense, and has been for some years, that arbitration has not lived up to the expectations of an earlier time. The average cost of arbitration is in excess of $1000; the average time from request for arbitration to receipt of the arbitrator's decision is around six months, and complaints about excess formalism are commonplace. Another criticism of arbitration has been that its adjudicatory mode encourages an adversarial approach, in which each side is tempted to do all it can to "win" the grievance, often without regard for the effect of such tactics on the long-term relationship of the parties.

In response to the criticisms of arbitration, we have proposed that, to a substantial extent, the resolution of grievances through arbitration be replaced by the resolution of grievances through mediation—more precisely, through a particular type of mediation system. The essence of this system is as follows: After the final step of the internal grievance

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procedure, the parties will have the option of going to mediation rather than directly to arbitration. This option can be triggered by one party or by mutual consent, as the parties prefer. In either event, the mediation procedure is wholly informal in nature. The relevant facts are elicited in a narrative fashion rather than through examination and cross-examination of witnesses. The rules of evidence do not apply, and no record of the proceedings is made. The grievant is encouraged to participate fully in the proceedings, both by stating his or her views and by asking questions of the other participants in the hearing.

The primary effort of the mediator is to assist the parties to settle the grievance in a mutually satisfactory fashion. If no settlement is possible, the mediator provides the parties with an immediate opinion, based on their collective bargaining agreement, as to how the grievance would be decided if it went to arbitration. That opinion is not final and binding, but is advisory in nature. It is delivered orally, and is accompanied by a statement of the reasons for the mediator's opinion. The advisory opinion can be used as the basis for further settlement discussions, for withdrawal, or for granting of the grievance. If the grievance is neither settled, withdrawn, nor granted, the parties are free to arbitrate. If they do, the mediator cannot serve as arbitrator, and nothing said or done by the parties or the mediator during mediation can be used against a party in arbitration.

The theoretical advantages of this system of grievance resolution are substantial. The absence of a written decision should make it both faster and less expensive than arbitration. The lack of formalities and the increased opportunity to discuss whatever seems relevant to the participants should increase their sense of getting at the problem as they see it. Because success in mediation is defined as a mutually satisfactory resolution, mediation should be easier on the parties' relationship than is arbitration, in which success is defined as defeating the other party. If the parties learn settlement skills at mediation, and utilize those skills at the earlier steps of the grievance procedure, they should be able to settle more cases without the need for mediation or arbitration.

The central risks of this procedure are two-fold. The first is that mediation will lead to few, if any, settlements. This would increase, rather than decrease, the time and cost of dispute resolution. Second, the availability of mediation may lessen the pressure to settle in the internal grievance procedure. If the internal settlement rate goes down significantly, the overall cost of dispute resolution will go up.

In an effort to determine whether mediation can successfully resolve grievances faster, less expensively, and more satisfactorily than arbitration, we conducted a series of experiments with mediation in the bituminous

coal mining industry. These experiments took place over two six-month periods in four states—Illinois, Indiana, Virginia, and Kentucky.

Three different procedures for triggering mediation were used in these experiments: (1) *mutual-consent* (no grievance was mediated without the consent of both parties); (2) *single-party trigger* (either the employer or the union could submit a grievance to mediation); (3) *everything-goes* (all unresolved grievances were submitted to mediation, with exceptions only by mutual agreement).

Results

One hundred and fifty-three grievances were taken to mediation during the experimental period. Of these, 135 were finally resolved without resort to arbitration—a final-resolution rate of 89 percent.

The final-resolution rate appeared to vary according to the trigger mechanism. Under mutual-consent, the final-resolution rate was 90 percent, under single-party trigger it was 95 percent, and under everything-goes it was 78 percent. Analysis disclosed, however, that these differences were not a function of the trigger mechanism, but of the comparatively low settlement rate in one state which changed trigger mechanisms in the course of the experiment. In that state, the settlement rate was 81 percent under the mutual-consent trigger and 78 percent under everything-goes. In the other three states, the final-resolution rate was in excess of 95 percent regardless of trigger mechanism. The conclusion that we draw from this is that how the parties get to mediation is less important than their attitude once there. If they make a serious and good-faith effort to settle all grievances at mediation, they will settle a very high proportion of those grievances without regard to the nature of the trigger mechanism.

Slightly more than half (51 percent) of the mediation conferences resulted in a compromise settlement, 22 percent in a noncompromise settlement (grievance sustained in full or withdrawn), and 20 percent in an advisory decision. Approximately half of the advisory decisions were accepted, and the remaining half were taken to arbitration. Of the 12 cases that went to arbitration after an advisory opinion, nine were decided as the mediator had predicted.

The mediator's success in resolving grievances was due to a number of factors. At times the mediator found that the parties were not listening seriously to each other's proposals. In such a situation, the presence of the mediator frequently resulted in better communications between the parties, leading to a prompt settlement. Settlements in other cases were achieved by such devices as narrowing the scope of the dispute, expanding its scope, or proposing an experimental solution. Frequently, the mediator's opinion as to the likely outcome if the grievance was arbitrated was

sufficient to persuade the representatives and, sometimes more importantly, their constituents that one party or the other was so likely to prevail that arbitration would be a waste of time and money. Finally, the mere opportunity to be heard by a mediator was sometimes sufficient to put a dispute to rest, as the parties' main concern was to have their grievance considered by a neutral. Once this had been accomplished, they had little interest in being heard by another neutral, the arbitrator, particularly in view of the time and cost associated with arbitration.

The time and cost savings of mediation over arbitration were great. The average grievance was resolved in 15 days from the date on which mediation was requested, some three months faster than resolution through arbitration. The cost of mediation averaged $295, less than one-third of the cost of arbitration. The total financial savings to the parties in the experimental period was approximately $100,000.

The internal settlement rate did not diminish with the advent of mediation, except in the state that changed its trigger mechanism from mutual-consent to everything-goes, a change that was associated with a 12 percent decrease in the internal settlement rate. That decrease took place at the same time that a union election was pending, however, so we are not certain of the extent to which the availability of mediation was responsible for the decrease. Furthermore, because of the low cost of mediation compared to arbitration, the overall costs of grievance resolution remained well below such costs prior to the availability of mediation.

User satisfaction with mediation was tested among five groups—company labor relations representatives, union representatives, operating personnel, local union officers, and grievants. A substantial majority of all groups was satisfied with all aspects of the mediation procedure. When asked which procedure they preferred—mediation or arbitration—all groups preferred mediation, particularly at the local level where company operating personnel preferred mediation 6–1 and union officers did so 7–1. The reason for the preference was primarily the lack of formality at mediation, which was said to lead to a more relaxed atmosphere, better communications, more satisfactory outcomes, and an absence of the hard feelings that frequently accompany arbitration.

In sum, the results of this experiment show that mediation is capable of resolving a high proportion of grievances promptly and inexpensively, through a procedure that the parties prefer to arbitration.

DISCUSSION

ROLF VALTIN
Arbitrator

A discussant can pursue one of three courses. He can conclude that he is in violent disagreement with the theme of the paper and that he therefore has the opportunity to unleash devastating criticism. He can conclude that he is in general agreement but that substantial fault-finding is nonetheless in order. Or he can conclude that he is in whole-hearted agreement and that there is nothing left for him to do except to enter some comments of elaboration or refinement. Mine is the third course.

Let me first grant that I am something less than an objective observer: I have been one of the players on the team coached by Goldberg and Brett. In expressing admiration for what the Goldberg-Brett paper stands for, accordingly, I cannot escape the risk of appearing to be self-congratulatory. But I did not volunteer for the role of discussant at this session. And I will therefore unabashedly state that I view Goldberg and Brett as the proud parents of a significant and successful experiment.

Surely, the facts and figures in the Goldberg-Brett paper ringingly speak for themselves. And surely, the facts and figures should not be received as yet another piece of empirical evidence appropriately destined for IRRA archives. They signify an improvement in the operation of the grievance procedure—scarcely a matter of mere peripheral significance. And a settlement rate of some 80–90 percent simply has to be accepted as solid accomplishment. For it applies, not to cases being processed by the parties from one step of the grievance procedure to the next, but to cases which the parties were unable to settle at any of those steps and which were headed for arbitration. It applies, in other words, to the more difficult cases alone. As to such cases, even a 50-percent settlement rate would be a respectable result—and would still yield a net gain in regard to cost and time consumption relative to arbitration without the intermediate mediation step.

Aside from the facts and figures, there are Steve's observations on the informal and participatory nature of the mediation process. He is right to paint them as wholesome and important. Let me slightly restate the matter: a prime advantage of mediation over arbitration lies in the

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capacity to deal, not merely with the exact claim raised by the grievance, but with the various subterrainian questions which are frequently of quite as much importance. Indeed, it is sometimes true that the claim itself vanishes upon an airing of the subterranean questions.

I have referred to Steve as the coach. His more significant and more difficult role was as founder and architect of the system. And this leads to one of the points I want to make.

The mediation of grievances in coal was an innovative idea. As is true of other institutions in a democracy, collective bargaining is not prone to welcome innovative ideas with open arms. To fly, they have to be pushed and sold. The mediation idea was no exception.

Yes, Steve sat down and wrote a proposal. And yes, Steve got encouragement from those of us with whom he shared the proposal, and from an interested Department of Labor, and even from some high officials at the national level of the industry and the union. But none of this was nearly enough to convert the idea to concrete action. What had to be produced was the acceptance of the idea on the part of those who would do the implementing—that is, the field reps, the mine labor relations people, the mine committees, and the mine superintendents. These are tough people with practical concerns, and theirs is not a world which tends to side with an idea because of its nobility. Countless meetings had to be held: to overcome skepticism and plain resistance to change, to demonstrate that mediation might be worth taking a shot at, to alter or make adjustments in proposed ground rules, to deal with negativism based on fears that the other side had more to gain, etc., etc. All of this translates to selling. Without it, there would be no mediation of grievances in coal. And without it, the idea is not likely to take hold in other collective-bargaining arenas. The inherent strength of the idea is simply not enough.

For those who may be cast into the role of making grievance mediation acceptable, let me identify three potential sources of resistance. One is that the pecuniary interests of some among us would be adversely affected by the widespread adoption of grievance mediation. I am referring to arbitrators and litigating lawyers. Another is that some of those who function at the last internal step of the grievance procedure feel slighted by the prospect of a mediated settlement. They view it as *their* function to produce settlements at that step, and they do not relish the possibility that an outsider might succeed where they have failed. And still another is that some management spokesmen view grievances as having the ever-present potential of restricting managerial prerogatives and thus view mediation as adding up to a further hemming-in vehicle. Arbitration, they say, is quite enough.

Given the success of the experiment in coal and given the clear advantages of mediation over arbitration so long as mediation produces a goodly number of settlements, the question which obviously arises is whether mediation as a grievance-settlement technique will spread, or ought to spread, to other industries. Here, I think that those of us who are the true believers must guard against unbridled enthusiasm. I have no doubt that there are many other places where mediation will work and do a great deal of good. The first smattering of noncoal experience under Goldberg-Brett auspices says as much. But I am not prepared to say either that mediation is right for everyone or that the success in coal can be taken as a reliable gauge for likely success elsewhere. There are numerous relationships in which the grievance procedure functions with such effectiveness as to make arbitration a rarity. There are other relationships in which the parties prefer law-making over the uncertainty which goes with out-of-court settlements and in which they look to arbitration to do the law-making. And there are still other relationships in which the parties are accustomed to dealing with each other in arms-length fashion and in which mediation would be viewed as meddling.

As to coal, it should first be understood that mediation has not taken hold throughout the unionized part of the industry. The use of mediation, though expanding, is confined to some companies and some UMWA districts. And beyond this, I think it has to be granted that there were a series of institutional factors which made mediation in coal unusually suitable: coal was only beginning to professionalize its labor relations; coal had a national agreement without the cohesion of national administration; coal experienced the hardships and futilities of endless wildcat strikes; and coal had a history both of distrusting arbitration and of resorting to it excessively.

To point these things up is not to discourage the spreading use of the mediation of grievances. It is merely to recognize one of the cherished underpinnings of our collective-bargaining system—that it leaves all sets of parties free to tailor their arrangements to their particular needs. One cannot quite say "try it, you'll like it." One must be content to say "try it, you may like it."

Let me briefly comment on one of the questions I have encountered from skeptics. The question is: "Why have mediation as a separate step? Why not simply let the arbitrator do the mediating?" The question should not be dismissed in out-of-hand fashion. For, as we all know, there have been countless instances of successful mediation by the arbitrator. Indeed, the technique has over the years been applied with sufficient frequency to have acquired a name. We call it med-arb. And I do not want to be taken as suggesting either that med-arb is an ill-considered course or that the

time has come to tone it down. But I am convinced that med-arb and the Goldberg mediation are not to be equated. For one thing, of course, there is the fact that mediation by the arbitrator cannot take place without the consent of the parties. The parties do not always, or even usually, give the consent. And when the arbitrator is told "will you please stick to your knitting—we hired you to arbitrate," there is nothing he can do except obediently retreat. But, assuming that this barrier is not presented, there remains the difference between the two forums. I think the difference is real. Med-arb is more hesitant: either party may think that a showing of vigorous participation will be perceived by the arbitrator as a sign of weakness as to the merits of the case and either party may harbor thoughts along the line of "we just can't tell him everything—he may yet be deciding the case." The Goldberg mediation is without these settlement impediments. There, it is understood that the mediator will not be the arbitrator, that anything that comes to anyone's mind is ripe for discussion, that everyone has gathered to avoid the risk and cost of arbitration, that private conversations between the neutral and either party—and even by the neutral with the spokesmen separated from their constituents—are altogether proper, and that nothing done at mediation may surface at arbitration. The ground rules, after all, are *designed* to create a settlement-inducing atmosphere. And I know of no mediator who would belittle the importance of the right atmosphere.

I close with one or two observations of a general character. The fostering of the mediation of grievances is not as urgent as was the fostering of the arbitration of grievances in the forties and fifties. For, manifestly, the adoption of a mechanism by which to do away with strikes is more urgent than the adoption of a mechanism by which to streamline an existing system which itself assures the peaceful resolution of grievances. Moreover, however much or little the idea of the mediation of grievances catches on, there will always be the need for the continued existence of arbitration. This is true both because there will always be the cases on which there is no avoiding the litigated resolution and because the dismantling of a system which calls for uninterrupted production for the life of the agreement would constitute absurd regression. And, indeed, the fact that the case is headed for arbitration if not settled is in the end the crucial leverage for the mediator who mediates grievances. But the Goldberg push for mediation was not only the sound response to particular needs in a particular industry. It is also entirely right for our times. It is akin to the Chief Justice's recurrent pleas for the lightening of federal-court loads—for industrial relations are part of the litigious society of which he speaks. What Goldberg is in effect urging is a two-track system by which countless cases can be disposed of by a mechanism

which is relatively quick and inexpensive and which avoids arbitration altogether. There are other ways to get at the problem. I am not here to say that his is the clearly right or even the clearly superior way. But he got *something* underway. Let others do likewise.

DISCUSSION

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At the outset I believe Professors Goldberg and Brett should be applauded for the seminal work in applying empirical research methodology in the labor law area.[1] Among other things, this type of research has created a definite bridge between the academic world and the world of the labor relations practitioners.[2] This type of applied research should be encouraged and supported.

Coal Industry Experiment

The work of Goldberg and Brett in the area of grievance mediation in the volatile labor relations climate of the coal industry underscores the need and utility of applied empirical research. It is clear from the Goldberg and Brett paper that the data indicate that grievance mediation is working well on a limited basis in the coal industry. Consequently, I am sure that there is a great temptation and eagerness to attempt to apply grievance mediation to other industries. For sure, such experimentation should be encouraged. However, it is submitted that before doing so, a good degree of caution should be employed.

Some Remaining Questions

There remains a number of critical questions which should be considered and addressed before expanding the use of grievance mediation. Paramount among these questions is the threshold question: Why does grievance mediation appear to be effective in the coal industry? Also related to this question is, why have not the other parties in the coal industry adopted grievance mediation?

Other questions which should be considered are as follows: Are there certain internal and external environmental or institutional factors which may be important in explaining the effectiveness of grievance mediation? Are certain types of grievance issues more susceptible than others to resolution through grievance mediation? What influence does the attitude of labor and management toward voluntary grievance settlement have on the effectiveness of grievance mediation? Parenthetically, Professors

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[1] Julius G. Getman, Stephen Goldberg, and Jeanne Brett, *Union Representation Elections: Law and Reality* (New York: Russell Sage Foundation, 1976).

[2] See, e.g., "Symposium: Empirical Data and Statistical Analysis in Labor Law," *Illinois Law Review* (1: 1981).

Goldberg and Brett should also be applauded for their successful efforts at altering the attitudes of the parties to at least attempt to resolve grievances voluntarily.[3] This is particularly noteworthy given the labor relations climate in the coal industry. Interestingly, a major factor for the effectiveness of grievance mediation may be attributed to the very presence of Goldberg and Brett. It is suggested that their presence has served as a catalyst to encourage the continued and effective use of grievance mediation. Another equally significant factor may be the fact that the representatives of labor and management are aware that they are the focal point of a nationally recognized study. Consequently, these representatives have a personal vested interest in attempting to make the grievance mediation experiment a success. A similar phenomenon took place among the participants of the well-known Hawthorne studies.[4] Neither the influence of Goldberg and Brett nor the possibility of the existence of what may be termed a "Hawthorne effect"[5] is a reason for not considering grievance mediation. These possibilities do raise the critical question of what mechanism (or individuals) must be established and subsequently instituted to insure the long-term effectiveness of grievance mediation.[6]

Future of Grievance Mediation

Based upon the Goldberg and Brett study and other research concerning grievance mediation,[7] it is reasonable to conclude that the empirical evidence supports the conclusion that grievance mediation has the potential of contributing greatly to the efficient and cost-effective resolution of grievances. I hasten to point out that Chief Justice Warren Burger has advocated the expanded use of mediation in civil law suits.[8]

[3] Walton and McKersie would probably refer to this type of negotiations as integrative bargaining or attitudinal structuring. See Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations* (New York: McGraw-Hill, 1965), pp. 4–5.

[4] F. J. Roethlisberger and W. J. Dickson, *Management and the Worker* (Cambridge, Mass.: Harvard University Press, 1939).

[5] The tendency of experimentally chosen groups to show heightened morale and production has come to be referred to as the Hawthorne effect. In the years since the Hawthorne experiments, a long line of research has added to the evidence that group solidarity and loyalty is sometimes associated with productivity and effectiveness. Daniel Katz and Robert L. Kahn, *The Social Psychology of Organizations* (New York: Wiley, 1966), p. 325. For example, it is suggested that the Hawthorne effect may manifest itself by the representatives of labor "encouraging" individual grievants to agree to proposed settlements.

[6] It is suggested that under their experiment, Goldberg and Brett may have created a quasi-compulsory private mediation agency.

[7] See, for example, Mollie H. Bowers, Ronald L. Seeber, and Lamont E. Stallworth, "Grievance Mediation: A Route to Resolution for the Cost-Conscious 1980s," *Labor Law Journal* 33 (August 1982), pp. 459–64.

[8] See generally, Chief Justice Warren Burger, "Isn't There a Better Way?" Annual Report on the State of the Judiciary at the Mid-year Meeting, American Bar Association, January 24, 1982, Chicago.

This point is particularly worth noting given the increase in the filing of statutory-related grievances[9] and duty-of-fair-representation complaints.[10] Furthermore, the Goldberg and Brett philosophy of permitting the individual grievant to participate in the resolution of his or her grievance has the important advantage of attempting to satisfy the needs of the grievant.[11] As a consequence, this should decrease the likelihood of the grievant's seeking review or recourse in another forum.[12] Given these possible advantages of grievance mediation and mediation in general, the revitalization of this dispute-settlement mechanism has great promise in the near future. The key factor, however, is the proper implementation of mediation. The Goldberg and Brett experiment is an example of a major step in the right direction.

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[9] A grievance involving a discrimination or wage and salary claim also cognizable under Title VII of the Civil Rights Act or the Fair Labor Standards Act are examples of statute-related grievances. It should be noted that such statute-related grievances may be relitigated under the appropriate statute, even though the matter had been decided in arbitration. See, for example, *Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36 (1974) and *Barrentine* v. *Arkansas Best Freight, Inc.*, 49 U.S. LW (April 6, 1981).

[10] A union's breach of the duty of fair representation has been found to remove the final and binding effect of an arbitral award. Robert Coulson, "Will 'Hussman' Decision Put Arbitration in Deep Freeze?" *New York Law Journal* (July 12, 1979), p. 1.

[11] See, for example, Robert Coulson, "Satisfying the Demands of the Individual Grievant," *Labor Law Journal* 31 (August 1980), pp. 495–97. It is also contemplated that a grievant would be afforded the opportunity to voluntarily and knowingly agree to be bound by the settlement. In the view of the court, this may constitute a final and binding waiver on the grievant. See, for example, *Lyght* v. *Ford Motor Co.*, 458 F.Supp. 137 (E.D.Mich. 1978) and *Strozier* v. *General Motors Corp.*, 442 F.Supp 475 (N.D.Ga. 1977). Also see *Lyght* v. *Ford Motor Co.*, 643 F.2d 435 (6th Cir. 1981).

[12] This is one possible clear advantage that grievance mediation would have over traditional labor arbitration. See note 9, *supra*.

DISCUSSION

EDWARD B. KRINSKY
Institute for Environmental Mediation

I should like to begin by saying that I am pro-mediation. I have mediated environmental disputes for 4 years and labor disputes for 16 years. The labor mediation has included private- and public-sector cases, both interest disputes and grievances, and under formal and informal procedures. I have also served as a mediator-arbitrator in numerous Wisconsin interest cases, and I have been a labor arbitrator for 16 years.

I do not take issue with the results of the experiment in bituminous coal conducted by the authors, nor with the parties' satisfaction with the grievance mediation experiment. Nonetheless, as the following remarks indicate, I caution against claiming too much for the process of grievance mediation described by the authors.

Grievance mediation has been around for many years. It is not a new phenomenon. One of the first cases I was called upon to mediate was grievance mediation as a prearbitration step of a grievance procedure in a UAW contract. It bears asking—why is this process not more widely used, and why is it that even parties who are dissatisfied with various aspects of arbitration do not look more frequently to mediation of grievances as an alternative? I suggest that it is not because they are not aware that grievances can be mediated.

I am not certain of the answers. It would not surprise me, however, if those who have tried grievance mediation have not been satisfied with it, and that many who have not tried it are hesitant to do so. I suggest that this is because mediation adds another step to the grievance procedure and, more importantly, because grievance mediation implies a compromising of contractual rights. The compromises have already been made during the collective bargaining process. Where parties assert that their contractual rights have been violated, or would be violated if the other party were to prevail, they may be apprehensive, with some justification, about a process which by definition may require further compromise of those contractual rights in order to achieve resolution. Such parties will prefer the arbitration award which will decide whether rights have or have not been violated, and will provide finality to the dispute.

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I believe that it is also very premature to suggest that labor and management generally are sufficiently dissatisfied with arbitration to be searching for an alternative. Certainly there are problems with grievance arbitration, but what evidence is there that labor and management favor, or would favor if they knew its details, the process recommended by the authors?

The authors seem uncomfortable with the fact that arbitration encourages an adversarial approach. They have it backwards, I suggest. Arbitration grew out of the fact that labor and management are adversaries, generally speaking, and their system for resolving grievances recognizes that fundamental fact. Winning and losing are not viewed by them or by me as bad, especially if the loser changes its ways as a result.

The authors see several advantages to their system. The first is speed, and they cite the average 15 days for accomplishing mediation in their experiment. I suggest that in a nonexperimental arrangement in which the parties select their mediators, there will be all of the scheduling delays which are now found in scheduling arbitration hearings, unless the parties have their mediators on retainer, which might add considerably to their costs, or the parties opt for using less experienced mediators. I suggest also that there will be many cases not resolved in mediation, and this will contribute to a lengthening of the time period necessary to achieve final resolution through arbitration. I am not saying that the authors are wrong about speed, but I am suggesting that they hold out too much promise based on insufficient experience.

A second advantage claimed by the authors is cost savings. As indicated above, if arbitration does prove necessary, the cost is increased since there will be additional charges for the mediator's time and expenses. Also, it is entirely conceivable that mediation efforts in many cases may take longer than the arbitration hearing would take. Again, I am not saying that the authors are wrong about cost, but I am suggesting that they hold out too much promise based on insufficient experience.

The authors see advantages in the absence of formalities. I do, too, while mediation is occurring in the traditional sense of that term. However, under the authors' process, the mediator becomes an advisory arbitrator and renders an informal, nonprecedent-setting decision. This, too, might be satisfactory, but they suggest that it be done using a process where ". . . the relevant facts are elicited, to the extent possible, in a narrative fashion, rather than through examination and cross-examination of witnesses. The rules of evidence do not apply . . . ."

I suggest that this course is strewn with danger to the extent that there are factual disagreements and issues of credibility, as frequently occur in

grievances. These advisory arbitrators will then make their decisions based on questionable evidence, insufficiently tested. Justice may not be done. Also, this process may work a hardship on the individual performing the advisory arbitration role, since it may require him or her to make a decision which would be difficult to support. I suggest that arbitrators do not like to do this, and parties should not like them to, whether or not the results are binding.

Contrary to the authors' opinion, I believe that unions which settle cases in this forum, using this informal process, may increase the chances that grievants will be dissatisfied with the quality of their representation. Union representatives may be pressured by the mediation process to make compromise settlements, based on insufficient evidence, which settlements are not really in the best interests of their members and which would not result from arbitration.

The authors view participation by the grievant in mediation as serving to reduce the frequency of duty-of-fair-representation suits. Surely the grievant will not sue if he or she is satisfied with the outcome, but it is the outcome that is the critical factor, in my opinion, not the process. Why is there reason to think that the outcomes will favor the grievants in mediation more frequently than in arbitration? If the grievant truly feels that there is merit to the grievance, he or she will be very reluctant for half a loaf through a mediated settlement.

I am particularly concerned about the authors' assertion that if a suit is brought, it will be dismissed based on the fact that the advisory arbitrator has given the opinion that the grievance has no merit. Remember, the authors advocate that examination, cross-examination, and rules of evidence not be used. Will this process persuade a judge that the grievant has received fair representation? I think not, and especially since there will be no record and no written decision for the judge to review. I would not want my rights as an employee to depend on the fairness of the authors' process, and I suggest that unions and managements will recognize that such a process has serious deficiencies.

In conclusion, it is my view that the process advocated by the authors is one that labor and management might consider, but I suggest that it has pitfalls that the authors do not recognize or that they minimize. Labor and management representatives will recognize them, however. The authors' process may have limited application in certain labor and management relationships where it will be viewed as an improvement over what is currently done. I would be very surprised, however, to see labor and management representatives generally adopt this process as a substitute for, or even an addition to, grievance arbitration.

XII. INDUSTRIAL RELATIONS POLICIES OF THE REAGAN ADMINISTRATION

A Reagan Official Views a Changing Labor-Management Relationship

MALCOLM R. LOVELL, JR.
Under Secretary of Labor

I am pleased to have the opportunity to speak before this distinguished group today, not to tell you what public policy ought or ought not to be, but to urge that renewed attention be given to the continuing dichotomy of conflict and interdependence confronting labor and management in today's changing society.

I am not saying that public policy bears no responsibility for the way the parties behave, for clearly our many laws dealing with the rights and obligations of labor and management establish the "rules of the game" which must be honored.

I am suggesting that there are some difficult but rather clear-cut decisions that the leaders of American enterprise and the free labor movement now confront. If we are to solve the serious problems which threaten the economy, the standard of living of workers, and indeed, their very security, then labor and management must seriously consider crafting a new partnership in which the role of both is changed so that their role together can lead this country to new heights of competitiveness *and* worker well-being.

In this paper I will outline the reasons I believe we should rethink our traditional labor-management relationships. If they can be viewed as functioning on a continuum with conflict on one side and cooperation on the other, and if today they could be described as being somewhat closer to conflict than to cooperation, then I maintain it is possible—difficult, but possible—in the next few years to see a definite and appreciable shift toward cooperation. I believe the movement in this direction has already

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started and the question of how fast and how far we go is to be determined.

I shall first outline the reasons why I believe it is vital to the nation that this process accelerate. First is the importance of improved productivity, of being truly competitive on a worldwide basis, of maintaining our leadership in the new high-technology industries, and in utilizing new technologies to make old industries more competitive.

The second reason needs to be stated separately but is fundamentally linked to achieving the first. American workers, if they are to have access to an expanding supply of jobs, must face the competition of workers all over the world both for jobs and the rewards of a successful society.

It is my contention that both of these objectives can best and most rapidly be achieved by seriously addressing the opportunities and risks inherent in an improved labor-management climate. Parenthetically, let me say that if greater labor-management cooperation were as desirable to both of the parties as one might superficially assume, we would have had it some time ago.

In the final section of this paper, I will deal with some of the more substantial obstacles to both management and labor which will have to be assessed if we are indeed to move into a new era of industrial relations.

Now I would like to discuss the opportunities facing labor and management as we seek to increase productivity and improve our worldwide competitive position. The picture painted by productivity in the nation is not pleasing to the viewer's eye. Since the mid-1960s, the colors brushed on the canvas have been the grays of a falling rate of productivity growth and the blacks of four years in which we actually experienced declines in productivity.

I won't detail the impact of declining productivity growth. Suffice it to say that it entails economic costs in our fight against inflation, in our competitive position in world markets, and in the ability of our companies to grow and to pay wages and benefits necessary to maintain the high standard of living of employees. It also entails human costs in a shrinking job market, unemployment, underutilized skills, and growing social welfare rolls.

Productivity can be improved through the utilization of new technology. We can anticipate that revolutionary innovations in technology will continue to occur in the Eighties and Nineties stemming from the already incredible reduction in the cost of information processing over the last several decades coupled with the exponential growth in the efficiency of microprocessor chips. Unskilled manual assembly operations will steadily be replaced by computer-controlled machines which offer consistency, quality control, and lower operating costs. This change will stem largely

from the growing potential of robotics and other brain technologies. Indeed, the next generation of robots will see, feel, and think, thus opening new productive horizons.

There is general agreement that our competitive position has eroded as other nations have come to excel in productive efficiency and product quality. Our share of the market has not only dropped internationally, but also within the confines of our nation. Key manufacturing industries, particularly autos, rubber, and steel, have been affected. In auto-related industries alone we expect that as many as 400,000 jobs will be lost between 1980 and 1985. So far over 150,000 jobs have disappeared.

I recognize that many of our problems in dealing with foreign competition are not amenable to solution by labor and management working together in the workplace. Chairman Martin Feldstein of the Council of Economic Advisers recently voiced concern that the continuing growth in our budget deficits will have a further negative impact on our exports.

It is not inconceivable, however, that greater cooperation at the workplace could lead to labor-management agreement on a political level in achieving greater consensus as to how budget deficits could best be reduced.

We must, then, not turn our backs on opportunities to increase our productivity, compete successfully in world markets, and make maximum use of our new technologies. But as we maintain our vigorous participation in the world trading systems and increase our competitiveness, we must also pursue with equal vigor solutions to the human problems resulting from our efforts to become more productive.

If we do not address the question of "What is to happen to the workers who become redundant?" we will not match the performance of our competitors who do. If this question cannot over time be answered to the satisfaction of working men and women, we will see not only increased interest in protectionist trade policies, but also vigorous worker resistance to the adjustment process in their own companies. Unskilled workers especially will be threatened. According to the Society of Manufacturing Engineers, in 1990 half of the workers on the factory floor will be white-collar engineers and technicians keeping robots and microprocessors working. Management and labor have a sterling opportunity together to develop approaches to dealing with these problems.

We most frequently speak of competition as being between countries or between domestic companies. In a larger sense, however, American workers are in competition with foreign workers for jobs: jobs in steel, electronics, auto, and every other product which can be produced abroad and sold here. By this, I don't mean that they must work for wages that are

strictly competitive. I do mean that they should be given the opportunity (and to use the opportunity) to work smarter. If workers are to succeed in this global competition, they must have the opportunity of making greater cognitive contribution relating to achieving price and quality superiority of the products they are engaged in producing as well as over their own job opportunities in the domestic job market.

There is already evidence of such joint efforts accomplished through the negotiating process. The steel industry and the Steelworkers have acknowledged workers as a valuable resource for years. Most recently, the parties have negotiated in-plant participation teams to work on improving product quality, unit performance, and employee morale. Bell Telephone and the Communications Workers have also understood the collaborative role that management and labor can play. They have tailored a negotiated quality-of-work-life process in their most recent contract to meet goals of economic efficiency and human satisfaction and have carefully and cautiously moved towards its implementation. In the process, they have overcome elements of distrust that were undermining the relationship. In still another interesting move, the Crown Zellerbach Company and the International Woodworkers recently negotiated a "pay for production" system that includes the establishment of a "Joint Operations Committee" which will make substantive decisions "to enable the company to be more productive and more cost effective."

These innovative approaches, each different, bring management and labor into the kind of partnership of common need that potentially serves the goals of productivity improvement and those of increasing the worker's contribution toward his own job security.

In fact, in October 1982, the Human Resources Subcommittee of the National Productivity Advisory Council, chaired by former Secretary of Labor John Dunlop, found that increased dialogue and cooperation between labor and management by voluntary means enhances productivity, quality of product, and quality of work life—the very issues that I have underscored here. The Dunlop subcommittee further found that labor-management committees especially have led to constructive problem-solving, increased productivity, and improved quality of working life because of the many ways in which human factors affect the concerns of both parties. Consequently, the subcommittee concluded that such committees should be encouraged, facilitated, and assisted.

Since American workers then are competing with foreign workers for jobs, their interest in the success of their American enterprise is real.

The question which needs to be addressed is, firstly, whether workers at all levels of an enterprise, not just the management level, should have greater opportunities for participation in decisions affecting their work,

and secondly, whether, in an organized enterprise, the union can play a more substantive role in achieving such participation.

Realistically, we cannot expect to see in America all labor and all management miraculously beginning to work together with new-found fervor and enthusiasm to solve the nation's problems and their own. To the contrary, I see formidable obstacles to cooperation coming out of traditional, attitudinal, and institutional concerns of both parties.

The labor movement was born out of rising worker expectations and among employers who viewed labor unions with undisguised suspicion and hostility. The crucible of clashing interests, however, has forged pragmatic results in improving the wages and working conditions of American workers and at the same time increased earnings for American firms.

The delayed gratification inherent in a more cooperative stance with management is not eagerly embraced by the rank-and-file worker today. Recent rank-and-file resistance to concessions in steel, at Chrysler, and elsewhere suggest that members can be more militant than their leaders, more concerned with immediate pocketbook issues than with more fundamental problems that labor and management must solve together.

One of my series of unanswered questions, therefore, deals with this very fundamental issue: Will the rank and file be able to shift its outlook? Will workers be willing to cooperate with business on improving productivity even if union leaders encourage such support? Will workers be willing to continue to accept new technology that may well cost jobs over the short run?

A second question concerns the willingness of labor leaders to give up the adversarial role that has brought most of them to the leadership positions they enjoy today. I am encouraged in this regard by a recent statement by Tom Donahue, Secretary-Treasurer of the AFL-CIO, when he said, ". . . But I believe that [the] adversarial relationship ought to be limited to the bargaining process. Once we establish a deal on conditions of work, we move to a cooperative relationship doing our damnedest to improve the quality of work life, the quality of production and improve productivity and thereby enhance our chance to get a bigger bite of the apple next time around."

But it is not always as simple as that. Labor leaders in recent decades have found that if they can't get what they want from management, they can get it from the government. Our laws and regulations are replete with provisions affecting wages, safety and health, pensions, income support programs, to say nothing of a laundry list of special industry programs ranging from the railroads and airlines to the redwood forests.

To what extent will labor leaders feel constrained to cooperate with

management in efforts to secure long-term gains for the industry when quick-fix solutions can be gained from a compliant government?

I must acknowledge that I'm a closet optimist in this regard. First of all, the government is not nearly so compliant anymore. And secondly, I have been impressed by a growing recognition on the part of many labor leaders that the government can't solve all the nation's problems—that we as a society must live in a larger world where being American is not necessarily tantamount to being prosperous. Often in industry we are seeing labor leaders urging tough decisions on a restive membership and offering to do their part (if management does theirs) to make their industries competitive.

Management, too, has some basic reservations about the price they would have to pay to gain greater union support for their long-term economic goals.

Management has pursued its productivity and profit goals as implacably as unions have sought to share gains and protect workers, and on occasions without considering the social and human costs generated by its decisions. Certain elements of business historically have viewed unions with skepticism and hostility and have been encouraged in their view by mounting evidence of the long-term decline in union membership as a proportion of the labor force and by the increase in union decertification cases before the NLRB. They, too, have moved into the political arena, making their mark in the dramatic defeat of union efforts to secure labor law reform.

Even companies who have achieved good working relations with their unions are sorely tempted by a "union free environment" when new plants and different social environments present them with such an option. And union leaders, like leaders of any organization, are suspicious of those who threaten the legitimacy of their institution.

A few years ago, Lane Kirkland, in a dramatic oration at the Work in America Institute, criticized big business leadership for seeking cooperation with labor on a number of public issues and then acquiescing to the vigorous campaign against "labor law reform."

Lane Kirkland's contentious view was that the defeat of labor law reform was a blow to labor's organizing capability and, therefore, an attack on labor as an institution.

I say his "contentious view" as it was not shared by much of the business community, which maintained "the rules of the game" should not be changed to help the union win elections, but that labor had to do a better job convincing workers that union membership served their interests best.

The question then is whether management, in its quest for greater

cooperation, will be willing to make the sacrifices that union leadership may demand for its participation.

A final concern affecting the willingness of labor and management to view industry problems with a common eye is the multinational nature of many corporations. Labor is fundamentally national in its orientation. It cannot move its product across national lines with the ease with which capital flows. On the other hand, American business must be increasingly multinational if it is to compete effectively with its foreign counterparts.

The other side of this coin is that even some of our multinational corporations threatened in their home markets by foreign competition are siding with the unions in demanding government protection of their domestic markets. While this cooperative effort, in my judgment, is counter to good long-term public policy, it does illustrate the contradictory forces at work in labor-management relationships!

Although concrete answers to the problems raised by this variety of obstacles elude us, there is hopeful evidence that both parties are beginning to tear away at the adversarial fabric that has clothed and restrained them all these decades. In February 1982, the Opinion Research Corporation found that more than 90 percent of the business and labor leaders it surveyed favored a change to a more cooperative relationship. Since then observers of American industrial relations have seen signs that changes are, in fact, occurring. Ben Fischer of Carnegie-Mellon, Jack Barbash of Wisconsin, and General Motors Chairman Roger Smith, all see a "mutualistic trend," IRRA President Milton Derber, a "significant tilting towards mutualism," and FMCS Director Kay McMurray, a new "sense of settlement" based on a growing movement towards cooperation.

I will add my voice to the optimistic views cited above. I reach this conclusion not by the use of an esoteric economic model, but because I believe it is in the best interest not only of labor and management but of the country that a new more cooperative relationship emerge.

The capacity of this nation to produce the jobs not only for the 12 million now unemployed but for our workers of the future depends on our ability to successfully compete with the economy and the workers of our trading partners throughout the world.

In a free society, this can only be achieved with the combined efforts of labor and management determined, in spite of their differences, to cooperate whenever they perceive their interests to coincide.

I believe that the leadership of American business and that of the American labor movement is prepared to engage in a new dialogue which will in time lead us to a vastly more cooperative era of industrial relations. If today we are functioning on the conflict-cooperation continuum somewhat closer to the conflict side, I am not reluctant to predict that by

the end of the decade we will have taken a giant step toward cooperation. While the sharing of the pie will still be determined in the crucible of tough collective bargaining, the size of the pie will be importantly influenced by the commonality of the parties' interests.

DISCUSSION

MAX ZIMNY
International Ladies' Garment Workers' Union

I have listened carefully to Secretary Lovell's advocacy of greater labor-management cooperation. Neither I nor, I believe, most other labor leaders and labor professionals quarrel with the desirability of shifting toward greater cooperation and away from conflict. We accept, as does Secretary Lovell, the need to improve productivity, technology, job quality, worker participation, and worker morale. Indeed, we have been actively campaigning for these objectives for years. I also believe that Secretary Lovell accepts the inherency of the adversarial relationship in labor-management relations in a free enterprise society such as ours, for it also pervades relations between debtor and creditor, landlord and tenant, buyer and seller, producer and consumer, and Democrats and Republicans. Indeed, it is part and parcel of the pluralism which is characteristic of a free society.

But I also believe that the Reagan Administration and its appointees bear a special responsibility for crafting and executing a labor relations policy which promotes the cooperation advocated here by Secretary Lovell. It has so far fallen far short of fulfilling it.

The fact is that the leadership at the Labor Department operates in almost complete isolation from both the mainstream of the nation's labor movement and the realities of the labor market, in sharp contrast to both its Democrat and Republican predecessors. It justifies its isolation by expository declarations of its role as protector of individual workers as opposed, I presume, to labor unions which represent about 20 million of them. It could benefit from the adoption of the cooperation over conflict role which its Under Secretary has advocated here this afternoon.

Union-busting has become a big, profitable business in the United States, and the union-busting tactics of management consultants pervade and poison labor-management relations in our land. But the DOL has failed to provide any leadership in combating this pernicious development. On the contrary, it has failed to carry out its responsibilities under Section 203 of the Landrum-Griffin Act to enforce the reporting requirements of management consultants and adopted a highly restricted reading of the law, which has resulted in a lawsuit by the UAW to require it to carry out its statutory duty.

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The Carter Administration's Occupational Safety and Health Administration, after years of efforts by labor and health groups, issued a regulation in 1980 requiring employers to disclose health records to employees or their representatives. The regulation was viewed as a landmark in the effort to improve the diagnosis, treatment, and prevention of occupational diseases. It was and continues to be supported by the research arm of OSHA—the National Institute for Occupational Health. On November 5, 1982, a federal district court in Louisiana upheld the regulation. The DOL and the Reagan Administration have now proposed to change the regulation to reduce "compliance burdens on employers." It would like to drop 10 million of the 27 million workers covered by the rule, reduce by 94 percent the number of chemicals defined as toxic and subject to disclosure, and drastically reduce the time to keep records of exposure by workers to toxic chemicals, thus interfering with studies necessary for detecting long-term exposure to cancer-causing chemicals and the like.

Early this week the U.S. District Court in the District of Columbia issued a permanent injunction against the DOL which stopped implementation of revised Davis-Bacon Act regulations issued last May which sought to wipe out regulations which had been in effect for 50 years and remained unaltered under 15 Secretaries of Labor. The court concluded that Secretary Raymond J. Donovan's "claim to have discovered a wholly different congressional intent rings hollow in the light of that history." The proposed regulations would have undermined wage rates on federal construction.

The proposed Davis-Bacon Act revisions came about eight months after the Reagan Administration removed a 40-year-old ban on industrial homework in the apparel industry, and returned to the dreaded and thoroughly discredited garment industry sweatshop. A lawsuit challenging this action is pending before the U.S. Court of Appeals for the District of Columbia.

Also, early this week a federal district court in Philadelphia, while upholding the technical authority of the OFCC to dilute enforcement of its affirmative action program, questioned ". . . the wisdom of the Department's choices" of methods of enforcement and found them "seriously suspect."

Enforcement of the Occupational Safety and Health Act has dropped significantly under President Reagan, according to a recent analysis of government statistics. Total inspections declined 25 percent, while complaint inspections plummeted 58 percent. A new targeting program has replaced comprehensive plant inspections. It consists mainly of a review of employer records rather than a comprehensive inspection of the

workplace. OSHA has now thrice rolled back a deadline for employer compliance with the federal lead standard, and this has resulted in a lawsuit against the DOL by the Steelworkers Union. Similar rollbacks have occurred in compliance with cotton dust and noise control standards. The DOL's attempt to nullify the requirement for installing airbags in autos has been declared invalid by the U.S. Court of Appeals in Washington, D. C.

Finally, a recession, or depression, induced by this Administration in conjunction with the Federal Reserve has brought us the worst economy since the Great Depression of the 1930s, leaving upwards of 12 million unemployed in its wake. This dismal record of disregard for the working man will grow worse before it gets better, as even this Administration's spokesmen now concede. Economic growth is currently negative and 1983 is likely to provide very scant improvement coupled with continuing high unemployment rates. Low inflation in the midst of a dead economy is neither surprising nor consoling.

How then, Mr. Secretary, can you expect to turn things around? Who will follow the labor relations advice of this Administration? Where will you find the credibility necessary to persuade to your point of view?

I submit that there is nothing in the record of this Administration which encourages the labor movement or individual workers to trust your leadership. I suggest that actions speak louder than words, and I strongly urge that you, Mr. Secretary, and your associates *change course* during the next two years and rebuild and repair your relationship with the labor movement and the workers of America. Then—and only then—can you expect the cooperation you seek.

DISCUSSION

JAMES W. KUHN
Columbia University

An examination of the broad changes over the last two decades in the setting of American industrial relations helps explain the reasons for current government labor policies; it also suggests that anyone who expects in the near future a new partnership between unions and management may be overly optimistic. The last quarter century has not been a halcyon period for private-sector unions nor one of great opportunities for their leaders. Only in government have unions won large numbers of new members, increasing their number from less than a million in 1956 to over 3½ million today. In private employment, however, membership trends have been down over the last 25 years. Marginal gains of 1 to 2 percent a year through the 1960s and early 1970s appeared to have stabilized union strength, but they turned out to be ephemeral. Relative to the labor force, private-sector unionism has declined unmistakably and drastically.

In 1956 unions claimed nearly 40 percent of private-sector employment, but today they enroll only about half as large a share, 21 percent. Private-sector union membership in absolute number is down to the levels of the early 1950s and relative to its employment base it has fallen to its lowest since 1936! Nor is there any sign that these slides are apt to be soon reversed. Given this reality, one that politicians must know intuitively, we have much of the explanation of why Eisenhower would shrewdly choose James Mitchell as his Secretary of Labor, while Reagan could casually select Raymond Donovan as his. We need not be surprised that the President and many of his administrative officials do not concern themselves overmuch about their isolation from the leaders of organized labor. They may believe themselves to be quite safe from the opposition and anger unionists direct toward their national labor policies. Not only do private-sector unions occupy a smaller space in today's large economy, but their absolute membership and thus their revenues and influence have dropped precipitously in the last four years.

The massive, long-term changes in the structure of the economy may also help explain public toleration of the Reagan labor policy that has greatly affected industrial relations—the highest levels of unemployment since the Great Depression. Hardest hit has been the goods-producing

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sectors, particularly manufacturing and construction. In the last year durable employment has declined by more than 10 percent alone, accentuating a downward trend that has eroded the base of modern unionism and the center of industrial relations as popularly defined. In 1956 workers in goods production made up over 40 percent of all wage and salary employees; in 1982 they accounted for just over one-quarter! Even if one looks at only the experience of the last decade, the numbers reveal that durable manufacturing supplied but one job out of every 100 net new jobs created in the economy; the nondurables workforce actually shrank. Seventy percent of all the net new jobs, more than 11 million, were offered by trade and services. State and local governments provided another 15 percent, 2.4 million jobs.

TABLE 1

Private-Sector Union Membership and Private-Sector, Nonagricultural Employment, Selected Years, United States, 1933–1982
(in millions)

Year	Private-Sector Union Membership[a] (a)	Private Employment[b] (b)	a/b · 100
1933	2,689	20,533	13.1
1937	7,001	27,270[d]	25.7
1943	13,213	36,354	36.3
1947	14,787	38,383	38.5
1956	16,575[c]	42,239	39.2
1978	16,620[c]	71,025	23.4
1982	15,714[c, e]	74,044[c]	21.2

[a] *Handbook of Labor Statistics*, 1980, Bulletin 2070, Table 165, p. 412.

[b] *Economic Report of the President*, 1981, Table B-35, p. 273.

[c] For first 10 months. Union membership estimated by assuming half of job loss in manufacturing and construction, 1978–1982 resulted in dues-paying, membership losses.

[d] *Historical Statistics of the United States*, Pt. I, Series D 127-141, p. 137.

[e] Data for private sector only, excluding Canadian members.

A whole generation of labor leaders in the private sector, thus, have known little but the frustrations of running hard to stay in place or to minimize losses. Despite their efforts they have been continually losing national political influence. They have been forced by necessity to act defensively and to trim their policies to fit their unions' sheer survival needs. They may well now suffer a learned incapacity to innovate and to seize opportunities, even when offered and available.

Managers, too, may suffer the same incapacity, mirroring the learned deficiencies of their opposites across the bargaining table. At least, such may be the case in manufacturing, the sector that still accommodates the single largest concentration of union strength and membership. Since the

1930s its industrial relations have set the dominant tone and given the characteristic shape to American labor experience. What happens there powerfully affects public perceptions of labor and still defines its apparent successes and failures.

It is to the practitioners in this key setting that Mr. Lovell addresses his questions about their continuing dichotomy of conflict and interdependence. He is concerned that the adversarial stance of both union and management negotiators deny themselves and the economy of needed productivity gains and the opportunities for new jobs. His concern is a reasonable one, though more traditional than analytical. American commentators, scholars, and especially managers have often found disturbing the disharmonies at the workplace; at a time of economic crisis, they find them threatening. Such relationships in politics, however, are praised as the essence of democratic government; they are both appropriated and approved in our courts of justice; and they are perceived as being benignly constructive in the free market.

Those familiar with Reinhard Bendix's study of managerial apologetics[1] may be prepared to believe that workplace disharmonies of the kind regularly experienced in the U.S. are threats only to an ideology that arrogates for managers a special authority and an unusual wisdom. For those whose ideology is more democratic the answer to Lovell's first question is clear: yes, workers at all levels of an enterprise should have greater opportunities for participation in decisions affecting their work. That answer is required not merely by ideological commitment, but more importantly for pragmatic reasons: the changing nature and quality of the workforce.

TABLE 2

Self-Employed and Unpaid Family Workers, Selected Years

Year	Millions	Percent of Total Employed
1948	12.476	21.4
1956	11.159	17.5
1970	8.028	10.2
1980	9.179	9.4

Source: *Employment and Training Report of the President*, 1981, Table A-23, p. 155.

The younger workers now flooding the labor force—those born in the post-World War II baby boom—will be more dependent upon employers than any previous generation, and they will be the most schooled people

[1] *Work and Authority in Industry* (Berkeley: University of California Press, 1974), especially Ch. 5, pp. 254–340.

in history. Many of their parents and grandparents enjoyed the option of self-employment, one out of five as late as 1948. Now, more than 90 percent must find work or a job with an employer. Such dependency can be expected to clash with the American ethos of self-reliance, democratic participation, and freedom. Employers who continue to treat the oncoming workforce as they have treated the older—as hands, workers, or even as employees—carefully elevating themselves, psychologically as well as semantically, to maintain distance, status, and superiority, may expect difficulties.

The schooling of the oncoming workforce has prepared it for a world different from that acceptable to the older workers. It is far more knowledgeable about society and more ready to question its habits and traditions; it possesses far more leadership and capacity to organize protest and to carry out change. In 1959 nearly a third of the workforce had only an elementary schooling or less; fewer than one out of five had received any college training. Today only one out of twelve have to make do with nothing but an elementary training, and most of these are the older and retiring members. More than a third can now boast at least some college and among the younger workers, under 34, half make that claim.

If management is going to win the trust and cooperation of its oncoming employees, it might well consider preaching what it practices. It has long confounded itself with an anachronistic ideology that is at once elitist, manipulatory, and authoritarian. In practice managers are more realistic and responsive to the requirements of attracting and holding workers than they say they are; in fact, most managers in our largest companies and leading industries pursue strategies that are intended to build trust between themselves and their employees. Whether unionized or not, most use training programs to initiate and establish workers in the organization, provide long-term promotion and pay ladders, maintain pay in recessions as long as possible, layoff in inverse order of seniority and otherwise reward long service, and follow due process in the ordering and disciplining of all employees.

Economists wedded to the notion of an abstract, rational auction market blamed such practices on unions and condemned them as monopoly elements that interfered with worker freedom and efficient production. Labor economists have long known the foolishness of such judgments and their inadequacy in justifying traditional managerial ideology. Recently mainline economists have discovered that foolishness, too. Arthur Okun wrote, shortly before he died, about that discovery: "The development of rules and conventions for fair play [at the place of

work] becomes an essential element in the pursuit of efficiency. In this dimension, equity and efficiency are tied together rather than traded off against each other."[2]

If managers could transcend their habitual ideology to realize the wisdom of their best practices, that equity and efficiency go hand in hand, reinforcing rather than contradicting each other, a number of Lovell's concerns about management's readiness to cooperate with labor would fade. He correctly indicates that too often they pursue efficiency with an implacable determination that denies equity and also productivity; too many still view unions skeptically and even with hostility, denying opportunities to enlist their productive contributions; management still finds tempting a "union-free" environment and continues to toy with the idea that unions are basically illegitimate.

Should managers recognize how wise they are in practice and fit their rhetoric to their deeds, they could find a regular role for unions and also help expand production opportunities to whose exploitation both workers and union leaders could contribute.

[2] *Prices and Quantities: A Macroeconomic Analysis* (Washington: The Brookings Institution, 1981), pp. 84–85.

DISCUSSION

O. F. (FRITZ) WENZLER
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In reacting to Undersecretary Lovell's speech I will also raise a number of questions without providing the answers in my remarks, but I will make an effort to give you some management perspective on a number of the points which he made.

Let me first comment on several of the questions which have been raised by the Undersecretary. One is whether employees should be given a greater say in the employer's decision-making. My answer to that is a resounding "yes." Within my company we find that this approach works at all levels of the enterprise regardless of whether the employees are organized or unorganized.

A second question was whether in an organized situation the union should play a more substantive role in participatory efforts. The answer to that, too, is "absolutely." Experience has demonstrated repeatedly that without the cooperation of the union any such efforts concerning employees are at the very least seriously hampered, but more often doomed without it.

Yet another question was whether the rank and file would be able to shift its outlook and accept the introduction of new technology when it will clearly lead to the elimination of jobs at some point. My observation in this regard is that generally the rank and file will accept it, provided the union officials concerned understand the long-term needs of the company and are therefore supportive. In addition, there must be some assurance from management that it is attempting to deal with any job dislocation through attrition to the extent it is possible. This, of course, would not apply to a company which is merely trying to survive.

A fourth question raised by the Undersecretary was whether labor would be willing to give up its adversarial role. To respond to that I would say that, in the first place, I doubt that labor would be willing to do so and, secondly, I really do not think it is necessary. Labor can modify its traditional relationship in that regard, as Mr. Donohue of the AFL-CIO suggests; that is, by limiting it primarily to the bargaining process.

Finally I think the big question which was raised by Mr. Lovell's comments is whether management is willing to pay the price for labor's

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cooperation. On that one I would prefer to reserve my answer for a few moments.

I think it is first essential that we examine whether the need for labor-management cooperation truly exists and if so why. As I have already stated, it is my opinion that the need is there and it is very real. This need for greater cooperation is obvious for those industries which are currently so troubled. My company fortunately does not face those circumstances in the main, but the need is equally real for us. We reach this conclusion because in the long run this cooperation may mean even the most successful company's survival in this terribly competitive world. We in our company try to think long term and for that reason we put a high value on labor-management cooperation. We also have always had a strong conviction that we are responsible for producing products of the highest quality. It is very clear today that quality is an essential component of any company's survival kit. We need employee cooperation and commitment to achieve that objective. Those who dismiss the urgency of this need today will, I am certain, live to regret it whether they be representatives of management or labor.

To illustrate what I mean by cooperation and its rewards, let me just describe a few cooperative efforts our management currently has under way. First you must understand that we are, by any measure, a very decentralized company. We encourage our subsidiaries to experiment freely in employee relations matters and we avoid any unnecessary control from corporate headquarters. This philosophy generates considerable experimentation.

Currently, for example, we have completed three years of a joint labor-management effort at one of our major plants. The results today are that grievances are down 80 percent, absenteeism has been reduced 10 percent and the plant and its employees have received the highest national safety citations which can be earned.

At another plant we have been working with the Federal Mediation and Conciliation Service on a joint effort with the union there. The Service has a program which it calls "Relations by Objectives" or "RBO." By implementing this approach and working hard at it for over two years, we have measurably improved productivity and again reduced absenteeism. The union cooperation at that plant has been extremely good and management's commitment was strong from the beginning. These ingredients are absolutely necessary. That is not to say that some mistakes have not been made. In that effort, for example, the local representatives of management and labor agreed to set up a pay committee to discuss pay issues. Shortly before negotiations for a new contract were to commence, the pay committee raised the question of the disparity of take-home pay

between those employees who received incentive pay because they are engaged in direct production and those who were not because they were not truly related to the production process. This issue was clearly exacerbated during negotiations because of the pay committee and made it difficult to obtain rank-and-file ratification of a new contract which did not provide some "adjustment" for the nonincentive workers.

At another of our plants, and this one is not organized, management has implemented something it calls a "new design organization." This concept involves work teams which decide how they will go about their work, how to improve the quality of the product, and they even go so far as to determine when each member of the team has demonstrated sufficient ability to perform at his/her next level. What that obviously means is that the work teams decide upon pay increases for one another. Now this project was probably only possible because the plant was a new plant with a proven and profitable product. For this reason management was able to introduce the concept at the outset because there were not the normal start-up problems to be faced. In addition, employees were carefully screened before hiring.

Let me risk a little repetition by reciting some of the benefits that both management and employees have enjoyed. We have seen greater productivity and less confrontation between union and management. A better understanding has been achieved of the parties' respective problems whether they be operational in the case of management or political in the case of a union. We have seen that these efforts can be very helpful in easing the introduction of new technology and dealing with the resulting need for retraining. And, as I said earlier, absenteeism has dropped, grievances have been reduced in number, and safety records have been remarkably improved.

Now to the question I have been deferring: Is management ready to pay the price for union cooperation? Let me first examine what labor might want in return. To do so let us review labor's traditional goals. It is generally accepted that these are maintaining and increasing its membership, pursuing Sam Gompers' philosophy of "more" at the bargaining table, and persuading legislators to ease its path toward these goals. That suggests that labor's price will be such things as neutrality pacts and life-time job security. It might mean, as well, that cooperative efforts will be used at bargaining time to obtain higher wages, improved benefits, or additional restrictive work practices. It might even mean that employer organizations will be expected to "sit out" any renewed efforts to achieve the unions' idea of labor law reform, to legislate common situs picketing, or repeal Section 14(b) of the National Labor Relations Act.

If that is the case, I think you will find that some very troubled

companies or industries will accept some of these terms because they have no choice. Indeed, some have already done so. But the plain fact is that most other corporations will simply say "no thanks," and where does that leave things? No one would be better off. It is for this reason that I doubt that union leadership will be so demanding. It is far more sensible about the long term than management sometimes believes.

Let me briefly sum up. I would agree that it would be a mistake for either management or labor to reject labor-management cooperation. At the same time I maintain that the parties can continue their traditional adversarial roles at the bargaining table. I believe that cooperation should not force surrender of unrelated goals by representatives of either management or labor. By this I mean that labor should not make inappropriate demands at the bargaining table as the price for cooperation nor should it ask management to assist it in its organizing by remaining neutral during organizing campaigns. On the other hand, management has no right to expect labor to concede the traditional objectives of its membership. Management should not, in other words, view cooperation as the equivalent to concessionary bargaining.

Finally let me say that despite those highly publicized developments in industries where cooperation has been forced by the need to survive, the real opportunity comes when the parties are healthier. I am reminded of remarks once again attributed to Mr. Donohue. To paraphrase him, he said some years ago in response to a question about U.S. labor's interest in the kind of worker participation which is found in Germany and elsewhere, that "the trouble with applying it in this country is that management would treat us as junior partners in good times and senior partners in bad times." I do not believe the leaders of organized labor in this country hold that opinion any longer and I believe management would make a major blunder if it treated its "partners" that way.

At Johnson & Johnson we have found that you build the mutual trust that is necessary for these cooperative efforts when you can afford to do so. It is under those circumstances that you can deal with stereotyped opinions and old shibboleths in a rational way. What you are really trying to do is to develop a mutually satisfying culture in the workplace. The time to make a beginning of that sort is not in the midst of crisis.

XIII. IMPLICIT CONTRACTING IN THE LABOR MARKET

What Do Implicit Contracts Do?

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The set of rules governing the employment relation is an important example of an implicit contract. Some of the rules might be legally enforceable, while others are enforceable due to reputation effects or the benefits of maintaining a long-term relationship. To the extent that the informal forces are operative, all rules governing the relation need not be explicit. An implicit contract will do. Our goal is to describe the purposes of this type of implicit contract.

It may seem that the use of the term "implicit" suggests an important distinction from explicit contracting. In fact, however, economists frequently do not distinguish between the two. One reason is that explicit contracts are necessarily incomplete and, hence, implicit to a degree.

Complete labor contracts are of the contingent claims variety; that is contract now for a transaction x_i contingent on the occurrence of event e_i. If the contracts were to be fully explicit, then all of the potential future events and transactions attached to those events would need to be described. A complete explicit contract of this type would involve considerable transaction costs to both write and enforce. These costs can be partly economized by replacing detailed contingent transactions with general rules about how transactions are to be determined under different conditions. Nevertheless, specifying and enforcing how the rules themselves adapt to shifting market conditions would still be very costly. To avoid these transaction costs, explicit contracts are left incomplete. Consequently, parties to the employment relation adapt to new circumstances in a sequential fashion. An implicit contract can be interpreted as a mutual understanding about how these adaptations take place.

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Economic analysis has focused on two broad approaches to implicit contracting. The traditional neoclassical approach studies optimal allocations of risk and resources, taking institutions as given.[1] In contrast, the transaction cost approach compares alternative institutions, taking optimizing behavior as given.[2] Accordingly, the institution itself becomes a decision variable in the maximization process. The term "institution" is used to describe explicit or implicit agreements regarding the process of delineating and enforcing the contract.

The two approaches are clearly complementary. Together they form the basis of a complete theory of implicit contracting. Consequently, the short answer to the question raised in the title of this paper is that the purpose of implicit contracts is to allocate risk and resources in a fashion that economizes on transaction costs.

Two time dimensions need to be studied—that of the business cycle and that of the life cycle. First, over time, external supply and demand conditions in the market shift, rendering obsolete existing wage and employment equilibria at the firm level. The adjustment to new macroeconomic conditions seems to involve large shifts in employment and output, with only minor changes in relative wages. In addition, layoffs are concentrated among lower skilled workers. Secondly, over the worklife cycle, workers' productivity within the firm and opportunity wages outside the firm seem to increase for some time interval and then decrease. Although the problems posed by business and life cycles overlap, they provide a useful categorization of the difficulties facing the employment relationship.

A satisfactory theory of contracting should be able to explain these stylized facts: (1) Real wages do not adjust, cyclically, to clear labor markets; rather, part of the adjustment is through temporary layoffs. (2) Employers exercise considerable discretion in determining the number of workers to lay off. (3) The composition of layoffs is determined by the seniority system. (4) There is an upward sloping age-earnings profile. (5) Retirement is mandatory.

The transaction cost approach to contracting is based on the twin behavioral assumptions of bounded rationality and opportunism. For our purposes, bounded rationality refers to the limited ability of economic agents to monitor and process information, while opportunism means that

[1] For reviews of that literature, see Costas Azariadis, "Implicit Contracts and Relation Topics: A Survey," in *The Economics of the Labour Market*, eds. Z. Hornstein et al. (London: HMSO, 1981), or Costas Azariadis and Joseph Stiglitz, "Implicit Contracts and Fixed Price Equilibria," *Quarterly Journal of Economics* (forthcoming May 1983).

[2] Oliver E. Williamson, Michael L. Wachter, and Jeffrey E. Harris, "Understanding the Employment Relation: The Analysis of Idiosyncratic Exchange," *Bell Journal of Economics* 6 (Spring 1975), pp. 250–78.

agents maximize their own self-interest and might willfully misrepresent private information toward this end.

These considerations create the following dilemma. The benefits of an employment relation are maximized by adapting transactions to new information. But bounded rationality means that information gathering is costly, implying that transaction costs are economized by delegating information tasks to the low-cost party. However, opportunism means that the low-cost party cannot necessarily be counted on to reveal the true information. How then can new information be brought to bear efficiently on the employment relation?

The employment relation might adapt transactions to new information in two alternative ways. First, agents could establish procedures for jointly monitoring and verifying relevant information. Such procedures are likely to be used if *both* parties to the contract or an independent auditor can gather information cheaply. A potentially important role of an auditor is to interpret new information with respect to the x_i and e_i of the contract.

Second, information monitoring tasks could be assigned to one or the other party. Incentives would then have to be provided to induce that party to be truthful in reporting the privately observed information.

Transaction costs are incurred under each alternative. Under the first method, the relevant transaction costs are those associated with the monitoring/verification technology. Under the second method, transaction costs include monitoring costs plus the efficiency losses associated with providing the correct incentives. In both cases there are transaction costs associated with a potential breakdown in the employment relationship, such as a strike or an ongoing deterioration in labor relations.

Real world contracts tend to mix the alternative modes of processing information in a manner which economizes on aggregated transaction costs. Fact-finders in pay disputes and the quasi-judicial role of arbitrators in grievance procedures and public employee bargaining are examples of the use of independent agents or auditors. An example of the latter mechanism is the contract that places no restrictions on the number of layoffs that an employer can order, but does provide a schedule, such as seniority and the degree of bumping rights, to determine who is to be laid off.

Although the contracting literature discusses information gathering and processing in a formal manner, the underlying ideas have long been a primary concern in the labor relations literature. Early advocates of labor unions referred to the ability of firms to take advantage of workers by manipulating the external environment as perceived by the workers.

Real Wage Insurance over the Business Cycle

A major contribution of the neoclassical literature has been to focus on the fact that implicit contracts perform an insurance function, allocating risk between workers and firms. Since there are many types of risks faced by firms and workers, there is considerable room for contracting aimed at efficient risk bearing. Particular attention in the implicit contract literature has been attached to the risks posed by business cycle fluctuations. The argument is that risk-neutral employers insure the real wages of risk-averse workers. During downturns, firms adjust manhours and output rather than real wages.

Under conditions of full and symmetric information and absent restrictions on contracting, the optimal contract determines a quantity of labor or manhours which equates marginal revenue product with opportunity cost. A reduction in manhours may be achieved through work-sharing or layoffs. This is an important distinction. If employment is kept constant and hours reduced, then real income will decline. The empirical evidence suggests that both occur. Employers respond to business-cycle downturns by reducing hours of work as well as by laying off workers.

The choice between layoffs and work-sharing is determined by equating the marginal costs and benefits of each. For example, the existence of public unemployment compensation reduces the cost of layoffs to workers and makes it less likely that laid-off workers will accept jobs elsewhere. Minimizing real income fluctuations during a downturn thus affects the firm's optimal use of layoffs. The existence of economies of scale in scheduling work and in fringe benefits also affects the optimal layoff/work-sharing mix.

Although the insurance argument may seem to conclude that real wages are completely rigid, this may not be the case. For example, the possibility that exogenous shocks might substantially lower the marginal product of labor encourages coinsurance. To avoid bankruptcy, the firm cannot perfectly insure real wages against all risks.

Asymmetric Information and Transaction Costs

In providing an insurance function for its workers' real incomes, the firm must collect and analyze all of the relevant data that affect supply and demand conditions. Firms, however, may have an incentive to misrepresent excess demand conditions, for example, so as to pay lower wages.[3] To counteract this, workers could also collect and analyze the

[3] Another example is that the firm may wish to reduce employment. Recall that, under the full information contract, optimal employment equates the marginal revenue product of labor with its opportunity cost. At the same time, insurance considerations imply that the

information. Efficiency in these tasks favors collective action. Hence, the existence of a labor union in the neoclassical world is explained, in part, by the argument that it is an efficient device for monitoring and processing information, as well as an instrument for collective bargaining.[4]

In practice it is, of course, prohibitively costly for both the firm and the union (or an independent auditor) to continuously monitor, verify, and adapt to all new information. Contract renegotiations at fixed intervals are one way to bring new information to bear on the employment relation in an economical way. Another, complementary method is to devolve some unilateral decision-making authority upon the firm, allowing the firm to adapt to its private information in a more or less continuous way.

A more difficult contracting problem arises when information is private and, thus, when one party has asymmetric access to that information. Typically a firm has greater private information on its own demand for labor and thus on the marginal revenue product of its workers. If transactions are to be contingent on the firm's private information, then incentives must be provided to induce truthful revelation by the firm. A general approach to solve this problem is to establish a schedule relating the wage bill to the quantity of employment and then to allow the firm to pick a point on the schedule based on its private information.[5]

The firm is not given the right unilaterally to lower real wages when the demand for its product declines. It can, however, adjust its total wage bill by laying off workers and, hence, by reducing output. Since output declines along with the wage bill, firms will be reluctant to overstate the decline in the demand for its product. By mandating this less profitable or flexible avenue of adjustment, the implicit contract is thus indirectly encouraging the firm to reveal its private information.

Other examples of wage-employment schedules include hours reduction through temporary plant closings, extended vacations without pay, and early retirement. Where layoffs are used, "bumping rights" indicate the possible wage reductions associated with the new job title.

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real wage is above the opportunity cost of labor. Therefore, the firm would prefer more unemployment than is specified by the implicit contract. With private information, the firm would declare falsely that the demand for its product has fallen and, hence, justify more layoffs.

[4] See, for example, Richard B. Freeman and James L. Medoff, *What Do Unions Do?* (New York: Basic Books, 1982).

[5] The importance of asymmetric information is argued by Robert E. Hall and David H. Lillien, "Efficient Wage Bargains under Uncertain Supply and Demand." *American Economic Review* 69 (December 1979), pp. 868–79. See also Sanford Grossman and Oliver Hart, "Implicit Contracts, Moral Hazard and Unemployment," *American Economic Review* 71 (May 1981), pp. 301–307.

Real or nominal wage reductions are clearly an option in these schemes; that is, only the schedule is fixed rather than the wage itself.

Contract negotiations provide a mechanism for bringing to bear new information. At this time, the wage-employment schedule may be revised. The timing of contract renegotiations is, in part, determined by how rapidly new information tends to become available. Where unanticipated events generate a significant change in the environment, the contract may be reopened.

The recent "give-backs," which were caused by the unanticipated severity of the 1981–1982 downturn, are an example. In these cases, the fixed wage-employment schedules existing at that time had been adapted to deal with moderate recessions. The occurrence of a severe downturn was itself the new information that rendered the old schedules obsolete. Faced with schedules that mandated extensive layoffs or hours reductions, the parties adjusted to the recession by renegotiating the schedule to place more stress on wage reductions.

The private information of the firm provides an explanation as to why firms have considerable discretion in determining layoffs. As the firm's private information varies, its preferred point on the schedule or its chosen level of manhours varies as well. Hence, asymmetric information helps explain the stylized facts (1) and (2) above.[6]

We still have no explanations of the age-earnings profile, mandatory retirement, or the popularity of the seniority system for allocating layoffs. These facts are most easily explained by the incidence of specific training or insurance geared to life-cycle considerations.[7]

Specific Training and Life-Cycle Considerations

In analyzing how implicit contracts deal with life-cycle as distinct from business-cycle questions, worker heterogeneity becomes the center

[6] To push things a bit further, consider an institutional structure in which both the firm and the union have private information. Typically, the union has better information on the opportunity wage of its workers. With bilateral private information, the contracting problem can be viewed in the following general terms. The implicit contract establishes a class of available wage-employment schedules. The union is designated to choose a particular schedule from that class, based on its private information. The firm then takes the chosen schedule as given and picks a point on it, based on its private information. In this way transactions vary with both the private information of the union and the private information of the firm. Bringing to bear the private information of the union provides a fuller explanation of contract renegotiations and reopeners. See Michael H. Riordan, "Uncertainty, Asymmetric Information and Bilateral Contracts," Discussion Paper No. 132, Center for the Study of Organizational Innovation, University of Pennsylvania, May 1982.

[7] An alternative explanation for stylized fact (4) is supplied by Bengt Holmstrom. He argues that an upward sloping age-earnings profile may be explained as a pecuniary bond. Workers post a bond in the form of a lower initial wage. This then discourages them from quitting when their opportunity wage rises above the rigid wage paid by the firm. See "Equilibrium Long-Term Labor Contracts," *Quarterly Journal of Economics* (forthcoming May 1983).

of attention. Worker heterogeneity due to job-specific training creates a situation of bilateral monopoly and idiosyncratic exchange.

The prevalence of job-specific training has typically been used to explain the upward slope of age-earnings profiles and the tendency for low-wage workers to be laid off first. It is typically assumed that the marginal productivity of workers increases as a consequence of specific training. With increasing age, however, net training expenditures slow or stop and marginal productivity turns downward. The unique feature of specific training is that it is unique to the job or the firm. Hence, the possibility of quits or layoffs makes it risky for firms or workers, respectively, to undertake the training. The problem posed for implicit contracting is to ensure that the optimal amount of specific training is undertaken. This involves appropriate incentives so as to avoid contract breach which occurs whenever one party threatens a quit or a layoff to void the other party's specific investment.[8] This is essentially a moral hazard problem.

The human capital literature indicates that the widely observed upward sloping wage trajectory solves this problem. The costs of the investment are shared. In an initial training period, workers are paid less than their opportunity wage, the difference being the workers' investment. They are also paid more than their marginal product, the difference being the firm's investment. In the second period, workers are paid more than their opportunity wage, hence, recouping some of their investment. Since the workers are also paid less than their marginal product, the firm is also recouping its investment.[9]

The decline in workers' marginal product in later stages of their life cycle introduces an important complication. Since firms recoup on their investment only while the wage paid is below the marginal product, a declining marginal product with age threatens that investment. One solution would be to decrease wages concomitant with the decrease in marginal productivity. Absent asymmetric information, this could be done. Firms, however, have private information concerning the workers' productivity to the firm, and workers have private information concerning their opportunity wage. This creates the problem that both parties have an incentive to misrepresent their information, firms by arguing that the workers' productivity is low and workers by arguing that their opportunity wage is high.

Given the existence of specific training costs incurred by workers and

[8] See, for example, Masanori Hashimoto and Ben Yu, "Specific Capital, Employment Contracts, and Wage Rigidity," *Bell Journal of Economics* (Autumn 1980).

[9] See Alan S. Blinder, "Private Pensions and Public Pensions: Theory and Fact," NBER Working Paper No. 902, June 1982; and Edward Lazear, "Why Is There Mandatory Retirement?" *Journal of Political Economy* 87 (December 1979), pp. 1261–84.

real wage insurance, a unilaterally determined permanent layoff or wage reduction by the firm can be interpreted as a breach of the implicit (or explicit) contract. Since the opportunistic use of private information precludes the determination of an optimal retirement age for each worker, fixed mandatory retirement rules are used instead. The mandatory retirement age will be fixed prior to the point where the actuarial or expected marginal product of the workers falls below the actuarial opportunity cost of the worker's labor.

The Size of the Surplus

The prevalence of specific training highlights another concern for implicit contracting. Where the employment relationship involves idiosyncratic exchange between the firm and workers, each of whom has a heterogeneous training component, a bilateral monopoly problem emerges. As a consequence, there is a potential surplus that can be divided between the firm and the workers. Both the size and the division of the surplus depend on the institutional structure defined by the implicit contract. This structure, which includes promotion ladders, seniority rights, grievance procedures, and monitoring and auditing procedures, has the purpose of encouraging joint maximization.

The goal of the implicit contract is to maximize the surplus by optimizing across externalities which involve the use of asymmetric information and specific training. A break in the contracting process will thus yield a suboptimal surplus due to inefficient resource allocation. Absent an implicit contract, the externalities are ignored and the resulting surplus is lower than might otherwise have been the case. A break in an existing contract may also yield results inferior to what would have happened if no contract had ever existed.

Implicit Contracting, Union Strength, and Seniority

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Implicit Contracting and Union-Strength Hypotheses

Proponents of implicit contracting attempt to explain a variety of labor market phenomena which they consider to be unsatisfactorily explained by other approaches. This paper will examine their explanations for two of these phenomena: the positive correlation between job tenure and earnings and the negative correlation between job tenure and the likelihood of layoff.

Arthur Okun begins his exposition of implicit contracting by assuming the existence of a "toll" that must be paid by employers when they hire a new employee.[1] Given the existence of such a toll, employers will have incentives to (1) shift as much of the toll as possible on to new employees; (2) offer rewards for seniority, to encourage current employees to stay with the firm and reduce employee quits, so as to avoid future tolls; (3) enhance their reputations as reliable employers that provide steadily increasing wages and relative job security; and (4) hire employees who expect to remain with the firm for a long time.

A seniority-based wage system, in which new workers are paid less than their marginal revenue product, will shift part of the cost of the toll to new employees and also lead to self-selection into the firm of workers who expect to remain with the firm a long time and thereby recoup their part of the toll payment as their wages rise.

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[1] Arthur Okun, *Prices and Quantities: A Macroeconomic Analysis* (Washington: Brookings Institution, 1981). Although a number of other writers have contributed to the implicit contracting literature, Okun's approach has been most widely discussed. Okun's approach appears to draw heavily on Walter Oi's article, "Labor as a Quasi-Fixed Factor," *Journal of Political Economy* 70 (December 1962), pp. 538–55. Okun later explains the tolls as the cost of screening new hires, providing tryout periods for new hires, training new workers, and offering costly incentives designed to improve the quality of performance.

Employers can reduce payroll costs in response to decreases in derived demand by instituting layoffs or part-time work or by cutting wages. The layoff option is often the most advantageous, Okun argues, when the relative costs of the various options are examined. Decreases in wages will harm an employer's reputation as a provider of constant or rising real wages. Further, the costs of choosing the layoff alternative may not be excessive: when the next recovery occurs, the firm can recall its laid-off employees and thereby avoid new tolls. If layoffs do occur, the more senior workers will be retained, partly because the firm's goal of reducing future quit rates—and therefore future toll payments—depends on providing low risks and high expected earnings to workers who choose to stay with the firm for long periods.

Okun deliberately develops this model for the explanation of layoffs and the role of seniority in pay systems and layoff procedures with only incidental references to unions. In a section at the end of his last chapter on labor markets (pp. 122–29), unions are treated as institutions that modify certain features of the model, but do not independently account for any major feature. "The implicit contract is the general case; the shift to explicit contracts with unions creates the special case" (p. 122). In sum, Okun (and some other proponents of the implicit contracting approach[2]) rely on implicit contracting rather than union influences to explain the positive correlation between job tenure and pay rates (Okun, pp. 50–55, 64–65, 71–75, 93, 111) and the negative correlation between job tenure and the probability of layoff (Okun, p. 111).

This paper presents evidence that union support for the use of seniority in promotion and layoff procedures is an important independent determinant of the observed correlations between seniority and wages and seniority and layoffs. This evidence is suggestive rather than conclusive, primarily because the main data source used permits only a bivariate rather than a multivariate analysis.

The Union-Strength Hypothesis

It is widely believed that union officials favor the use of seniority in a variety of personnel procedures, including layoff, promotion, transfer, and selection for training programs.[3] This belief is supported by the

[2] The main exception is Martin Neil Baily, who develops an implicit contracting model for layoffs that relies partly on the political power of senior workers. See Baily, "Contract Theory and the Moderation of Inflation by Recession and by Controls," *Brookings Papers on Economic Activity* (3:1976), esp. pp. 606–11.

[3] Neil W. Chamberlain and Donald E. Cullen, *The Labor Sector* (New York: McGraw-Hill, 1971), pp. 249–53; Herbert Northrup et al., *In-Plant Upgrading and Mobility Patterns* (Philadelphia: Wharton School, University of Pennsylvania, 1975), p. 24; Lloyd G. Reynolds, *Labor Economics and Labor Relations* (Englewood Cliffs, N.J.: Prentice-Hall, 1978), p. 527; U.S. Department of Labor, Bureau of Labor Statistics, *Training and Retraining Provisions*, Bull. 1425-7 (1969).

results of a survey of officials of local and international unions conducted by staff of the U.S. Commission on Civil Rights (hereafter, the CCR survey).[4]

In 54 out of 77 cases, local union officials and matched company officials agreed that seniority is a criterion for promotion of bargaining-unit employees.[5] In 93 percent of these cases, union officials reported that the contract requires the use of seniority for promotion. In none of the 54 cases did union officials state that the contract prohibits the use of seniority and in none of the cases did the unions oppose the use of seniority for promotion.[6] Similar results were obtained in interviews with officials of seven large international unions.[7]

[4] The survey was conducted in 1978–1979, on visits to 12 randomly selected SMSAs across the country, by a team of Commission staff interviewers working under the direction of the writer, who was then a Commission employee. The survey data file contains the results of face-to-face interviews with 194 randomly selected establishment-level employers and 98 randomly selected local unions. In 77 instances, the local unions were matched with employers in the employer sample (unions were selected first, then employers were selected from among a local's bargaining partners) so as to permit validation of employer responses by analysis of partner union responses. Employers and local unions selected for the survey represented all predominantly private-sector industries, with the exception of construction, with high proportions of blue-collar and hourly paid white-collar employees. Interviews were also conducted with officials from the international headquarters of 11 large international unions with which the 98 locals were affiliated. (The locals belonged to 12 internationals, but in one instance, the Teamsters, international union officials did not agree to be interviewed.) Of the 11 internationals, seven also had their own national collective bargaining agreements, and international officials were interviewed regarding the selection factors used by the employers covered by these contracts. Of the 98 locals, seven were affiliated with each of five internationals (Teamsters, Auto Workers, Steelworkers, Electrical Workers [IBEW], and Machinists), while six locals were affiliated with each of seven internationals (Carpenters, Retail Clerks, Laborers, Service Employees, Meat Cutters, Clothing and Textile Workers, Communications Workers, Hotel and Restaurant Employees, Operating Engineers, and Ladies' Garment Workers). Additional information on the survey can be obtained from the author. Some survey results are presented in U.S. Commission on Civil Rights, *Nonreferral Unions and Equal Employment Opportunity* (Washington: 1982).

[5] There were 77 cases of matched local unions and establishments. In eight cases, the company officials stated that they did not know whether seniority was used for promotion or that there were not enough promotions to have a standardized system, while three stated that they did not use seniority for promotion. In 57 of the remaining 66 cases, local union officials stated that companies had formal promotion procedures. In three of these 57 cases, however, local union officials did not state that company officials used seniority for promotion.

[6] In the CCR survey, promotions were defined as "job changes or reclassifications which immediately result in greater responsibility, more prestige, or higher pay."

[7] All seven unions had national collective bargaining agreements. Officials of all seven stated that the contract requires the use of seniority for promotion, none stated that the contract prohibits the use of seniority, and six stated that the international does not oppose the use of seniority for promotion. Regarding this final question, an official of the seventh union, the Communications Workers, stated (in April 1979) that the AT&T consent decree had only recently expired and that he could not give a definite response to the question. The other six internationals were the UAW, Steelworkers, IBEW, ACTWU, Meat Cutters, and Ladies' Garment Workers. Local and international union officials were asked similar questions concerning the use of seniority in selection for transfer and training programs. Responses were similar to those given with regard to promotion.

Other studies provide direct or indirect confirmation of the view (which has been supported by industrial relations researchers for several decades) that unions favor the use of

Union support for seniority systems has been attributed by some writers to the influence of senior workers within the bargaining unit.[8]

Tests of the Hypotheses

Promotion, Transfer, and Training

A hypothesis may be formulated to test the role that seniority plays in promotion in unionized firms. The evidence just cited indicates that unions attempt to ensure that seniority is an important factor in promotion. Some employers, union and nonunion, may also wish to use seniority as a selection factor, perhaps because they may believe it to be an inexpensive and accurate indicator of employee productivity. According to the implicit contracting hypothesis, employers may also use seniority in promotion decisions because they believe that, in the long run, this will help them minimize tolls. The extent of *nonunion employers'* use of seniority, and the weight they place on seniority, may be taken as an indication of unconstrained employer preferences regarding the use of seniority. Hence, if union employers use seniority more than nonunion employers, or place greater weight on it, this is an indication that unions cause employers to use seniority more than they wish.[9] The null hypothesis, then, is that an employer's union status has no positive relation to the use of seniority in promotion; the test of this hypothesis will be called Test 1. If there is a significant positive union-nonunion difference among employers in the use of seniority in promotion decisions, this may be taken as the result of an "institutional" influence, over and above the belief that use of seniority will minimize tolls (or that seniority is an inexpensive screen for employee productivity).

The hypothesis is tested with the use of data gathered in face-to-face

seniority in selection for layoff, promotion, transfer, and training programs. Bureau of National Affairs, *Employee Promotion and Transfer Policies* (Washington: January 1978); Northrup et al., *In-Plant Upgrading*; and U.S. Department of Labor, Bureau of Labor Statistics, *Characteristics of Major Collective Bargaining Agreements, July 1, 1976*, Bull. 2013 (1979); *Administration of Seniority*, Bull. 1425-14 (1972); *Seniority in Promotion and Transfer Provisions*, Bull. 1425-11 (1970); and *Training and Retraining Provisions*, Bull. 1425-7 (1969). It is unfortunate that these studies are either (a) surveys conducted without benefit of scientific sampling procedures, (b) case studies, or (c) studies that do not include information on the use of or opinions concerning seniority in the nonunion environment.

[8] Baily. Empirical evidence consistent with this statement also appears in Francine Blau and Lawrence Kahn, "Unionism, Seniority and Turnover," *Industrial Relations* (forthcoming). On a distinct but related point—the effect of the median age of union members on the proportion of total compensation received in the form of pension benefits—see Henry Farber, "Individual Preferences and Union Wage Determination: The Case of the United Mine Workers," *Journal of Political Economy* 86 (October 1978), esp. pp. 938–39.

[9] In the CCR survey, the distributions of union and nonunion employers by industry and by region (South and non-South) are identical. These distributions were built into the survey design. Hence union and nonunion differences in the use of seniority were not due to correlated differences in industry mix or region.

interviews with company officials in 194 establishments. Although a higher percentage of unionized than nonunionized employers used seniority in promotions, the differences were small and not significant at the P = .05 level.[10] The large percentage of nonunion employers using seniority in promotion—over 90 percent in both South and non-South—will presumably surprise some researchers. There were no significant union-nonunion differences among employers in the use of seniority for selection for transfer or training programs.

Employers were asked to rank seniority and several other selection factors by their weight in the selection procedure.[11] There were large and significant differences in the percentages of nonsouthern union and nonunion employers who ranked seniority as the first or second most important selection criterion in promotion; 74 percent of union employers and only 39 percent of nonunion employers in the non-South ranked seniority this high.[12] For transfer and training decisions, seniority was the first or second most important selection factor for a higher percentage of union than nonunion employers in the non-South.[13] The CCR survey, then, provides evidence in favor of the union-strength hypothesis in the sense that greater weight is attached to seniority by union employers in the non-South in the selection of employees for promotion, transfer, and training.

Another test of the union-strength hypothesis is the extent to which unions succeed in forcing companies to rely on seniority for promotion, in preference to direct appraisal of individuals.[14] The union strength hypothesis implies that union employers rely less on selection procedures designed to appraise individuals; the test of this hypothesis will be called Test 2.[15]

[10] In the non-South, 96 percent of unionized and 92 percent of nonunionized employers used seniority in promotion. In the South, 91 percent of both types of employers used seniority. The non-South difference was not significant under either the chi-square or the tau b test.

[11] Company officials were, of course, asked to rank only those factors that they had previously stated were used in the establishment. The other factors are named in Table 1.

[12] This difference is significant at the $P = .05$ level, using either the chi-square or the tau b test. In the South, 57 percent of union and 50 percent of nonunion employers reported that seniority was the first or second most important selection factor. This difference is not significant.

[13] These differences were significant at the $P = .05$ level, using the tau b test.

[14] According to Okun, employers will use judgment in appraising recruits (Okun, p. 63), use try-outs to assess productivity of new recruits (p. 63), attempt to "weed out" the least productive workers during layoffs (p. 111), and develop incentive systems that reward past productive contributions (pp. 73–74).

[15] The question arises whether Test 1 is independent of Test 2. Note that employers were first asked whether they do or do not use specific selection factors for promotion. Then they were asked to rank the most important and second most important factors. With regard to *weight* attached to various factors, then, the results of Test 1 are not independent of the results of Test 2: if an employer ranks seniority as first or second most important, then he or

A larger proportion of nonunion than union employers relied, in their promotion procedures, on written performance evaluations, interviews, educational qualifications, and supervisors' recommendations (see Table 1). However, a larger proportion of union employers used written tests. All of these differences were present among both southern and nonsouthern employers, but significant only among nonsouthern employers.[16]

The CCR survey, then, provides mixed evidence in favor of the union-strength hypothesis. A significantly lower proportion of union employers used four out of five selection procedures that permit assessment of differences among individuals' performance or qualifications for a promotion.[17]

The explanatory power of the union status of employers is, in several instances, not trivial. The tau b test measures the proportionate reduction in error in predicting establishments' use of a selection factor, compared with the error involved in predicting such use without taking union status into account. For the weight attached to the use of seniority in promotion in the non-South, controlling for union status yields a 32 percent reduction in error. For the use or nonuse of written performance evaluations in the non-South, controlling for union status yields 38, 35, and 23 percent reductions in error for promotion, transfer, and training, respectively. Reductions in error of similar magnitude were obtained for the use of educational qualifications and supervisors' recommendations in the non-South.[18] It appears, then, that the union-strength hypothesis has significant

she can rank only one other factor first or second. However, for *use or nonuse* of the factor, Test 1 is independent of Test 2: a company that *uses* seniority can also use any number of the other factors. The important thing to note is that most of the significant union-nonunion differences were found for use or nonuse of the factor, where Test 1 is independent of Test 2.

[16] When significance is measured by the chi-square test. All of the nonsouthern differences, and most of the southern differences, are significant under the tau b test.

When company officials were asked to rank all selection factors by the weight given in the promotion process, a few of the union-nonunion differences in the use of the selection factors were reversed. None of the differences (for selection factors other than seniority) is significant under the chi-square test. Under the tau b test, the greater weight attached to interviews and prior related work experience by nonunion employers in the non-South is significant.

One can speculate that the greater use of written tests by union employers might reflect union officials' belief that they can influence the content of the tests.

[17] It does not necessarily follow, however, that firms with union-represented employees are less productive than nonunion firms. See Charles Brown and James Medoff, "Trade Unions in the Production Process," *Journal of Political Economy* 86 (June 1978), pp. 355–78.

[18] Complete tabular results may be obtained from the author on request. All results so far reported in this paper relate to unweighted data. The CCR survey purposefully oversampled heavily unionized industries and also oversampled unionized establishments within each industry. When the data are weighted, to correct for this oversampling, most of the results reported in this paper do not change dramatically. The results reported in the above paragraph, however, do change somewhat: for the weight attached to seniority in promotion in the non-South, controlling for union status yields 37, 33, and 55 percent reductions in error for promotion, transfer, and training, respectively. For the use or nonuse of written performance evaluations in the non-South, the reductions in error become 50, 49, and 42 percent.

TABLE 1

Union/Nonunion Status of Establishments and Percentage of Establishments Using Particular Selection Factors, by Region, 1978–1979.

Use of Factor	Seniority		Written Tests		Written Performance Evaluations		Interviews	
	Non-South	South	Non-South	South	Non-South	South	Non-South	South
For Promotion								
Union	96% (101)	91% (33)	33% (101)	42% (33)	35% (101)	30% (33)	65% (101)	61% (33)
Nonunion	92% (36)	91% (11)	11% (36)	9% (11)	78% (36)	73% (11)	86% (36)	82% (11)
For Transfer								
Union	94% (95)	97% (32)	17% (94)	31% (32)	31% (95)	34% (32)	57% (94)	50% (32)
Nonunion	88% (33)	88% (8)	9% (33)	12% (8)	70% (33)	75% (8)	88% (33)	75% (8)
For Training								
Union	78% (46)	70% (10)	50% (46)	60% (10)	35% (46)	50% (10)	67% (46)	80% (10)
Nonunion	85% (13)	50% (2)	31% (13)	0% (2)	62% (13)	100% (2)	85% (13)	50% (2)

Use of Factor	Educational Qualifications		Prior Related Work Experience		Supervisors' Recommendations	
	Non-South	South	Non-South	South	Non-South	South
For Promotion						
Union	32% (101)	42% (33)	83% (101)	91% (33)	62% (101)	76% (33)
Nonunion	61% (36)	82% (11)	94% (36)	100% (11)	97% (36)	100% (11)
For Transfer						
Union	35% (95)	41% (32)	78% (95)	72% (32)	63% (95)	62% (32)
Nonunion	54% (33)	75% (8)	88% (33)	100% (8)	91% (33)	100% (8)
For Training						
Union	52% (46)	70% (10)	65% (46)	90% (10)	54% (46)	70% (10)
Nonunion	69% (13)	0% (2)	92% (13)	50% (2)	92% (13)	100% (2)

Note: Rectangles indicate that the union/nonunion difference is statistically significant at the .05 level, using the chi-square test. Brackets indicate significance at the .05 level using the tau b test.

explanatory power independent of the explanatory power of the implicit-contracting hypothesis.[19]

Layoff

Data on layoff procedures provide additional support for the union-strength hypothesis. A mail survey conducted in early 1980 by Medoff and Abraham obtained replies from 561 firms concerning the role of seniority in layoff.[20] The survey results showed that 90 percent of the managers of hourly workers covered by collective bargaining agreements said that seniority was the primary factor in determining permanent layoffs. Among managers of hourly workers not covered by collective bargaining, 60 percent stated that seniority was the primary factor. Company managers also reported on whether, in the event of a workforce reduction, they would ever terminate a senior employee in place of a junior employee. Among managers of unionized employees, 68 percent stated that they would never terminate the senior employee, while 29 percent of the managers of nonunion employees reported they would never do this.

Medoff and Abraham, in a separate study that includes an analysis of longitudinal data for employees at a large firm, conclude that protection against job loss grows with seniority, and that the degree of protection is greater for senior union personnel than for senior nonunion employees.[21]

[19] This conclusion appears to conflict with the belief of some human capital theorists that the correlation between job tenure and earnings is due largely to on-the-job training and has little or nothing to do with seniority-based promotion procedures. See Jacob Mincer and Boyan Jovanovic, "Labor Mobility and Wages," in *Studies in Labor Markets*, ed. Sherwin Rosen (Chicago: University of Chicago Press, 1981), esp. p. 42. The conclusion presented above also appears to conflict with an explanation of the use of seniority that one might construct on the basis of provisions of the Civil Rights Act of 1964. Title VII of that Act specifically permits employers to use seniority in their selection procedures. (See U.S. Commission on Civil Rights. *Nonreferral Unions*, Pt. II, Ch. 1.) One might argue that the widespread use of seniority is due to this legislation. Such an explanation, taken by itself, would not account for the evidence that more union than nonunion employers give great weight to seniority in their selection procedures.

If the conclusion presented above is correct, one would predict that the effect of job tenure on earnings would be greater for union than for nonunion employees. One recent study finds such an effect: Michael Hutchins and Solomon Polachek, "Do Unions Really Flatten the Age-Earnings Profile? New Estimates Using Panel Data" (paper presented at the annual meetings of the Eastern Economic Association, April 1982). Other studies have found the opposite: for example, see George Borjas, "Job Satisfaction, Wages, and Unions," *Journal of Human Resources* 14 (Winter 1979), pp. 21–40, and F. Bloch and M. Kuskin, "Wage Determination in the Union and Nonunion Sectors," *Industrial and Labor Relations Review* 31 (January 1978), pp. 183–92.

[20] James Medoff and Katharine Abraham, "The Role of Seniority at U.S. Work Places: A Report on Some New Evidence" (MIT Sloan School of Management Working Paper 1175-80, November 1980). This survey also obtained information on differences between union and nonunion firms in the role of seniority in promotion. These results are similar to those from the CCR survey, reported above.

[21] James Medoff and Katharine Abraham, "Involuntary Terminations Under Explicit and Implicit Employment Contracts" (MIT Sloan School of Management Working Paper 1190-81, January 1981).

Blau and Kahn, using National Longitudinal Survey data, present results consistent with the claim that the vulnerability to permanent layoff of those with long service, relative to those with short service, is substantially lower under unionism.[22]

Conclusion

The evidence just presented for the union-strength hypothesis should be regarded as suggestive rather than definitive. The evidence of the CCR survey is bivariate,[23] while a multivariate analysis is called for. Also, some apparent union-nonunion differences in labor-market phenomena might be due to the pre-union characteristics of workers or firms.[24] Further examination of the arguments here developed would be valuable.

The evidence presented in this paper, while not conclusive, supports the view that the union preference for the use of seniority is an important determinant of procedures used for layoff, promotion, transfer, and selection for training programs. Hence, this evidence suggests that union preferences should be an important component of theories attempting to explain the correlations between seniority and earnings and seniority and layoffs.

[22] Blau and Kahn.

[23] However, as was noted earlier, in the CCR survey the distributions of union and nonunion employers by industry and by region (South and non-South) are identical.

[24] For example, unions might be more likely to be present in firms where the technologies make low-cost monitoring of the contributions of individual workers difficult. Degree of reliance on seniority and union status of the firm might both be dependent on a variable reflecting the cost of such monitoring. (I am indebted to Richard Murnane for suggesting this interpretation.) Freeman and Medoff have examined the evidence for the "pre-union characteristics" argument (though not this specific variant) and found it unconvincing as a general explanation of a variety of union/nonunion differences. Richard Freeman and James Medoff, "The Impact of Collective Bargaining: Illusion or Reality?" in *U.S. Industrial Relations 1950–1980: A Critical Assessment*, eds. Jack Stieber, Robert B. McKersie, and D. Quinn Mills (Madison, Wis.: Industrial Relations Research Association, 1981).

Length of Service and the Operation of Internal Labor Markets

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Everyone knows that employees with more years of service at a company normally receive higher pay than comparable employees who have spent less time with the same firm.[1] Within the economics profession, the conventional wisdom of the 1960s and 1970s has been that the observed higher relative earnings of employees with longer service reflect greater accumulation of human capital through on-the-job training and thus higher relative productivity.[2] There are, however, numerous other plausible explanations for the higher relative earnings of employees with longer service in which relative productivity plays a much less significant role. For instance, Jacob Mincer recognized the possibility that the positive association between job tenure and earnings might only "reflect the prevalence of institutional arrangements such as seniority provisions in employment practices." He then implicitly describes one approach to testing the human capital belief: "Such practices, however, do not contradict the productivity-augmenting hypothesis, unless it can be shown that growth of earnings under seniority provisions is largely independent of productivity growth."[3]

Although the test required to establish empirically that the human capital explanation of the company service-earnings profile is superior to alternative models in which other factors determine earnings growth

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[1] We should emphasize that all the discussion and evidence presented in this paper refers to enterprise internal labor markets. Doeringer and Piore (1971, pp. 2–4) explore the distinction between enterprise and craft internal labor markets.

[2] The human capital model of investment in on-the-job training is laid out in Becker (1964, pp. 13–37).

[3] Mincer (1974, p. 12). Mincer has seniority provisions under collective bargaining agreements in mind when he makes this statement, but his logic applies equally well in other institutional settings.

seems straightforward, there is no evidence demonstrating that tenure-earnings differentials *can* in fact be explained by tenure-productivity differentials. As a result, important beliefs about earnings differentials and related labor market phenomena have been held without any apparent empirical foundation.

Our work on the operation of enterprise internal labor markets has produced very strong evidence that at least the within-grade or within-job fraction of the observed return to years of company service (40 to 80 percent of the total return to company service in the settings for which we have seen data) cannot be explained on the basis of an underlying relationship between service and productivity. Furthermore, we have collected survey data which imply that years of service play a significant role in promotion decisions for a very large fraction of our country's workforce; for those employees, the cross-grade or cross-job earnings differential associated with service must also be considered at least in part a return to service per se. It would thus appear that junior workers are typically paid less, and senior workers more, than the value of their marginal product. One might expect this sort of deferred compensation scheme to be accompanied by constraints on firms' ability to cheat workers out of the return promised for the "second half" of their work lives; we have gathered evidence that senior employees at most U.S. firms do in fact enjoy substantial protection against being involuntarily terminated. Our results raise the intriguing question of *why* senior workers receive higher earnings than their junior peers, even though they are no more productive.

The remainder of this paper discusses how the facts just stated were discovered and the necessity for the collection of additional facts if we are to hold empirically based beliefs about why service per se plays such an important role in private-sector U.S. enterprises.

The Facts on Service-Earnings Differentials Within Grades or Jobs

To determine whether service-earnings differentials can be explained by service-productivity differentials, it is necessary to search for measures of individuals' relative contributions to their firms. We looked first at the computerized personnel files for exempt (roughly, managerial and professional) employees of four major U.S. corporations; each file had information on individuals' job performance, company service, and earnings. At three of these companies the performance ratings were done by the employee's immediate supervisor; at the fourth, in addition to the immediate supervisor's rating, there was a ranking of each employee relative to others in an appropriate comparison group. Later, Halasz

gained access to a comparable data set for a sample of nonexempt salaried employees.[4]

Under all of the companies' evaluation procedures, supervisors are instructed to base their rating or ranking on how well an individual, in the year of evaluation, is carrying out the responsibilities of his or her job. Thus, a performance review should reflect an employee's current level of performance relative to the level of performance deemed normal for someone in his or her position. It follows that the relative contributions of employees can be assessed from their performance ratings only if the employees hold similar jobs.

For compensation purposes, most companies assess the relative importance and difficulty of their myriad exempt and nonexempt salaried positions and group them into grade levels. Thus, it seems reasonable to assume that *within* a grade level, a higher performance rating implies higher productivity. It is for this reason that we, and Halasz, were forced to look within grades in doing our analysis of the determinants of service-earnings differentials. Fortunately, however, the portion of the total return to years of service occurring within grade was between 40 and 50 percent of the total differential for our four samples of white, male, exempt employees and 50 percent for Halasz's sample of nonexempt salaried employees.

The key finding of these analyses was that *none* of the substantial, within-grade, service-earnings differentials could be explained by a within-grade, service-performance differential. Contrary to what would be expected under the on-the-job training model, while greater service moved employees toward the upper tail of the earnings distribution for their grade level, it did *not* move them toward the upper tail of the relevant performance distribution. Once employees are assigned to grades, the salary advantage that accrues with company service appears to be automatic, and hence, independent of productivity.

This result has been challenged on two grounds. First, it has been charged that the estimated service-performance differential is biased downward since a negative partial correlation between years of service and unobserved quality was induced by the necessity of looking only within grade levels. (This bias would be brought about by a promotion system under which merit at least sometimes prevails over seniority, so that longer service within grade implies more times passed over for promotion.) Second, it has been claimed that performance ratings, even for samples of white males, are not valid indicators of relative productivity.

[4] See Medoff (1977), Medoff and Abraham (1980, 1981), and Halasz (1980).

There likely *is* a negative within-grade correlation between service and ability (largest in absolute value for exempt employees and smallest in absolute value for unionized hourly workers), so that the estimated within-grade effect of service on performance *is* probably biased downward. It must be remembered, however, that the estimated within-grade effect of service on earnings is biased downward in the same way. The goal of the analyses of employees' positions in the relevant performance and salary distributions was *not* to derive consistent estimates of the effect of service on either performance or salary. Rather, they were intended to yield an answer to the question: Can performance explain the substantial within-grade earnings advantage enjoyed by longer-service salaried employees at the firms we have studied? Our answer of "no" does *not* depend on the consistency of the estimate of the impact of service on performance or on earnings. All that the response depends on is that the *difference* between these two estimated service effects (which have been made comparable through the construction of the performance and earnings categories used in the models estimated) be a consistent estimate of the difference between the two "true" service effects. We know of no reason why it should not be.

In our previously cited articles on the issue at hand, we go to great lengths to address the most likely criticisms of subjective performance ratings. In light of what we have been able to learn from our review of the relevant personnel literature, from the case studies we have done, and from various analyses with company personnel data, we feel very comfortable assuming that performance ratings are good indicators of employees' relative productivity in the year of evaluation. The diverse evidence we have seen seems to support strongly the interpretation that we have given to our results concerning the ability of rated performance to explain the within-grade return to years of service.

Further support for our conclusion regarding within-grade service-earnings differentials can be derived from a recent econometric case study done by Yanker in which an "objective" productivity measure is used to conduct an analysis like those just discussed.[5] Yanker examined productivity and earnings data for approximately 400 blue-collar employees at a unionized manufacturing plant. The productivity measure used was equal to the time a worker took to do his or her job divided by the standard time for performing the job. The study found that none of the within-job service-earnings differential (80 percent of the total service-earnings differential) could be explained on the basis of more senior workers having higher productivity.

[5] See Yanker (1980).

An appendix to this paper summarizes the studies just mentioned, plus 21 other studies relating some index of productive value to tenure or age in various settings.[6] These analyses examined employees within disparate occupations: production workers (in the wooden household furniture, footwear, and apparel industries), scientists, engineers, teachers, mail sorters, and office workers. Fourteen of these additional studies used objective measures of productive value including: furniture, shoes, or apparel produced; publications; patents; students' standardized test scores; mail sorted; pages typed; items filed; or cards punched. This research provides support for the proposition that, beyond a typically short orientation period, those who have greater than average service typically perform no better or less well than those with similar assignments who have less than average service. When considered together with the evidence from various sources that wages have a strong positive relationship with tenure within occupational group, these investigations strongly imply that more (less) senior employees are generally paid more (less) than the value of their marginal product. Extant evidence on service-productivity differentials seems to have the same implication about the role of productivity in explaining within-grade or within-job service-earnings differentials whether the index of relative productive value is based on an "objective" measure or on a "subjective" performance rating.

The Facts on the Role of Service Per Se in Promotion Decisions

To determine whether the 20 to 60 percent of the monetary returns to years of company service that occurs across grades can be explained in terms of a service-productivity differential, it is necessary to understand the role of service independent of productivity in promotion decisions. To take a step in this direction, we surveyed a randomly selected sample of 1025 Standard and Poor's companies about, among other things, the conditions under which a junior employee would be promoted ahead of a senior coworker who was not as good a performer.[7] The question asked was:

> In actual practice, are junior employees promoted instead of more senior employees who want the job?
> ( ) Yes, if it is believed that the junior employee will do better than the senior employee on the next job or on later jobs.

[6] This appendix is available from the authors upon request.

[7] See Abraham and Medoff (1983) for a fuller discussion of these survey results.

( ) Yes, if it is believed that the junior employee will do *significantly* better than the senior employee on the next job or on later jobs.
( ) No, never.

The responses to this query are summarized in Table 1. They indicate that 76 percent of private-sector, nonagricultural, nonconstruction, unionized hourly employees work in settings where senior employees are favored substantially when promotion decisions are made; for nonunion hourly employees, the comparable estimate is 56 percent; for nonexempt salaried employees, 59 percent; and for exempt salaried employees, 48 percent. Overall, we estimate that perhaps 60 percent of our country's private-sector, nonagricultural, nonconstruction employees work in settings where senior employees are favored substantially in the promotion process.[8] Hence, for this large part of the U.S. workforce, it appears that the piece of the total monetary return to seniority that can be linked to senior employees who have been promoted to better-paying jobs than are held by otherwise comparable junior employees is to a significant extent a reward to seniority per se rather than simply a reward for higher productivity. Moreover, it should be noted that the 60 percent figure estimates the fraction of the private-sector, nonagricultural, nonconstruction workforce employed where senior employees seem to be favored *substantially* in promotion choices; the percentage working where senior employees are favored *at all* is likely to be much greater. This is because in many settings senior employees can be expected to have a significantly higher probability of being promoted than their junior colleagues when the comparisons are limited to those with the same productivity.

Hence, it appears that only just over a third of private-sector, nonagricultural, nonconstruction employment in the United States is found in settings where the sole monetary return to seniority per se is the substantial premium that occurs within grade level or job category; the other nearly two-thirds appears to be found where the earnings advantage associated with seniority independent of productivity occurs both as a result of the assignments given to employees and as a result of the way they are paid for doing a given task.

[8] This very rough estimate was obtained by weighting the estimates for union hourly employees, nonunion hourly employees, and salaried employees by the fractions of private-sector, nonagricultural, nonconstruction employment in each of these same three groups. The employment figures were derived from the May 1978 Current Population Survey (CPS): union members paid by the hour, 17 percent; nonmembers paid by the hour, 43 percent; and nonhourly employees, 40 percent, of which 8 percent were union and 92 percent were nonunion. There was no way to distinguish nonexempt and exempt salaried employment on the CPS.

TABLE 1

Summary of Responses to Survey Questions Pertaining to Whether Junior Employees are Promoted Instead of Senior Employees[a]

	Number of Responses for Indicated Group	Junior Employee Promoted Ahead of Senior Employee If Expected to Do Better on the Next Job or on Later Jobs	Junior Employee Promoted Ahead of Senior Employee If Expected to Do *Significantly* Better on the Next Job or on Later Jobs	Junior Employee *Never* Promoted Ahead of Senior Employee
Hourly employees covered by a collective bargaining agreement	135	23.7%	43.0%	33.3%
Hourly employees not covered by a collective bargaining agreement	158	44.3	41.1	14.6
Nonexempt salaried employees	74	40.5	44.6	14.9
Exempt employees	25	52.0	48.0	0.0

[a] The survey on which these results are based was sent to a sample of 1025 private-sector, nonagricultural, nonconstruction companies randomly selected from the 1981 Standard and Poor's Register. Respondents were requested to provide information for the one largest group of employees affected by their personnel decisions; this group could consist of hourly, nonexempt salaried, or exempt employees. A separate question asked whether a majority of the employees in this group was covered by a collective bargaining agreement; no observations for covered nonexempt salaried employees or covered exempt employees were included in the tabulations.

The Facts on the Role of Service Per Se in Termination Decisions

We would expect that the compensation scheme found at most U.S. workplaces would go hand-in-hand with a provision designed to protect workers from being cheated out of the return promised for the "second half" of their work lives. To determine the extent to which protection of this nature conditioned firms' decision-making about which employees to terminate when some could not be retained, we also asked the following question of our randomly selected sample of firms:[9]

> In the event of a workforce reduction, are senior employees permanently laid off in place of junior employees?
> ( ) Yes, if it is believed that the junior employee will be worth more on net to the company than the senior employee.
> ( ) Yes, if it is believed that the junior employee will be worth *significantly* more on net to the company than the senior employee.
> ( ) No, never.

The expression "worth more on net" was used to mean "worth more considering both performance and earnings, today and in the future." The "significantly more on net" and the "no, never" responses are thus consistent with the statement that the firm can be expected to incur significant short-run costs to protect its senior workers' earnings claims.

The answers from the survey respondents who had witnessed involuntary terminations are summarized in Table 2. They indicate that approximately 85 percent of U.S. private-sector, nonagricultural, nonconstruction employees work in settings where senior employees do in fact enjoy substantially greater protection against job loss than junior employees doing similar work.[10] Importantly, there appear to be substantial differences between union and nonunion settings in this regard. Rules protecting senior workers against being permanently laid off before their junior coworkers appear to be both more prevalent and stronger under trade unions. For hourly employees, almost 100 percent of the responses pertaining to groups covered by collective bargaining implied that seniority in and of itself receives substantial weight in termination decisions, while only 85 percent of the responses pertaining to noncovered groups indicated that this is the case. As for "strength," while 84 percent of our survey responses that pertained to unionized hourly employees indicated that a senior worker would *never* be involuntarily terminated before a junior worker, the same was true for only 42 percent of the responses pertaining to nonunion hourly employees.

[9] See Abraham and Medoff (1982) for a fuller discussion of these survey results.

[10] This very rough estimate was derived using the approach described in fn. 8.

TABLE 2

Summary of Responses to Survey Questions Pertaining to Whether Senior Employees are Permanently Laid Off in Place of Junior Employees[a]

	Number of Responses for Indicated Group	Senior Employee Permanently Laid Off If Junior Employee Believed to Be Worth More on Net	Senior Employee Permanently Laid Off If Junior Employee Believed to Be Worth *Significantly* More on Net	Senior Employee *Never* Permanently Laid Off in Place of Junior Employee
Hourly employees covered by a collective bargaining agreement	73	2.7%	13.7%	83.6%
Hourly employees not covered by a collective bargaining agreement	71	14.1	43.7	42.3
Nonexempt salaried employees	16	18.8	50.0	31.3
Exempt employees	5	20.0	80.0	0.0

[a] These results are based on the same survey as the results reported in Table 1. There are fewer observations on firms' permanent layoff practices than on firms' promotion practices because only respondents who had witnessed a reduction in force could describe their firms' permanent layoff practices.

The Facts to Be Collected

An explanation of why senior workers doing a given job in U.S. corporations receive higher salaries than their junior, but no less valuable, coworkers remains to be documented. At present, there are a number of theories that might be considered consistent with our findings. One group of potential explanations revolves around the notion that employers and employees may enter into implicit contracts that provide that earnings be deferred toward the end of the worklife. Firms may offer such contracts: (1) to deter quits or behavior that would lead to discharge;[11] (2) to discourage workers with high propensities to quit from seeking employment with the firm;[12] (3) to improve morale by giving employees regular raises; and (4) to insure relatively risk-averse employees against slow earnings growth that might otherwise be associated with slow productivity growth.[13] A second type of explanation might be that such contracts avoid the unpleasantness felt by a supervisor who has to fire or reduce the relative salary of a long-time subordinate. A third issue that deserves mention is that societal beliefs—for example, the idea that elders should be respected—may condition employees' beliefs concerning "just" relative compensation.

Unfortunately, at this point, all of these theories suffer the same deficiency as the human capital theory about the service-earnings profile: *absence of an empirical basis.* More facts concerning enterprise internal labor markets must be forthcoming if we are to do more than guess about why service independent of productivity is rewarded so highly in the pricing and allocation of labor. We must remember that statements with no factual basis are conjectures, no matter how empirical they may sound. Empiricism requires data.

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[12] See Salop and Salop (1976) and Viscusi (1978).

[13] Models with much this flavor have been developed by Harris and Holmstrom (1981) and Ioannides and Pissarides (1982).

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Does Implicit Contracting Explain Explicit Contracting?

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In recent years a diverse literature has developed which explains such phenomena as wage "stickiness" as the outcome of implicit employer-employee contracts. Some studies attribute implicit contracts to incentives for turnover-cost reduction. If labor turnover is costly, it is argued, there are gains to be shared by employers and employees through the establishment of long-duration relationships. Another school, however, attributes such relationships to worker risk aversion. Employers are seen as offering job and income stability through implicit contracts as a type of fringe benefit.

I. Explicit Union Contracts vs. Implicit Nonunion Contracts

Theorists have tended to consider explicit union contracts as codifications of implicit-contract practices. It is known that unions did incorporate many preunion practices into their agreements. But union contracts differ in content from nonunion implicit contracts.

First, there is an extensive literature finding significant, positive union/nonunion pay differentials. Second, recent studies suggest that while nonunion employers may offer employees certain "unionesque" policies relating to seniority, layoffs, and industrial jurisprudence, they typically reserve a high degree of managerial discretion in carrying out these policies. Third, as will be shown below, contract durations differ substantially between union and nonunion sectors. The act of codifying practices cannot account for such differences. Indeed, many larger nonunion firms *do* codify their practices in personnel handbooks.

II. Union Contract Duration

Table 1 provides data on recent practice in union contract duration. During 1974–1981, settlements averaged about two and one-half years in duration. Escalated contracts averaged about three years; nonescalated contracts typically were shorter. Because the 1971–1974 wage/price controls had a duration-shortening impact, contract duration tended to increase after controls were lifted (1975–1978).

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TABLE 1

Recent Data on Mean Contract Durations[a] (in months)

Year	All Contracts		Current Escalated Contracts		Current Nonescalated Contracts	
	Current Settlement	Previous Settlement	All	Escalator in Previous and Current Settlement	All	Escalator in Neither Previous nor Current Settlement
1974	30.1	—	35.0	—	23.1	—
1975	27.7	23.7	—	—	—	—
1976	31.9	30.3	—	—	—	—
1977	32.5	32.0	36.1	—	25.9	—
1978	31.3	29.3	—	35.7	—	27.8
1979	33.3	33.3	—	36.0	—	29.4
1980	32.9	33.4	—	35.5	—	28.5
1981–All	29.7	33.0	—	36.1	—	27.4
1981–Excluding unscheduled reopenings	31.9	32.0	—	36.0	—	30.2

Source: *Current Wage Developments*, various years.

Note: Dash indicates data unavailable.

[a] Private sector, settlements covering 1000 or more workers.

In 1980–1981, the tendency to lengthen contracts reversed; new contracts were shorter than their predecessor agreements. But the 1980–1981 period saw an increasing number of union wage concessions. During concession periods in the past, strikes have receded and interest in labor-management cooperation has increased. Contract duration may shorten as a result, as in the steel industry during the era of good feelings of the early 1960s. This casual evidence suggests a relationship between the strike threat and contract duration, a point developed below.

It is difficult to obtain an extended time-series on union contract duration. A proxy measure can be obtained from the annual surveys of the Bureau of National Affairs, Inc. (BNA), which since 1953 have provided information on the proportion of union settlements containing deferred wage adjustments (essentially adjustments after the first year). Although it is possible to negotiate a long-duration contract with no second- or third-year adjustments, such contracts are rare. They occur only during concession negotiations or when the wage component of the contract is to be reopened (in which case the contract is really of shorter duration than it appears). The top panel of Figure 1 shows the BNA series rising from 5 percent in 1953 to 90 percent in 1981 with an interruption due to the 1971–1974 wage-price controls.

Since the BNA index is a proxy, it is useful to look at other confirming data. During 1959–1978, the Bureau of Labor Statistics (BLS) maintained a series on manufacturing wage adjustments. In each year it is possible to calculate the proportion of union workers who received *any* wage increases accounted for by those receiving first-year adjustments. The inverse of this ratio—a kind of velocity or turnover measure—is related to duration. Over three-year intervals beginning in 1959—shown on the middle panel of Figure 1—the measure rose from 1.9 to 2.7, suggesting a shift from two- to three-year mean contract durations.

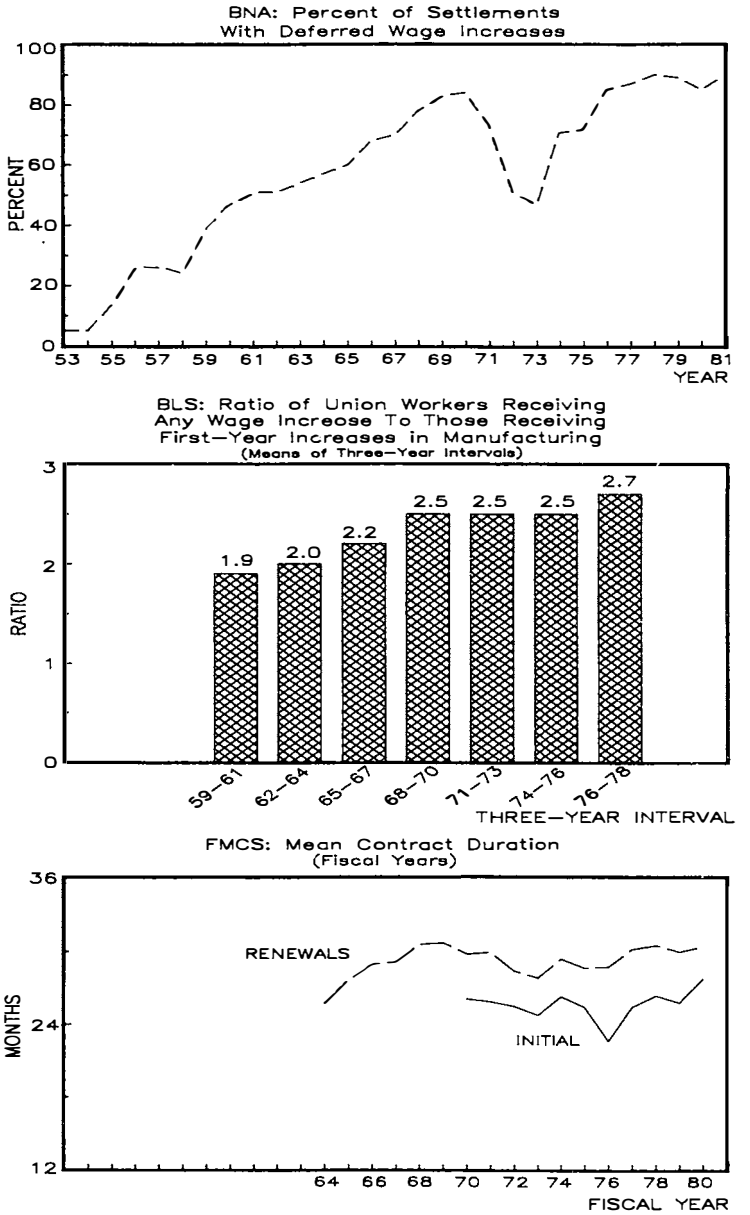
The Federal Mediation and Conciliation Service (FMCS) has kept track of contract durations of those union situations involving contract renewals in which it has intervened since fiscal year 1964.[1] As shown on the bottom panel of Figure 1, the FMCS series confirms the general upward trend in contract duration during the 1960s and the interruption of that trend by controls.

III. Nonunion Contract Duration

It is apparent from the data presented that union contracts by the late 1970s were typically two to three years in duration and that a notable

[1] Duration data are estimated from interval distributions appearing in the annual reports of the FMCS. Interval midpoints were used to estimate mean durations. It was assumed that contracts of duration greater than 42 months had mean durations of 48 months.

Figure 1
TRENDS IN CONTRACT DURATION



Sources: Top panel, Daily Labor Report, various issues; middle panel, Federal Mediation and Conciliation Service, Annual Report, various issues; bottom panel, Current Wage Developments, various issues.

increase in duration took place during the 1950s and 1960s. If union contracts were merely reflections of nonunion implicit agreements, similar tendencies ought to have been occurring in the nonunion sector. Unfortunately it is difficult to obtain hard data on the frequency of nonunion wage decisions. But available information suggests that one year is the nonunion norm.

For example, nonunion firms that had policies of general wage decisions were included in the BLS manufacturing survey referred to earlier. In years for which data are available, the proportion of nonunion workers in those firms providing *increases* who received them from *that* year's decision ranged from 95 to almost 100 percent.[2] The survey also permits a calculation of the proportion of nonunion manufacturing workers who were in firms that made individual, rather than general, decisions about wages. This proportion was erratic but averaged about 32 percent over the period 1959–1978. It tended to fall during periods of inflation (when pressures for across-the-board wage increases rise) and during controls (when rules reward formal personnel policies). However, the data suggest that a significant number of nonunion workers are in firms where management varies its decision-making process on wages from year to year. In such firms there are no meaningful durations of wage-setting decision cycles.

IV. Conflict Costs and Duration

The evidence indicates that wage contracts in the union sector are typically multiyear while the nonunion sector remains on a one-year-duration cycle or no fixed cycle at all. It is difficult to argue that long-term union contracts merely reflect the long-term nature of implicit contracts, given the union/nonunion duration discrepancy. An alternative explanation is that the cost of strikes in the union sector accounts for the difference. Ultimately, it is the ability of the union to impose strike costs that accounts for union wage premiums and other concessions from employers. Thus, it is reasonable to assume that strike costs influence the union contract's duration as well as its contents.

The usual explanation for the development of the multiyear union contract is that it reduces the negotiation frequency and, hence, exposure to strike risk.[3] However, available data on strikes do not suggest that

[2] The BLS assumed that nonunion workers in firms with general wage policies in a given year who received no increase nevertheless had a "decision" that year, i.e., in the absence of other information it was assumed that there was a one-year decision cycle. To avoid simply picking up the BLS assumptions, the data were calculated only for workers receiving wage increases.

[3] Joseph W. Garbarino, *Wage Policy and Long-Term Contracts* (Washington: Brookings, 1962), p. 89.

TABLE 2
Strike and Contract Duration Indicators, 1953–1980
(Means of Annual Figures)

Period	Strikes per 1000 Union Members		Strikers as Percent of Union Members		Strike Days per Union Member		Percent of Settlements with Deferred Wage Increases (BNA)
	Wages, Hours, Benefits	Other Issues	Wages, Hours, Benefits	Other Issues	Wages, Hours, Benefits	Other Issues	
1953–59	.12	.12	7.4%	4.1%	1.4	.4	20%
1960–69	.12	.11	5.7	4.5	1.0	.5	62%
1970–80[a]							
All years	.16(.14)	.10(.09)	7.2(6.3)	4.0(3.5)	1.5(1.3)	.5(.4)	76%
Excluding controls[b]	.16(.14)	.09(.08)	6.5(5.7)	3.8(3.4)	1.5(1.3)	.5(.5)	85%

Sources: *Analysis of Work Stoppages*, various issues; *Daily Labor Report*, various issues; U.S. Bureau of Labor Statistics, *Handbook of Labor Statistics*, Bull. 2070 (Washington: U.S. Government Printing Office, 1980), pp. 412–14.

[a] Figures in parentheses adjusted to include association as well as union members in denominator.

[b] Omits 1971–74.

unionized employers reduced annual strike frequency or worktime lost to strikes by signing longer duration contracts. Table 2 summarizes the strike record as measured by three key indicators: annual number of strikes per union member, annual proportion of union members involved in strikes, and annual workdays lost to strikes per union member. Strikes are divided into those relating to wages, hours, benefits, and other contractual issues ("wage strikes") and those relating to other issues. The former typically stem from negotiations over contract renewal and should be most affected by contract duration.

In fact, there is a slight upward trend in wage strikes per member during the period when contract durations were increasing, somewhat counterbalanced by a decline in other-issue strikes per member. No trend is evident for the other measures pertaining to wage strikes: worker involvement in strikes and days lost per member fell in the 1960s but rose in the 1970s. Worker involvement and days lost per member rose for other-issue strikes in the 1960s, but declined or stabilized in the 1970s. These series are volatile on an annual basis and are affected by many factors. However, there is no evidence from the table that employers obtained a reduction in long-term "downtime" due to strikes by lengthening their union contract durations.

If the threat of strikes influenced contract duration, it must be through the avoidance of uncertainty and fixed costs (rather than variable) due to strikes. Contracts of long duration facilitate long-run investment and production planning by making labor costs more predictable. Also, firms can undertake multiyear projects with reasonable certainty that they will not be interrupted by work stoppages. For example, General Motors signed its first multiyear agreement with the UAW in 1948 during a crucial period when it was bringing into production its new models.[4]

There are also fixed strike costs which can be amortized over a longer period if contract expirations occur less frequently. A firm must put its customers on notice that a strike may occur each time it renegotiates a contract. There are shut-down and start-up costs unrelated to the duration of a strike. Few firms provide detailed estimates of strike costs. But data are available from a large manufacturer of metal products that show the expected costs of an impending strike to be "front-loaded." That is, the cost of a projected four-month strike was highest during the first month and declined over the course of the next three months. Clearly, the firm would prefer a three-month strike every three years to three one-month

[4] Frederick H. Harbison, "The General Motors–United Auto Workers Agreement of 1950," *Journal of Political Economy* 58 (October 1950), p. 402.

strikes during the same period.[5] Negotiations entail fixed costs as well since they absorb an organization's time and resources. In a 1949 survey, many industrial relations executives reported preferring two-year to shorter agreements because they reduced the amount of time spent in negotiations.[6]

In the postwar period, pressure to lengthen contract duration appeared to come mainly from the management side. Of course, reducing the frequency of negotiations may result in savings for unions, too. However, there was reluctance by union officials to give up the appearance of an annual "delivery" of benefits. Hence, unions demanded concessions such as union-security clauses in return for longer contracts.

The relationship between strike costs and agreement-duration is not new. Most pre-World War I lengthy contracts contained no-strike clauses. One five-year contract signed in 1910 provided that strikes would be renounced in favor of arbitration, ". . . to the end that fruitless controversy shall be avoided and good feeling and harmonious relations be maintained, and the regular and orderly prosecution of the business in which the parties have a community of interest be insured beyond the possibility of interruption."[7] But if this relationship is not new, why did mean contract durations increase after World War II?

As was argued in an earlier paper, long-duration contracts are a product of a mature relationship in which the parties have bargained for a number of years.[8] Employers are reluctant to sign a lengthy agreement until they have accepted the union as a permanent feature and are convinced of the union's integrity with regard to its no-strike promise. The bottom panel of Figure 1 permits comparison of contract duration in renewed agreements vs. initial agreements. Initial agreements show a clear tendency to be shorter, thus supporting the maturity argument.

As the data of Table 3 show, extended-duration contracts were not uncommon before World War II. They were most prevalent in industries with a long history of contracting with unions, such as mining, apparel, and printing. In apparel, for example, the proportion of agreements of two or more years' duration approached modern levels before World War II.

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[5] John G. Hutchinson, *Management Under Strike Conditions* (New York: Holt, Rinehart & Winston, 1966), p. 59.

[6] W. S. Woytinsky, *Labor and Management Look at Collective Bargaining* (New York: Twentieth Century Fund, 1949), pp. 46–48.

[7] "Contract Between Chicago Local of the American Newspaper Publishers' Association and Chicago Typographical Union No. 16," Chicago, 1910.

[8] Sanford M. Jacoby and Daniel J.B. Mitchell, "Development of Contractual Features of the Union-Management Relationship," *Labor Law Journal* 33 (August 1982), pp. 513–16.

Between 1935 and 1945, collective bargaining on a wide scale was introduced to industries such as rubber and metals. Relatively few contracts in these industries were of extended duration during this period. But the table suggests that mean contract duration rose steadily after the war as these newer relationships matured. By 1961 there was little difference in the propensity of new- and old-relationship industries to sign long-duration contracts.

V. Linkages

Although explicit contracts are not simply codifications of implicit contracts, the two types of contracts are related. But causation may run from explicit to implicit rather than in the reverse direction. In a study of the historical development of the career labor markets which are linked in the literature to implicit contracts, Jacoby found that the characteristic features of these markets did not gradually take hold in an ever-growing number of firms.[9] Instead they were adopted during periods when union strength was rapidly increasing, notably 1915–1920 and 1933–1945.

TABLE 3

Percent of Contracts of Two or More Years' Duration[a]

	1870–1920	1921–34	1935–42	1948	1950	1952	1957	1961
All industries	37%	41%	26%	25%	55%	69%	81%	91%
Mining	47	50	47					86
Apparel	67	65	82					94
Printing & publ.	67	70	46					97
Rubber products	—	—	7					72
Primary metals	—	—	0					90
Trans. equip.	—	—	20					96

Sources: 1870–1942: figures compiled from the authors' file of nearly 800 pre-World War II contracts. 1948–57: *Basic Patterns in Union Contracts* (Washington: Bureau of National Affairs, 1954 and 1957). 1961: U.S. Bureau of Labor Statistics, *Major Union Contracts in the United States, 1961*, Bull. 1353 (Washington: U.S. Government Printing Office, 1962), pp. 8–9.

[a] Excludes indefinite contracts.

This correlation suggests that nonunion firms imitated personnel practices which had their origin in the unionized sector. There is considerable evidence in the personnel management literature to support this inference. But when these practices spilled over to nonunion firms, they were less uniformly and rigidly implemented. This trend may have enhanced the allocative efficiency of nonunion firms. But the evidence

[9] Sanford M. Jacoby, "The Development of Internal Labor Markets in American Manufacturing Firms," UCLA Institute of Industrial Relations Working Paper No. 42, May 1982.

does not suggest that such efficiency incentives *by themselves* were strong enough (or obvious enough) to produce the modern career labor market.

VI. Conclusions

The literature on implicit contracting in the labor market has already played a role in reconciling macroeconomic and microeconomic theory. However, there remain many loose ends. It would be a mistake for implicit-contract theorists to assume that union contracts were merely written versions of implicit understandings. Such a view ignores both conflict costs and the historical evidence on the development of the internal labor market.

XIV. THE USE OF BARGAINING SIMULATIONS IN INDUSTRIAL RELATIONS COURSES

The Uses and Abuses of Bargaining Simulations

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The purpose of this paper is to identify some of the common shortcomings of bargaining simulations, describe one simulation which overcomes a number of these problems, and suggest some criteria which instructors could use in evaluating the potential usefulness of bargaining simulations for classroom use.

Problems with Bargaining Simulations

The context of our observations is the business degree program, whether undergraduate or master's level, in which students take one or maybe two industrial relations courses. To all intents and purposes, the bargaining simulation that is run will be perceived by students as representative of "real world negotiations." And this is where many of our criticisms lie. Central to our concerns are the following:

- Most simulations focus exclusively on distributive bargaining, often involving highly structured payoff matrices, sometimes with scored optimal solutions. They ignore totally, or substantially underemphasize, the processes of integrative bargaining, intra-organizational bargaining, and attitudinal structuring, which are the other three, ongoing, simultaneous processes which, together with distributive bargaining, constitute real-life negotiations.[1]

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[1] R. E. Walton and R. B. McKersie, *A Behavioral Theory of Labor Negotiations* (New York: McGraw-Hill, 1965).

- The simulations convey the impression that what occurs at the bargaining table represents the real meat of negotiations. By providing participants with a predetermined bargaining agenda, they give little exposure to the processes of preparing for negotiations, gathering data, developing priorities, trading off within union or management negotiating teams, and coping with these trade-offs against time limits.
- By restricting negotiations to very few issues, a highly distorted view of the process emerges. Participants may come to view the whole bargaining process as a rational-economic one, rather than one which has some rational-economic elements.
- The critical issue of timing in negotiations is seldom well handled. Any negotiator with experience has recognized the critical role in negotiations that the passage of time and a strike deadline plays. Seldom do simulations run over a sufficiently long time frame to have this occur, and seldom are sessions structured to allow for the role of fatigue, boredom, or other pressing priorities to be clearly recognized.
- Negotiations are usually handled as single-event occurrences. Seldom do participants have to deal with the outcome(s) of this set of negotiations for subsequent contract administration or the next set of negotiations.
- Where the negotiations are highly structured by the instructor, participants can feel manipulated. The simulation can become the *instructor's* exercise with the participants feeling that they are assuming the roles of guinea pigs.
- Participants seldom develop a real feeling for the role that personalities, value systems, beliefs, and temperaments play in the bargaining process, nor do they recognize the constraints that people work under in negotiations because of the roles which they assume.
- The role of third parties is seldom emphasized in bargaining simulations. The press, the negotiating team's principals, mediation or conciliation services, and local politicians all get into real-life negotiations, but they seldom have a role in bargaining simulations.

Many of these concerns reflect a lot of compromises on the part of instructors. They want a "do-able" exercise which does not take up too much of the students' or instructors' time, which can be evaluated, and which will provide a good learning experience for participants. In our view, many bargaining simulations make so many compromises that they may result in the student obtaining a distorted view of the bargaining process. While the instructor can issue caveats galore about the "unreality"

of a structured simulation, the student cannot be faulted for thinking that a simulation approximates the real thing.

Cashford Containers

The simulation that we use at Western has developed in its current form over fifteen years and is based on an old BNA exercise.[2] While it does not overcome all of the problems we have described, it goes some considerable way to doing so. There are five aspects of this simulation which we feel add to its effectiveness in developing both a conceptual understanding of the bargaining process and some realism. These are information gathering, development of demands, estimating settlement ranges and points, negotiations, and debriefing.

Information Gathering

Participants in actual negotiations recognize the enormous amount of time spent preparing for negotiations before the parties sit at the bargaining table. They also recognize that the thoroughness with which this is done is reflected in the conduct of negotiations and, frequently, the outcome.

One month before bargaining is scheduled to start, participants in our simulation are assigned to union or management teams and assigned a case which is fairly rich in data on the company, the union, the community, the principal characters, and the economic and financial constraints under which they operate. However, participants are told that other data are available. They must read the case and decide what information they *need* to develop their bargaining agendas and negotiate effectively.

The instructor has over 150 additional pieces of information. Some of these are quantitative, such as a history of wage rates, the number of employees in each labor grade, seniority profile, overtime payments, or the costs of pensions and benefit premiums. Others are qualitative, such as a history of grievances and arbitrations, personality profiles of chief negotiators, the history of cohesiveness within the union local, and so on. The students do not know what information the instructor has—and often they ask for something that he doesn't have. In such cases, the instructor may refuse the request, may direct the student to other sources, or may even invent some data if he feels that they will assist the learning process.

Some data are made available to the union and not to management, and vice versa. One key piece of information which is kept from the union is management's plans for modernization. Similarly, the amount in the

[2] The development of this simulation at Western was shared by a former colleague, David Kuechle, and rooted in our experience at the Harvard Business School, most particularly with Professor James J. Healy. Certainly it was Jim Healy who taught us the potential of this kind of exercise and developed the first variations thereof.

union's strike fund is not revealed to management. The union is told that many engineers have been in the plant recently—this allows the union to press for information on possible modernization during negotiations. It also forces management to decide whether they should reveal the modernization plans or not, forcing members of the management team to confront both an ethical dilemma and the practical problem of dissembling during negotiations and the impact of this on contract administration and the union-management relationship.

Developing Demands

The second area in which our simulation allows for an experience which closely approximates reality is in its requirement that the parties develop their own demands which provide an agenda for negotiations. The case has a lot of clues as to what demands might be made. In addition to demands which relate to distributive bargaining issues such as wages and fringe benefits, the simulation gives some initial details of other areas where the parties have experienced some difficulty or disagreement. These include, for example, subcontracting, calculation of vacation pay, calculation of overtime pay, the impact of technological change, the operation of the incentive system, and the management's rights clause. We limit each management and union team to roughly 10 demands for the sake of manageability. These demands then form the agenda for the bargaining session that is to come. The business of examining an ambiguous environment to develop demands is a realistic part of the exercise, as is whittling those demands down to a manageable list.

Allowing the parties to develop their own demands does two things for the exercise. First, it allows participants control over items that are critical to their bargaining strategy. For example, it allows them to develop trading horses if that is going to be an element in their particular strategy. It allows them to be quite reasonable in making initial proposals or quite outrageous. Finally, it allows them to deal with the consequences of their initial strategy. The other positive benefit of allowing parties to develop their own demands is that it helps to keep each bargaining session separate. In some simulations, where demands exist as part of a pre-arranged agenda, student teams can obtain clues about what other people are doing in an identical situation—an unrealistic situation.

Settlement Ranges

Another thing that we do as part of our simulation which adds some realism to the exercise is to require each team to define in advance of the actual bargaining sessions the parameters within which they think settlements will occur and to define the issues that are, for them, strike issues.

While students are told that they will not be held to their estimates, it is realistic for them to be forced to think about where the negotiations are going to end up. We ask them for two figures. For the companies, we ask for the amount that they think is the smallest amount that they will be able to obtain an agreement with. We also ask them for an amount that is their upper limit. The union teams are asked for an amount that is the least they will accept short of going on strike, and the most that they think they will be able to achieve during the negotiations. Students are also asked to identify those integrative or qualitative aspects that they must have as part of the settlement. The final settlement terms do not always come close to students' estimates or objectives, and this, too, is an important learning experience, since they experience and feel the trauma of abandoning positions to which they have committed, at least to some extent. Since this usually occurs close to the imposed "strike" deadline, in these situations, they can really see what the impact of a strike deadline is on bargaining positions as well as the bargaining process.

Negotiations

We have allowed negotiations to take place in two different formats. Most often we schedule sessions, usually two sessions with an intervening day for them to respond to the first negotiating session and to gather data required for the second one. The sessions are held at fixed and staggered times so that the instructor can observe the negotiating process and provide feedback. More recently we have tried setting a time limit but allowing the students to establish their own meeting schedules, informing the instructor about where and when they were meeting. In this latter format, several groups decided to bargain through the whole week-end—night and day! Although we had to put up with the ire of our colleagues whose classes were not very well prepared by the students participating in the bargaining, the students evaluated the experience very positively. As might be expected, at least one of the eventual deals was forged at three in the morning, by two chief negotiators, in the kitchen of the faculty lounge, with the other members of the negotiating teams fast asleep on the sofas!

We place the parties under the potential influence of some outside factors before and during bargaining. For example, management teams may receive telegrams from a customer asking for a guarantee of delivery shortly after a strike is due to commence or from a sales manager announcing a big new order if the strike is avoided. Union teams may receive a telegram announcing that the International Union Strike Fund is dangerously low or bankrupt, or that the international is flush with cash and, in this set of critical negotiations, this means that strike benefits will

be available earlier than they normally would. Some teams are hounded by newspaper reporters—either journalism students or the professor. This gives them a chance to send a message to the union via the media, since such encounters result in newspaper stories which are distributed to both sides. It also gives the participants the chance to discover that it is posible to say too much to the press and to negatively influence the negotiations via their dealings with the media. Another variation we have tried is mixing a group of law students with the industrial relations business students, assigning each team a legal counsel. The mixing of two distinct approaches to negotiations, and two perspectives on labor relations, was useful for both groups of students who gained from the experience of working with each other.

Debriefing

An informal debriefing after the deadline has expired is invariably exhilerating, if not exactly conceptually rigorous. It does give the participants the opportunity to discuss each other's strategy tactics, positions, and resistance points. The week after the conclusion of bargaining, when emotions have cooled, we undertake a detailed postmortem on the simulation, emphasizing the conceptual and behavioral issues in bargaining. We find that students are able to provide examples of both the concepts and the behaviors from their shared experiences in the preceding week. While some of them are almost overawed by the complexity of the bargaining process, they nevertheless develop a real appreciation of it. They may not develop negotiating skills through such a simple simulation, but as managers who will have to work in a unionized environment, they will have some better appreciation of the strategic and tactical issues in collective bargaining, and what skills they will have to develop. Unless this debriefing is very rigorously conducted, the problem that bedevils many simulations will occur: people remember the simulation, but not the point of it.

Time and Effort

You may have correctly surmised at this point that the exercise is time-consuming to administer. It is incredibily time-consuming. It is precisely these added dimensions that require most of the additional time on the part of the instructor. Running the exercise also involves having a very efficient secretary, since all of the additional information is given out in writing, and since the two sets of proposals are edited, typed, and reproduced by the instructor's office.

Nevertheless, the extra effort is, we think, well worth it. Over the years, the response to this simulation has been overwhelmingly positive. It

has been successfully used with senior undergraduate students, graduate students, and even participants in management development programs, some of whom have had extensive negotiating experience. Comments from the latter about the verisimilitude of the exercise help make it worthwhile.

Evaluation

The participants in the degree programs are evaluated on the basis of quantity and quality of effort they put into the exercise rather than any outcome in terms of specific settlements. The number and relevance of their requests for data, the care with which they put together their demands, the observed thoroughness of their presentations at the negotiating table are all taken into account in the awarding of a grade for the exercise. This is the only way that it can be evaluated since there is no predetermined optimal solution.

Summary

In selecting a bargaining simulation, instructors must recognize that the simulation will generally be assumed to represent "the real thing," and "the whole thing."

This suggests that where a simulation is being used as a major part of an introductory or survey course, the following criteria should be considered by instructors:

1. Comprehensiveness of the simulation. Specifically, its inclusion of distributive, integrative, and intra-organizational bargaining.

2. Realism, insofar as it can be achieved in any simulation. Specifically the simulation should recognize (1) the vast amount of qualitative data that exist and the need to extract meaningful and useful information from these data; (2) the importance of qualitative data to negotiators, both active negotiators and involved third parties, in the conduct of negotiations; and (3) the critical pressures of time, boredom, fatigue, impatience, and other emotions which influence bargaining behavior.

3. Ownership of the bargaining exercise. Unless participants feel that they control the process, within some structured limits which exist because they exist in reality, they will feel manipulated.

4. Decision-making opportunities. A sense of ownership is increased when participants are allowed to make decisions such as demands, proposals, strategy and tactics, and disclosure. Effective simulations allow participants to experiment with critical decisions and allow them to see the results.

5. Organizational impact. To what extent are participants required to cost-out proposals and settlements, so that they might see and really

understand the organizational impact of these? Costing is an integral part of the bargaining process and should be part of any simulation of that process.

6. Availability of ambiguity. The degree to which, in developing proposals, making decisions, developing strategies, and in the actual bargaining sessions and in their evaluation, participants are forced to live with a certain amount of ambiguity—a feature of the real world—is a consideration of some importance.

7. Effective feedback mechanisms. Developing effective formal and informal postmortem debriefing sessions wherein participants can discuss what happened in each bargaining session and an appreciation of those events in terms of bargaining theory is critical if participants are to understand "what happened?" and why.

8. Research requirements. Simulations should provide the opportunity and need to develop sources of information from outside the simulation, such as government and industry statistics, industry periodicals, and the like. This allows participants the realistic opportunity of developing their own data bases for use in establishing resistance points and in the bargaining session.

Simulating Organizational Reality: Some Lessons from Course Experiences in Industrial Relations

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The purpose of this paper is to report on our experiences with three bargaining simulations using business school students. Two of these simulations focus on collective bargaining exercises with students who have opted for some degree of specialization in industrial relations and who have been previously exposed to a short (one evening) bargaining exercise as part of an introductory course. The third simulation is based upon *The Organization Game*,[1] a widely used simulation designed to provide experiential learning in organization behavior.

To provide some background to these simulations, each is reviewed briefly in the first section of the paper. The second part of the paper then presents an evaluation of their relative strengths and weaknesses. To help with this task, short self-administered questionnaires were distributed to the undergraduate students participating in two of the simulations (The Organization Game and the shorter of the two bargaining exercises described below). In the case of the remaining simulation, a rather more elaborate collective bargaining exercise with MBA students, evaluation was based instead on an informal group postmortem. Drawing upon the results of these evaluations, the third and final section of the paper presents some suggestions for the future development of bargaining simulations in industrial relations with a view to enhancing their teaching potential.

The Simulation

The shorter (undergraduate) simulation is based on a medium-sized multiplant firm in a competitive, cyclically sensitive, but growing industry. Limited background information is provided with company-specific data

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[1] Robert H. Miles and W. Alan Randolph, *The Organization Game* (Santa Monica, Calif.: Goodyear, 1979).

restricted to return on sales, market share, and the previous year's contract settlement. No balance sheets or income statements are provided. In formulating their respective positions, students are expected to draw upon published economic data as well as official sources on negotiated working conditions and recent settlements.

On the union side the workers in the simulation are represented by the local of an international union. To enhance their bargaining power there is a hint the local may be the object of a raid by a militant national union—a prospect, it is suggested, that management views with no great enthusiasm.

A small sample of clauses is supplied from the previous agreement, including management rights, seniority, union security, vacations, paid holidays, time-off for union business, contracting out, and wages (with information on relevant comparisons with competitors). The simulation specifies the initial demands of the union with respect to the clauses just mentioned, with the obvious exception of the desired wage increase. Emphasis is thus placed upon establishing priorities among demands and formulating target and resistance points.

In terms of the mechanics of the exercise, five students are assigned to each team, and bargaining is spread over two evenings. No strike penalty is imposed. Both parties are expected to cost their package and submit the details as part of a final report for grading purposes. They are also warned of the implications if their settlement is out of line with the "going rate" established by other bargaining teams.

The longer bargaining simulation, used on the MBA program, is based on a medium-sized, single-plant manufacturing firm in a highly competitive industry. Background information is provided on the firm's formation and growth, as well as on the events surrounding a messy organizing campaign. A current income statement and balance sheet are provided, together with production targets for the coming year, while on the union side details of the international and its membership composition are also supplied. Both teams are provided with a brief outline of the previous round of negotiations, and key clauses of the collective agreement are reviewed, with some discussion of how they have operated and how they are viewed by the parties. Here attention is directed primarily towards management rights, overtime, seniority, and wages, although a short but fairly complete collective agreement is provided. To add spice to intra-organizational bargaining and to encourage some initial specialization in information-gathering, each team member is given a role and a confidential personal profile (production manager, industrial relations manager, international rep, etc.). Actual bargaining is restricted to management rights on promotions and transfers, union security and contracting out—where

alternative clauses are specified in contract language[2]—and to overtime, holidays, vacations, wages, shift premiums, and benefits—where bargainers are free to draft their own wording. An additional, and important, feature of the exercise is the videotaping of one bargaining session for each union-management team. These tapes are then played back and analyzed as part of the debriefing session.

The Organization Game initially establishes a relatively unstructured organization with four major divisions, subdivided, in turn, into seven basic operating units. Three of these units are charged with "support" functions (information processing, employment relations, and management consulting) and three with "task" functions involving the production of puzzle solutions and anagrams (the organization's output). To complicate the task of organization, puzzle-solving is divided between two mutually interdependent units located in separate divisions. The seventh unit is given no formal program, being charged instead with creating a role of its own. No formal organizational structure is provided so that participants are expected to come up with their own design.

Organizational effectiveness is assessed on the basis of four performance indicators: resource base, total output, internal cohesion, and member commitment. As in real life, action contributing to high scores on one indicator may serve to reduce others. Roles are assigned within the organization such that approximately half the participants hold managerial and supervisory roles (unit head, controller, etc.) and half function as workers (puzzle-solvers, etc.). In terms of industrial relations implications, one potentially important feature of the game is that it allows for the possibility of strike action, though this may be undertaken with or without the prior formation of a union.

Evaluation

The questionnaire used to evaluate "The Game" and the shorter bargaining simulation asked students to indicate briefly what benefit they hoped to derive from the exercise, to rate its success, and to indicate their reasons for this rating. Students were also asked to report on what they felt they actually learned from the exercise, including the development of personal skills and/or techniques, to indicate what additional skills they felt were inadequately covered, and to suggest possible improvements. Views were also elicited on the success of the exercise in exposing participants to the resolution of *intra*group as well as *inter*group conflict. Finally, students were invited to rank-order such aspects of the exercise as

[2] Clauses "planted" in this way are subsequently used to demonstrate the grievance procedure and arbitration process.

preparation, content, strategy, process, and outcome in terms of their relative importance.

The questionnaire responses suggested that the shorter bargaining simulation generally lived up to expectation (over half found it "very successful"). Its main weaknesses were seen to derive from the lack of detailed background information on the company and industry, including, in particular, the absence of specific financial data on ability to pay and on the institutional background of the firm. The exercise, in other words, was experienced in something of an institutional vacuum. Thus the most common negative comments related to a perceived lack of realism—it being too "shallow" and "casual," there being "nothing tangible at stake, and no real consequences," there being "no meaningful strike constraint" and participants having "insufficient appreciation of the value of the issues either to the union or the firm," thereby making it "simply an arguing exercise!"

On the positive side, frequent reference was made to the simulation's value in the development of bargaining skills, and in particular to a heightened appreciation of the importance of preparation for effective negotiation, and an increased awareness of costing techniques. The importance of these items was further confirmed by students' subsequent rank-ordering of the value of different aspects of the exercise. Thus *preparation* (costing, discovering information sources, etc.) was typically ranked first, *strategy* (priority-setting, packaging demands, game plan development, etc.) second, and *process* (bargaining skills, negotiation tactics, etc.) third. *Content* (the meaning and significance of contract clauses and contract language) and *outcome* (the nature of the final contract settlement and its implications for the ongoing labor-management relationship) were ranked fourth and fifth, respectively.

Bargaining simulations have often been criticized for giving a misleading impression of real-world negotiations by rewarding distortion and dishonesty, encouraging the pursuit of short-run tactical advantage, emphasizing the ritualistic elements of bargaining, and, perhaps most important, producing an excessively adversarial view of bargaining in which threats, exaggeration, and the use of force are fully justified. It was, therefore, reassuring to discover that two-thirds of our participants found the exercise to be "very successful" in achieving the resolution of intergroup conflict. Where the exercise appears to have been less successful is in simulating an environment in which students were forced to deal with intragroup conflict.

Questionnaire responses to The Organization Game were drawn from a much wider sample (160 students covering seven sections and three instructors). Satisfaction with the game showed enormous variation from

section to section and instructor to instructor (section ratings, for example, ranged from 62 percent "very satisfied" or better to 59 percent "very little satisfied" or worse[3]—a clear indication of the dependence of any simulation on the right "chemistry"!). Certain patterns did, nevertheless, emerge. On the positive side, the game was seen as developing and reinforcing a variety of personal skills (communication, assertiveness, goal-setting, delegation, leadership, etc.) On the negative side, these benefits seem to have accrued largely to those performing management roles. The workers, by contrast, learned mostly negative lessons (the frustrations of powerlessness and lack of involvement, boredom, etc.) and saw the exercise as generally unrealistic.

In comparison with the collective bargaining exercise, one strength of The Organization Game was its relative success in exposing students to the problems of *intra*group conflict. Combining this finding with the relative success of the collective bargaining exercise in exposing participants to the problems of interorganizational bargaining, and with the generally negative experiences of "workers" in the Game, clearly suggests some potential for cross-fertilization between these simulations. This issue is taken up again in the next section.

Turning finally to the longer bargaining simulation used with MBA students, the evidence derived from student feedback suggested that the exercise was perceived to be extremely realistic and elicited a high degree of commitment. This was undoubtedly due to the much more extensive background material provided. Students also found the assignment of bargaining roles useful in the initial stages of the exercise in generating *intra*organizational conflict, but increasingly irrelevant as the simulation progressed. As with the shorter simulation *preparation, strategy,* and *process* were highlighted as key aspects of the learning experience; however, by providing some background on past administration of the contract, and specifying alternative clauses in contract language, the simulation was also seen as enhancing understanding of *content*. Finally, the availability of videotapes of the negotiation for the debriefing session very effectively overcame the tendency for such exercises to be something of an anticlimax, and provided an invaluable opportunity for critical evaluation (including self-evaluation) of behavior at the bargaining table and its industrial relations implications.

Some Suggestions

It goes without saying that an essential requirement for any simulation to work effectively is that it be taken seriously. Although basing some part

[3] Interestingly, the organization achieving the highest score on the indicators received the worst evaluation!

of the course grade on the exercise (and possibly even using grade reductions to proxy strike costs) concentrates the student mind miraculously, our experience suggests that an altogether higher level of commitment can be achieved if students perceive the exercise to be a close approximation to reality. Here there appears to be a significant positive return to detailed background information on the firm and industry, including reasonably detailed financial statements—indeed, for business school students this also provides a useful element of integration across courses. The use of guest speakers from the industry featured in the simulation also adds to student awareness and commitment, as does some analysis of problems encountered with the expiring collective agreement. Both factors serve to place the simulation in a more concrete institutional context. In our experience this has been a key element in helping simulations catch the students' imagination and "come alive."

One major drawback with these suggestions is their heavy requirements in terms of organization and preparation. Moreover, the more elaborate the simulation becomes, the greater the likelihood that inaccuracies and inconsistencies will creep in. One solution is to assign senior students to the task of *preparing* a bargaining simulation. In many ways this represents a much more effective way of introducing students to the complexities of a real-world collective bargaining relationship.

An alternative strategy for achieving a fuller awareness of the institutional context might be, as suggested above, to graft a collective bargaining simulation onto The Organization Game. If, for example, the frustrations generated among those assigned "worker" roles in The Organization Game were formally harnessed into a union, and grievances channelled into a collective bargaining exercise, the exercise could be made more complete and more meaningful for all participants.

The possibilities for designing simulations that cross disciplinary boundaries need not, of course, stop with the interface between industrial relations and organizational behavior. As one further example, the role of simulations in linking accounting and industrial relations has already been mentioned; however, in addition, cases in finance (investment analysis of unionized settings, mergers involving plant closure) and production and operations management (production scheduling, technological change) could also be designed with industrial relations implications to provide more meaningful institutional background to conventional collective bargaining simulations. The integrative potential of simulations designed in this way is potentially enormous.

The Efficacy of a Point-Scored Negotiation Exercise in a Graduate Collective Bargaining Course: A Multiyear Comparative Analysis

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As Strauss and Driscoll[1] and others have noted, a wide variety of simulations and games[2] are used today in the teaching of industrial relations. The purpose of this paper is to discuss and evaluate a three year recent experience in the use of one such negotiation exercise in a graduate business course in collective bargaining. Five sections comprise this analysis: a description of the exercise, its administration, the outcomes that have resulted, considerations in evaluating the exercise, and implications for research.

Description of the Exercise.

This negotiation exercise is included in materials which accompany a textbook primarily oriented toward the teaching of collective bargaining in law school.[3] The exercise requires negotiation of a first contract between a retail supermarket chain and its newly certified industrial-type union. Information is provided on the organizational campaign, the philosophy and attitudes of the company and union leaders, the history and planned growth of the company, employment practices and data, current wages and benefits, hours of work and scheduling practices, and existing job classifications and procedures.

There is an extensive list of rules for the negotiating teams. Those of greatest importance to this discussion are: (1) A complete, signed one-

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[1] George W. Strauss and James W. Driscoll, "Collective Bargaining Games," *Exchange* 5 (1980), pp. 12–20.

[2] For a discussion of the differences between simulations and games, see Sheila W. Furjanic, "Simulations and Games: One Answer for General Business," *Business Education World* 56 (November-December 1975).

[3] Donald P. Rothschild, Leroy S. Merrifield, and Harry T. Edwards, *Collective Bargaining and Labor Arbitration*, 2d ed. (Indianapolis: Bobbs-Merrill, 1979).

year collective bargaining agreement must be reached; there may not be an impasse. (2) Sixteen broad subjects must be included in the negotiated agreements (for example, wages, overtime and premium pay, job postings, etc.). Each union and management team is awarded a predetermined number of points based on the clause negotiated. The team receives a "confidential" point score sheet which identifies the worth of alternate settlements of each issue. (3) Fifteen other broad subjects which are not "scored" also must be included in the agreements (for example, performance of unit work by nonunit personnel, management rights, grievance procedure, a detailed seniority provision covering layoffs, recalls, promotions, temporary transfers, etc.). (4) Either side can add other subjects to its list of bargaining demands. The grade for the exercise is based on all of the substantive terms contained in the collective bargaining agreement, not just those which are scored.

Every student had at least the equivalent of a survey course in industrial relations. Most also had graduate level work in labor economics and human resources management. With few exceptions the students were industrial relations majors.

Administration of the Exercise

In order to ensure that by the time the activity commenced class members had developed considerable insight into the substantive matter of collective bargaining and the contract administration process and also to minimize the risk of post-exercise depression apparently experienced by students of colleagues where a simulation such as this one was utilized too early in the course,[4] the exercise was run during weeks seven through nine of a ten-week course, with classes the last week reserved for evaluation of the results and of the exercise itself. Students were divided up into teams of three to five members each, representing either management or the union. Each team's membership was as heterogeneous as possible including the nature and extent of work experience,[5] evidenced oral and written communication skills, and apparent level of competence in the subject matter of the course. Students who in early portions of the course demonstrated particular leanings toward a management or union orientation were intentionally placed on the other side for this exercise.

The teams were given the background information, the general rules of the exercise, and the confidential scoring sheet for their side. They were told that they were to compile and submit by a specified time at the end of week nine the minutes of all negotiation sessions, a completed

[4] Strauss and Driscoll, p. 19.

[5] It should be noted that the "typical" graduate student is about 28 years old and employed part- or full-time in a labor relations or human resources position, often of a supervisory type.

contract, a team evaluation of the exercise, and their tabulation of the points scored by their team in the settlement reached. Students were permitted to consult and utilize whatever library materials, documents, or other contracts they wished, but were informed no outside research was required.

During each of the three weeks of the exercise students were provided about two of the four hours of class time per week for negotiating sessions. They were free to meet at any other time they wished. The instructor attended as an observer as many team negotiating sessions as possible during this period. On rare occasion, if an obvious breach of the rules of the simulation occurred which the teams could not otherwise control, the instructor stepped in to bring the players back within the broad parameters of the exercise.

Outcomes

The structure of the exercise clearly influenced the negotiated agreements. A rigid time constraint and the requirement that an agreement be signed without a strike forced the participants to continue bargaining when they might otherwise have reached an impasse. Point-scored bargaining topics plus other items on which agreement was mandatory provided a broad agenda for negotiations and precluded any possibility of limiting negotiations to just a few issues. The fact that some of the topics were point-scored clearly influenced the bargaining stances of the teams, but to varying degrees. For example, one union team member remarked that although point scoring appeared to be the deciding factor in all of the arguments of their management counterparts, it was less important in the union's approach to issues. They expressed more concern in reaching an agreement which they believed would be ratified by the rank and file if it were subjected to a vote, and did not believe the point scoring accurately reflected what their members' preferences would have been.

Student backgrounds and experience also influenced the negotiating process. Those students with actual bargaining experience might have overwhelmed inexperienced individuals both on their own team and on that of the opposition. However, post-exercise discussions with these students revealed that they decided it was in the best interest of creating a realistic experience for the negotiations to be conducted as though the parties would have to live with the agreement and each other once it was completed. Accordingly those participants with previous negotiating background elected not to dominate the exercise.

One might question the opportunity for creativity in a structured exercise. From the diversity of the final agreements and from analysis of

the point scores, bargaining minutes, and team evaluations, it is clear that ingenuity was not stifled. Different assumptions influenced the final agreements. One management team decided that it wanted to convert the retail stores to warehouse-type groceries. In order to retain the staffing and operations flexibility believed essential to their future success they willingly conceded to union demands on monetary issues. In return, employees were not guaranteed hours or permanent jobs. Essentially, the management team disregarded point scores in order to pursue their goals, and justified their position by arguing in the postmortem that their agreement, taken as a whole and based on their assumptions, was more conducive to the growth and profitability of the firm than others which had higher point totals for management.

There are other examples of the flexibility of the exercise and the creative approaches that were taken. Topics were included in some agreements that were not on the required lists. Complete medical and prepaid legal insurance programs and extensive child-care arrangements are prominent illustrations. Students held meetings in a variety of locations, including faculty lounges and even a restaurant. Negotiation sessions varied in duration. One group held a marathon session of over six hours to conclude an agreement before the class deadline. Different negotiation processes were followed. Some agreements were reached on a tentative basis, item by item, subject to change prior to the conclusion of the complete agreement. Others experimented with package negotiation. One group signed memoranda of understanding for each item negotiated; once signed there were to be no changes. Subcommittees of one to two members per team meeting simultaneously also were utilized by some players, with tentative agreements subject to ratification by the whole team back at the main bargaining table. Bargaining tactics ranged from free wheeling, give-and-take to more cautious, reasonable, rational bargaining to hard-nosed bargaining. There was even one union walkout.

Contract format, wording, and order of topics varied greatly. Each student was given an actual, printed agreement between a union and a company (not necessarily in the same industry) and these agreements influenced the final agreements, though to different degrees. One team member had access to an actual agreement that was already on a word processor. When the team members agreed to use the basic wording and format of that contract, they spent less time on precise phrasing and more time on substantive issues.

Six agreements from the three-year period were perused. Each included all of the required topics. Among the point-scored items, there was some degree of agreement between the contracts on certain topics as well as a

good bit of diversity. In addition, variations from the specified point-scored options were created by some teams. (See Tables 1 and 2.)

TABLE 1

Topic of Agreement	Number of Contracts Having Same Clause
Employees temporarily transferred to a higher-paying position will receive higher pay (limitation: length of time and amount of increase)	6
Bereavement day(s) added (range from 1–3 paid days)	6
Dues checkoff with indemnity clause	5
Shift differential 5–10¢	5
Basic overtime: time and one-half after 8 hours per day or 40 hours per week (in one case, after 9 or 40)	5
Union security clause—union shop	4
Job postings to be in all stores but employees in the store with the open position to have first bid	4

TABLE 2

Topic	Range of Agreements
First-year wage increase	2% to 10%
Report-in pay	2 to 6 hours
Premium day pay	0 to 1½ time for Saturday and Sunday
Maximum number of management trainees per store	4 to unlimited
Additional coffeebreak time	0 to 15 minutes
Vacation eligibility	1000 to 1480 hours

There was little similarity among the nonpoint-scored items. For example, contracts began on different dates. Management rights clauses ranged from very brief and general to very extensive and specific. Four of the agreements called for ad hoc selection of a single arbitrator, one named three permanent arbitrators to be used on a rotating basis, and the sixth called for a panel of three arbitrators to hear each case. Some contract clauses were very detailed while others were not. Thus, the diversity of the six agreements that resulted from the point-scored negotiation exercise clearly reflected the flexibility inherent in the exercise as well as the creative approaches taken by the participants.

Evaluation

Student reaction to this exercise has been extremely positive in each of the three years examined. Typical of their observations is the following statement from a union team's summary:

> It is very difficult to describe collective bargaining negotiations before you have experienced them. The phrase "bargaining in good faith" more than any other lesson is learned in negotiations. . . . [It] is an abstract term until you enter into contract negotiations where it becomes the fuel to sustain activity. It is the only thing many times which keeps you from walking out. We learned very well what this term meant. The total experience was rewarding, as it is a rare thing in school that a truly practical exercise is possible. The exercise was real and taught many valuable lessons. We became familiar with a typical labor contract having fought for each point and concession. The science of "give and take" also took on new meanings. It was frustrating in a way, in that, as we really began to develop negotiating skills we ran out of time. . . . The true test was, that when negotiations had ended, both teams expressed their pleasure with the exercise and stated how much they had learned about collective bargaining.

From these and other participant comments it is apparent that the exercise gets high marks for bringing "relevance" to the classroom, a consideration found wanting to a considerable extent recently by potential employers evaluating the curricula and methodologies employed in many graduate schools of business.[6]

More generally, it has been suggested[7] that criteria for evaluating simulations include "active involvement," "realism," "clarity," "feasibility," and "repeatability and reliability." From student remarks and instructor reaction, this exercise as administered meets two of these criteria extremely well. The objective of stimulating and actively involving all participants is satisfied and the exercise can be completed within the time and resources made available in the graduate business curriculum. "Clarity," which has been defined as the extent to which the participants' actions are governed by conscious decision rather than by chance, appears to be achieved moderately well. A similar finding is warranted for the criterion of "realism," defined as the degree to which the interaction of choices parallels real-life choices. The rules barring a strike and requiring a settlement by a specified date and time limit the full achievement of

[6] Robert F. Reilly, "Teaching Relevant Management Skills in MBA Programs," *Journal of Business Education* 57 (January 1982), p. 141.

[7] Clark Abt, *Serious Games* (New York: Viking Press, 1970).

"clarity" and "realism." The extent to which the criteria of "repeatability" and "reliability of outcomes" are met can not be determined.

This exercise stands up well when measured against other limitations typically suggested of simulation as a learning technique.[8] The extensive list of subjects to be negotiated reduces the weight of the claim that a simplistic view of reality is presented. Factual information is gained from this exercise because students learn many aspects of collective bargaining not otherwise covered in the course, and they develop some familiarity with appraising alternative contractual language solutions to each issue considered. It is true that the exercise is time-consuming, complex, and requires thorough preparation; however, none of these potential limitations has been demonstrated in practice as significant. Compared to the alternative use of class and outside time, faculty and students alike find the exercise an effective instrument.

Experience with this exercise has shown that it is particularly good at stressing the content of collective bargaining agreements but weaker on behavioral elements. Writing of contracts, exploration, and costing of alternative clauses can be accommodated well. However, the limited time and information available results in limited opportunity for gaining insight into the elements of "intraorganizational bargaining" and "attitudinal structuring."[9] Similarly the extent to which emotion, body-language, and other human dimensions influence a real bargaining session receive only little consideration in this exercise. Since the exercise accompanies a text primarily oriented to the teaching of collective bargaining in law schools, it is understandable that it would emphasize writing skills over behavioral ones. For graduate business students, attention to each area would seem desirable. However, since the business curriculum today generally recognizes the importance of behavioral training, but graduates have been criticized for some deficiencies in written communication skills,[10] the mix of behavioral and writing skills in this exercise has been judged as appropriate for its continued use.

It has been suggested by others that students can find a point-scored negotiation exercise "frustrating, unrealistic, and time-consuming."[11] While some support for that view was found in this three-year experience, as noted earlier students were able to view the point-scoring as just one element of the exercise, not the principal objective. It is believed that faculty emphasis on grading the exercise based on multiple factors

[8] Geneva Waddell, "Simulation: Balancing the Pros and Cons," *Training and Development Journal* 36 (January 1982), p. 82.

[9] See Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations* (New York: McGraw-Hill, 1965).

[10] Reilly, p. 140.

[11] Strauss and Driscoll, p. 17.

including direct observation, quality of the written contract (realism and completeness of agreement), utility of the bargaining minutes, and thoughtfulness of the team's evaluation of the contract, contributed to this outcome. On the positive side, the point-scoring of topics provides students with the author's evaluation of the relative importance to their side of different issues and alternative outcomes. The students are free to reach any solution they wish and know they simply have to justify why a lower point score is in their view more desirable. They can set whatever priorities they wish, but they at least start with some a priori notions of relative importance. On balance, point-scoring appears worthy of retention in the exercise.

Implications for Future Research

The primary purpose of conducting research on this exercise would be to evaluate its effectiveness. To do this, one must begin with a well-defined criterion of "success" and then conduct experiments utilizing at a minimum some control group to determine whether or not the exercise was responsible for changes in the knowledge or behavior of the participants.[12] Also, one might wish to investigate the effectiveness of various parts of the exercise. For example, the exercise could be updated to current economic conditions rather than those of 1974, to add to the realism of the simulation. On the other hand, it should be noted that an advantage of an exercise a few years old is that complete economic data for that time, industry, and geographic area are readily available to students. Changes in the point-scoring may have an impact on outcomes; however, the impact may not be determinable due to the abundance of uncontrollable factors that influence the participants as the exercise is currently administered. Conversely, one may not wish to restrict the participants further, for creativity and individualism are factors that influence real contracts. Another aspect would be comparisons between the degree of variance of final outcomes and priorities stated prior to negotiations. Other variables susceptible to evaluation would be the extent to which the results are materially different when law students, real-life practitioners, and/or actual mediators are utilized.[13] In any event, the use of this exercise has demonstrated satisfactorily that it can be a viable teaching tool in collective bargaining courses. Empirical studies

[12] Warren S. Blumenfeld and Max G. Holland, "Model for the Empirical Evaluation of Management Training Effectiveness," *Atlanta Economic Review* (October 1971), pp. 29–31.

[13] During the postmortem following the playing of a collective bargaining exercise at "a well known eastern Business School" in which MBA students were on the union teams and trade union officials attending a labor education program represented management, it was not unusual to hear an MBA student express great admiration for the ability of the union leaders to have argued management's position so eloquently in the game!

can be useful in strengthening its design and application, and it is to be hoped that further evaluation of this and other types of simulation exercises will improve their utility and efficacy in the teaching of collective bargaining.

DISCUSSION

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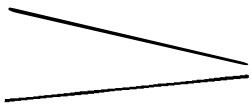
The trouble with simulations is that they are simulations. The most important ingredient in negotiations is the pressure from the constituents, union and management, and these pressures are notably lacking from even the most carefully contrived bargaining cases.

Another defect is the lack of familiarity on the part of most participants with the roles of union and management negotiators. Even the most elastic imagination cannot stretch over the gap between the real thing and the mock exercise when it is played by those with limited or no experience in either work or organizations and with skimpy exposure to negotiations of any sort.

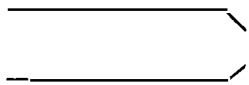
How are students to know how important job-posting might be to local union members? Or how crucial it might be to management to keep staggered contract expiration dates in multiplant companies?

Consequently, the unimportant is made to seem important. There is an overemphasis on rationality and logical persuasion, on the assumption that the side producing the best set of figures will "win." The process is often treated as zero-sum, one side's gain being the other's loss, when the most skillful negotiations are those that have both sides claiming victory, and each with some justification.

In some cases the negotiating process is presented as looking like this:



when in reality it looks like this:



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Ninety percent of the real negotiating takes place in the final days, hours, and even minutes. Any expectation to the contrary is likely to produce feelings of failure and unwarranted panic. It also produces reckless charges of "bad-faith" bargaining.

There is also a tendency to overstate the importance of the face-to-face negotiations between union and management and consequently to downplay the intramural negotiations taking place in union and management caucuses, which sometimes are the most crucial.

In the light of all these drawbacks, the question arises: Why bother? It's a good question, and sometimes the answer is that one should not bother. The play is not necessarily the thing in labor relations courses.

But let's take a look at the credit side of the ledger. Even at its worst, it is more interesting than the texts. They lean toward public policy (not necessarily in the forefront of student concerns) and, when they do deal with negotiations, are so detached and abstract that practitioners can scarcely recognize the process they engage in almost daily.

The defects can be partly cured by careful construction of the simulation. A number of these points are covered by the papers, with which I concur in large part. I have grave doubts, however, about the impact of a shutdown deadline (Gandz and Peach) on a group of students, however much they may have absorbed the Stanislavsky method.

And I am very dubious of the possibility of incorporating much of the Walton and McKersie concepts of integrative and intra-organizational bargaining and attitudinal structuring, serviceable as they are in analyzing and understanding real-life negotiations. The context simply is not there for these matters to have meaning.

Gandz and Peach express concern about students remembering the simulation but not the point of it. That is only natural. It certainly beats studying accounting and statistics, for most people. And there is no way to counteract the defect that in real life one set of negotiations is only one of a series that take place over the years. In the case of a simulation, there is no past.

The student evaluation (Davies et al.) parallels my observations. The simulation is good for teaching the value of preparation, strategy, and (to some extent) process and is least effective on content and outcome.

I also share the student skepticism on point-scoring (Jedel et al.). It may warp the process in an unrealistic way. If any system is used, it should be qualitative. A good negotiator is a performing artist and should not be judged by the numbers. Any student who thinks otherwise is headed for trouble in the world of work.

XV. IS COLLECTIVE BARGAINING CHANGING? DEVELOPMENT AND SCOPE

Is Union Wage Determination at a Turning Point?

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Suppose you were a forecaster early in 1982 and had been asked to predict wage settlements during the course of the year. What would you have likely predicted? And how might the error in your prediction as seen with hindsight be understood? In short, did the labor market behave in a sharply divergent way from past practice in 1982? And was a "turning point" in union wage-setting reached?

I. An Early 1982 Forecast

Table 1 shows some hypothetical predictions that might have been made in early 1982 for wage settlements given what was known or anticipated at the time. Four dependent variables are used: the percent change in the hourly earnings index, the percent change in compensation per hour, the Bureau of Labor Statistics (BLS) index of median first-year major union wage settlements, and the Bureau of National Affairs, Inc. (BNA) index of median first-year union wage settlements. The predictions are based on mechanical application of annual regressions over the period 1954–1981, using alternative measures of lagged price inflation and projected 1982 economic activity as independent variables.[1] On the basis

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[1] It was assumed that the unemployment rate would average 9 percent in 1982, which is the level forecasters were projecting in early 1982. Other activity variables used in the alternative specifications were adjusted to be consistent with the 9 percent forecast. They were adjusted by regressing them annually against the unemployment rate and a time trend over the estimation period of Table 1 and then including an "addfactor" making the

TABLE 1

Hypothetical Early 1982 Wage-Change Predictions Compared with Actual Outcomes, 1980–82 (percent)

	Hourly Earnings Index (1)	Compensation per Hour[a] (2)	BLS Median Union Wage Adjustments[b] (3)	BNA Median Union Wage Adjustments[b] (4)
Prediction range, 1982	7.9–9.4%	8.1–10.3%	8.6–10.7%	7.7–10.6%
Mean prediction	8.5	9.1	9.8	9.6
Actual: 1980	9.0	10.2	9.4	9.5
1981	9.1	9.7	11.0	9.6
Jan.–Sept. 1982	7.1[c]	7.4[c]	3.6	7.1

Note: Columns (1) and (2) are on a year-over-year basis. See fn. 1 of text for computational details. Actual data shown are as of mid-November 1982 and are subject to revision.

[a] Nonfarm business sector.

[b] First-year settlements excluding escalator payments.

[c] Figure for period shown divided by same period of previous year.

of such regressions you would have mechanically predicted that wages generally would rise about 8½ percent in 1982, total compensation about 9 percent, and that union settlements would be over 10 percent (taking account of the omission of escalator payments from the two union indexes).

Of course, by early 1982 you would have been aware of negotiations then under way to reopen the auto and trucking contracts and that a sequence of wage concessions in meatpacking and airlines was already in full swing. If you thought that these were unusual events, not well-reflected in your regressions, you probably would have made a downward adjustment in your estimates for the two global wage indexes of perhaps half a point or so. This would have led you to predict "eightish" numbers for wage adjustments generally.[2]

Since union wage concessions would have a larger weight in the purely

predicted and actual values equal in 1981. Five activity variables were used separately in conjunction with two lagged price-inflation indexes for a total of ten regressions. The activity variables were: the inverted overall unemployment rate, the inverted unemployment rate for males 35–44 years, the employment/unemployment ratio, the Federal Reserve capacity utilization rate, and the GNP high employment "gap." The two price indexes (lagged one year) were the Consumer Price Index (CPI-W) and the nonfarm business deflator. Regressions were run over the period 1954–81 (1955–81 for the GNP gap equations).

[2] Using far more complex models, econometric forecasters generally arrived at similar results. The Data Resources, Inc., January 1982 forecast (produced in late 1981) was 8.5 percent for compensation per hour in 1982. UCLA's Business Forecast Project predicted 8.1 percent for the same figure. At the high end of the range, Goldman Sachs predicted 9.4 percent.

union indexes, you would have wanted to make larger downward adjustments in those predictions. The BLS index is based on worker weights, and the large number of workers in trucking and autos would have suggested scaling down the prediction "a lot." In contrast, the BNA estimates are based on settlement weights, and you probably would have scaled them down quite a bit less than the BLS predictions. Finally, you might have prognosticated that, because of the concessions, nonunion wage adjustments might exceed union adjustments for the first time in many years.

At the current time, looking backwards, it appears that even with such ad hoc adjustments, you probably would have overestimated the rate of wage inflation during 1982. Early in 1982, you might well have underpredicted the degree of economic slackness that would prevail during the year. However, since most wage equations (including those underlying Table 1) do not encompass a strong role for economic slack, better estimates would probably not have improved your prediction very much.

TABLE 2

DRI Forecasts for 1983

Forecast Date[a]	Wages[b]	Prices[c]	Forecast Date[a]	Wages[b]	Prices[c]
Dec. 1981	8.8%	7.9%	May 1982	7.2%	6.2%
Jan. 1982	8.8	7.9	June 1982	7.3	6.4
Feb. 1982	8.1	7.5	July 1982	7.3	6.8
Mar. 1982	7.8	6.9	Aug. 1982	7.2	6.5
Apr. 1982	7.6	6.8	Sept. 1982	7.2	6.0

[a] The forecast for each month is issued the last week of the previous month.

[b] Compensation per hour

[c] Consumer Price Index, all urban consumers (CPI-U).

Ultimately, therefore, hindsight forces a questioning of the backward-looking inflation assumption which is built into most wage-change forecasting.

II. Revised Inflation Expectations

Lagged inflation in a wage equation can be rationalized in various ways. It could be interpreted as measuring some kind of catch-up effect. Or it could be viewed as a rule of thumb by which wage-setters attempt to forecast future inflation. Viewed in the latter way, the possibility that sometimes wage-setters depart from the rule when other information seems more reliable must be considered. During 1982 perceptions of the likely course of future inflation changed markedly.

Table 2 shows the revisions that occurred in the 1982 forecasts of Data Resources, Inc. (DRI) for *1983* wage and price inflation. The year 1983

would fall in the middle of a typical three-year 1982 union contract and can be taken as representing the relevant "future" for the union sector. In late 1981, DRI predicted that compensation per hour in 1983 would rise just under 9 percent and consumer prices would rise just under 8 percent. But by June the forecast called for wage inflation of 7.3 percent and price inflation of 6.4 percent. If wage-setters had the same forward-looking perceptions, settlements might well have fallen 2–3 percentage points below the levels anticipated by Table 1 during the first half of 1982. And indeed, this is an important explanation of the seemingly deviant nature of 1982 wage determination.

III. Bifurcation of the Labor Market

Even in early 1982 it seems as though the labor market was splitting into two camps. Certain employers were on the verge of bankruptcy, or at least large-scale plant closings and mass layoffs. As I pointed out in a paper written at that time for the Brookings Institution, such developments threaten the job security of the senior union members who have special influence on the union policy-making process.[3] Such threats create more wage responsiveness than the normal ups and downs of the business cycle.

The concessions negotiated in these circumstances varied. A common feature, however, was a freeze on basic wages (sometimes including the escalator, sometimes with delays or "diversion" of escalator money) or a decrease in wages. It is useful to separate those contracts providing zeros or decreases in basic wages from the others. As can be seen on Table 3, the figures for contracts providing positive guaranteed adjustments dropped in 1982, but less dramatically than the all-contract indexes.[4] This is partly arithmetic; as the distribution of wage adjustments shifts down, a greater proportion of them will hit the zero mark. However, the proportion of zeros and decreases was higher than expected. In 1975, at the bottom of the mid-1970s recession, zeros and decreases accounted for less than 2 percent of the BNA settlements and about 4 percent of workers under BLS major union settlements. In contrast, during the first three quarters of 1982, the respective proportions were about 12 percent and 45 percent.

IV. Accumulated Wage Pressures

My Brookings paper noted a secular increase in the union/nonunion wage differential. Various explanations might be put forward for this

[3] Daniel J.B. Mitchell, "Recent Union Contract Concessions," *Brookings Papers on Economic Activity* (1:1982), pp. 165–201.

[4] There were relatively few wage decreases in the zero and decrease group. Accordingly, the adjustments to the BNA data were made by assuming all such settlements were wage freezes and by treating the medians as if they were means.

drift. The Consumer Price Index during the 1970s tended to overstate domestic "ability to pay" due to the influence of imported oil price shocks and the treatment of mortgage interest rates. Union wage adjustments, particularly escalated ones, may have been more influenced by the CPI than were nonunion adjustments.

TABLE 3

Recent Union First-Year Wage Settlements

	BNA Data[a]		BLS Data[b]		
	All (1)	Excluding Zeros and Decreases (2)	All (3)	Excluding Zeros and Decreases (4)	Notable Sectors or Employers with Zeros and Decreases
1981-I	9.3%	9.4%	7.1%	9.7%	Chrysler
1981-II	10.0	10.1	11.8	12.0	
1981-III	9.8	10.0	10.8	11.9	Pan Am
1981-IV	9.1	9.8	9.0	10.4	Airlines, Meatpacking
1982-I	9.0	9.8	3.0	8.0	Meatpacking, Trucking, Airlines, Ford
1982-II	7.0	8.3	3.4	6.7	GM, AMC, Trucking, Rubber, Construction
1982-III	7.1	8.1	5.8	9.1	United Parcel, Construction

[a] Column (1) shows median settlements. Column (2) treats all nonincreases as zeros and accordingly adjusts column (3) to exclude them.

[b] Means based on number of workers rather than settlements.

Moreover, the mid-1970s recession and the period of slackness beginning in 1979 came too late in the bargaining cycle to influence many large contracts. The mid-1970s recession was short enough to permit these locked-in agreements to operate without forcing a reopening (although some concessions occurred at the periphery of the collective-bargaining sector). History began to repeat itself in 1979, but the length of the subsequent period of slackness and the economic crises felt by a number of unionized employers ultimately led to an unraveling of some of these agreements before their intended expiration dates.

Economists would suspect that a secular rise in the union/nonunion wage differential would eventually lead to a shrinkage of the union sector, at least in relative terms. Employers and/or consumers might shift to nonunion sources of supply (including imports) in response. A gradual shrinkage might be insufficient to invoke downward pressure on union

wage increases. However, a secular shrinkage combined with a cyclical, but prolonged, downturn in demand might lead to behavior modification.

TABLE 4

Loss of Union Representation, May 1977–May 1980
(1000s of Workers)

Change due to industry-mix shift[a]	−253	
Change due to unexplained factors[b]	−417	
Agriculture, forestry, and fishing		*
Mining		− 41
Construction		−236
Manufacturing		−479
Transportation and utilities		− 8
Wholesale and retail trade		− 93
Finance, insurance, real estate		− 60
Services		+359
Public administration		+141
Total representation gap[c]	−669	

Source: Calculated from U.S. Bureau of Labor Statistics, *Earnings and Other Characteristics of Organized Workers*, May 1977 and May 1980 (Washington: U.S. Government Printing Office, 1977 and 1980), Table 16 (1977), Table 17 (1980).

Note: Details need not add to totals due to rounding.

* Less than 500 workers.

[a] Predicted 1980 representation based on 1977 49-industry representation ratios minus predicted 1980 representation based on 1977 all-industry representation ratio.

[b] Actual 1980 representation minus predicted 1980 representation based on 1977 49-industry representation ratios.

[c] Actual 1980 representation minus predicted 1980 representation based on 1977 all-industry representation ratio.

In previous forums I have cited evidence that the decline in the unionization rate was proceeding faster than could be explained by industry composition change.[5] Table 4 updates this analysis through early 1980, using Current Population Survey data. The drop in the union representation rate from 26.5 percent of paid employees in May 1977 to 25.7 percent in May 1980 led to a union "representation gap" of 669,000 employees, that is, there were 669,000 fewer union-represented workers in 1980 than there would have been had the 1977 representation rate prevailed. Only 253,000 of these hypothetical workers can be explained away as due to a shift in employment patterns at a detailed industry level. (And, of course, some of the shift itself could be due to wage pressures.) The representation gains that did occur were located in the public or quasi-public sector (public administration and services such as hospitals

[5] Daniel J.B. Mitchell, "Collective Bargaining and Wage Determination in the 1970s," in *Proceedings* of the 33rd Annual Meeting, Industrial Relations Research Association (Madison, Wis.: IRRA, 1981), pp. 135–42; Daniel J.B. Mitchell, "Collective Bargaining and the Economy," in *U.S. Industrial Relations 1950–1980: A Critical Assessment*, eds. Jack Stieber et al. (Madison, Wis.: IRRA, 1981), pp. 1–46. In the former paper I used BLS data on major contracts; in the latter I used Current Population Survey data.

and education). Thus, in the private union sector, the erosion may have been felt in wage decisions even outside those involving crisis situations.

V. A Turning Point?

Accompanying the concessions was an increased willingness to experiment in some bargaining units with worker participation in management, quality circles, and other innovative reforms. In addition, the most tangible measure of labor-management friction—strike incidence—has shown a marked decline. As I noted in my earlier Brookings paper, these developments have precedents in previous concession episodes. I also noted that in the past the cooperative spirit tended to erode when the crisis ended.

Several views surfaced during the discussion of union wage concessions early in 1982. There is the Freedman-Fulmer view that Humpty-Dumpty (which to them is industry-wide union wage targets and resulting wage rigidity) had fallen off the wall and never will be put together again. At the other end of the spectrum is the Dunlop view that Humpty is merely repositioning himself and that 1982 bargaining (including the concessions) is within the range of normality.[6] Closer to Dunlop's is my own opinion—expressed in the Brookings paper—that Humpty falls off the wall from time to time, but has not broken in the past and has always climbed back. Thus, there is reason to believe that 1982 will not be an exception.

My answer to the title of this paper—is union wage-determination at a turning point?—is "No," not in a fundamental way. Union wage settlements were low in 1982. But this fact says little about permanent changes in institutional structures. In my view, the primary structural characteristic of modern union bargaining associated with wage insensitivity is not the industry-wide pattern, but rather the long-duration contract, often supported with an escalator. Concession bargainers took pains to preserve the escalated long-term contract and to label deviations as temporary. Pattern bargaining has long been an elusive and ephemeral concept in the industrial relations literature, especially when it is thought of as connecting unrelated industries. Wage changes throughout the economy (union and nonunion) tend to be correlated, but statistical attempts to determine if the correlations are due to patterning (conscious imitation) or common determining factors have not been successful.[7] Even where it is obvious

[6] Audrey Freedman and William E. Fulmer, "Last Rites for Pattern Bargaining," *Harvard Business Review* 60 (March/April 1982), pp. 30–48; John T. Dunlop, "Remarks by Former Secretary of Labor Dunlop on 1982 Wage Developments Before Conference of Business Economists," *Daily Labor Report*, February 23, 1982, pp. D1–D2.

[7] Daniel J.B. Mitchell, "How to Find Wage Spillovers (Where None Exist)," *Industrial Relations* 21 (Fall 1982), pp. 392–97.

that patterning has occurred in the past, the significance of its dissolution for wage flexibility is unclear.

The main structural reform which could increase wage sensitivity to demand is gain-sharing (including profit-sharing) which appeared as part of some concession packages. These plans are modest in scope, however, and might be abandoned unless reinforced by public policy. Unless gain-sharing is externally stimulated by appropriate tax incentives, it is unlikely to encompass a substantial portion of compensation. There has been some congressional support for gain-sharing,[8] but little interest from the Reagan Administration. Because of the current willingness to experiment with the employment relationship which has accompanied the concessions, this disinterest means that an opportunity is being lost. The greater wage sensitivity to demand that gain-sharing could bring would help to ensure that future episodes of inflation-fighting would be less painful than the 1979–1982 experience.

[8] In March 1982 Congressman John F. Seiberling introduced a bill (HR 5682) to provide tax incentives for certain types of gain-sharing plans.

Concession Bargaining and the National Economy

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Concession bargaining has received a great deal of attention from the media this past year, and while there has been little agreement about the actual characteristics of these negotiations, the impression has been that there is something unusual, if not genuinely novel, about these cases.[1] The first step in understanding concession bargaining, therefore, is to outline the changes in negotiations associated with it–changes that may have more to do with the process of negotiations than with the terms of settlements. Knowing these changes, a general hypothesis can be suggested which explains concession bargaining as a response to changing and uncertain labor demand functions. Finally, this hypothesis can be examined in light of information drawn largely from a sample of concession negotiations collected with the help of the Bureau of National Affairs.

The Concept of Concession Bargaining

The usual approach to these cases, and the one pursued by researchers in the past, has been to operationally define concession bargaining in terms of outcomes. That is, concession bargaining can be said to have occurred when a settlement represents a "rollback" in the terms of the agreement.[2] Of course, there is an arbitrary element in this approach: Are these rollbacks defined in absolute terms–real or nominal changes–relative to some pattern or to the union's expectations? A definition based on outcomes ignores the fact that negotiations are required to secure concessions, yet it is clearly possible to bargain over concessions and not come away with any. Post hoc definitions based on outcomes make it difficult to predict or explain the occurrence of concession bargaining because it can only be identified after the fact.

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[1] See, for example, Audrey Freedman and William E. Fulmer, "Last Rites for Pattern Bargaining," *Harvard Business Review* (March/April 1982), p. 30, and the special report, "Concession Bargaining," *Business Week*, June 14, 1982, p. 66.

[2] David Greenberg, "Deviations from Wage-Fringe Standards," *Industrial and Labor Relations Review* 21 (January 1968), p. 197, and Hervey Juris, "Union Crisis Wage Decisions," *Industrial Relations* 8 (1969), p. 247.

Although changes in the contents of settlements have caught the public's eye, the cases associated with concession bargaining have other characteristics that are perhaps more important to the student of industrial relations. It can be argued that these cases represent a fundamental change in the process of negotiations as well as in the outcome of settlements. To see these changes, it is necessary to outline quickly some of the characteristics of negotiations prior to this recent round of concession bargaining.

Collective bargaining from the 1960s was characterized by increasingly formal and stable relations where changes occurred incrementally, if at all. Provisions such as union security agreements and formal grievance procedures helped ensure stability between the parties, but the more important arrangements were those that increased the predictability of settlements. Long-term contracts and cost-of-living adjustments reduced the uncertainty associated with changes in contracts, while master agreements and intra-industry pattern bargaining enforced common settlements across different bargaining units, reducing the importance of individual employer or plant-specific bargaining. After establishing these uniform settlements, unions would leave decisions about employment levels to management—decisions which would clearly vary according to the circumstances in each plant or firm. Unions were willing to pursue this approach and to leave the employment decisions to management because there was strong evidence that the labor demand functions were stable and well-behaved; the employment consequences associated with incremental settlement increases had been incremental in the past and were reasonably certain to remain so. The inevitable variability in employment levels associated with uniform contracts was accepted because stable demand schedules made it possible to know roughly what that variability would be and to ensure that it was not at an unacceptable level (for example, where uniform settlements might lead to plant closures and substantial unemployment in marginal units).

Stability and incremental adjustments clearly do not typify the negotiations associated with concession bargaining. The dominant characteristic of these cases has been change—rapid unprecedented change in the process of negotiations, in the contents of settlements, and in the employment consequences associated with them. Contracts are being reopened before their expiration dates, normally by management but sometimes by union initiative. Bargaining goals have changed as management seeks reductions in contract levels and unions focus attention on employment security. And settlements have changed. Management has secured "rollbacks," but the unions have also won some new items such as detailed information about company operations. Finally, the uniform

settlements associated with master contracts have been broken in several industries.

These changes, which have come to be called "concession bargaining," are manifestations of a process of adjustment to a changing and uncertain environment. The most important aspect of that environment is the employer's demand for union labor. The central hypothesis here is that shifts in labor demand and the uncertainty associated with them have led to changes in bargaining behavior and outcomes.

Data Analysis

With the Bureau of National Affairs, I developed a sample of negotiations where management had initiated concession bargaining by requesting concessions from their unions. BNA asked their reporters and "stringers" across the country to report all cases where negotiations were "in distress"—including those where attempts were made to reopen contracts or to seek rollbacks. In the first half of 1982, 210 cases of concession bargaining were reported. Ninety-six percent of these cases report that employment security was involved, either threats of layoffs or plant closings. Ninety percent had actually experienced layoffs or temporary closings just prior to negotiations. Further, the unions granted concessions only where employment was threatened (that is, there were no rollbacks in the 4 percent of cases where layoffs or plant closings were not threatened). These figures indicate not only that unemployment threats are associated with concession bargaining but that the employer's demand for labor in these cases has shifted; they want to employ substantially fewer workers under the terms of their current contract, as evidenced by the threats of (or actual) layoffs. Indeed, it is difficult to think of a major example of concession negotiations that has not been accompanied by massive layoffs of union members and—most importantly—threats of more to come.

The hypothesis that concession bargaining is being driven by threats to the security of union employment can be tested using the BNA sample. It can be argued that this sample is representative of the population of concession negotiations in the economy as a whole, specifically with respect to its distribution across industry groups. These cases were combined into two-digit groups to increase the density of the distribution. The problem, then, is to compare these figures across industries; large industries with high union coverage have the potential for more instances of concession negotiations, and one must allow for this difference. Ideally, one would compare the number of concession agreements to the total number of agreements in each industry, but these figures are not available.

TABLE 1

Concessions by Industry Group

SIC Code 2-Digit	Number of Concession Negotiations	% Unionized Affected (estimates)	Industry
10	3	6%	Metal Mining
11	0	0	Coal Mining
12	1	3	Bituminous
13	0	0	Oil Extraction
14	1	2	Nonmetalic Minerals
16	1	8	Heavy Construction
17	17	18	Trade Contractors
20	16	20	Food
21	0	0	Tobacco
22		3	Textile Mill
23	8	30	Apparel
24	1	5	Lumber
25	0	0	Furniture
26	3	5	Paper
27	6	22	Printing
28	1	28	Chemicals
29	2	25	Petroleum Products
30	5	44	Rubber and Plastics
31	1	35	Leather and Products
32	5	20	Stone, Clay, Glass
33	27	40	Primary Metal
34	1	1	Fabricated Metal
35	17	35	Machinery-nonelectric
36	4	45	Electrical and electronic
37	31	48	Transportation Equip.
38	0	0	Instruments
39	3	33	Miscellaneous Manufacturing
40	0	0	Rail Transportation
41	0	0	Local Passenger Trans.
42	4	15	Trucking
44	0	0	Water Transport
45	19	50	Air Transport
46	0	0	Pipelines – nongas
47	9	7	Transportation Services
48	1	1	Communication
49	0	0	Elec., Gas, Sanitary
50	5	1	Wholesale – Durables
51	2	0.5	Wholesale – Nondurables
52	0	0	Retail Building Supplies
53	0	0	Merchandise Stores
54	3	0.3	Food Stores
55	1	0.7	Auto Dealers
56	0	0	Apparel Stores
57	1	0.1	Furniture, Furnishing Stores
58	0	0	Eating, Drinking Estab.
59	10	0.7	Misc. Retail

An alternative is to estimate the coverage of concession agreements (where it is not available from the sample information) using the BLS Survey, *Employer Expenditure for Employee Compensation*, which indicates the average size of union establishments in each industry. The total union workforce in each industry can then be calculated using

industry employment figures from the 1982 *Employment and Earnings* and the most recent union coverage figures from the 1979 *Current Population Survey*. The extent of concession negotiations in each industry can then be expressed as a ratio of the workers covered by the BNA sample of cases to the total union workforce. In addition, detailed information on the extent of concession negotiations in three industries (meatpacking, airlines, and rubber) is available from a larger study from which this paper is drawn.These figures are assumed to accurately represent the true extent of negotiations there. The difference between these figures and the BNA estimates represents a scaling factor which is applied to all the estimates in order to approximate the full extent of concession negotiations in each industry. The scaling factor is merely a rough approximation used for illustrative purposes, and it does not change the distribution across industries.

The distribution (Table 1) is concentrated in the manufacturing industries that have been hardest hit by the recession. The absence of concessions in industries beyond SIC 59 and the small number in retailing industries (SIC 50–59) may be due to the fact that union differentials have never been particularly large here and that labor is a reasonably small part of total costs; wage costs will have little impact on prices and production.

The hypothesis here is that the distribution of concessions can be explained by differences in the security of union employment across industries. One crucial factor here is the change in import penetration—the rise of imports as a percentage of domestic consumption in each industry. Unfortunately, the most recent data on import penetration are from 1978 which obviously misses many of the most important, recent developments. But the change in import penetration from 1972 to 1978 (from *U.S. Industrial Outlook*, 1981) may accurately approximate the trend across industries. A second aspect in union employment security is the decline in union coverage by industry measured between 1972 and 1979 (estimates are from the *Current Population Survey*). Again, these data do not capture important current developments but may accurately reflect the trend. Taken together, these two variables represent the change in union coverage of product markets; as coverage falls, the ability to substitute away from a union workforce increases, and the elasticity of labor rises. Further, the burden of union wage rates increases for unionized employers as the proportion of competition not covered by unions—usually with lower labor costs—rises.

Industries where union coverage has fallen should be those where the security of union employment is most at risk, and one would expect the greatest incidence of concession bargaining to be there. Because the dependent variable in this case is limited (that is, several industries

experienced no concessions), the appropriate regression technique is a tobit maximum likelihood method which avoids the bias associated with observations concentrated at the limit. The model is of the form,[3]

$$y = a - b_1x_1 + b_2x_2$$

where x_1 = the change in union coverage by industry between 1972 and 1979, and x_2 = the change in import penetration between 1972 and 1978. The estimated equation is:

$$\begin{array}{lccc} y = & 0.3069 & - 0.519 & + 0.371 \\ & (0.285) & (0.87) & (0.088) \end{array}$$

Maximum likelihood ratio = 2.26 $\qquad X^2 = 1.63$ with 2 d.f.

The results indicate that the change in union coverage is weakly associated with the incidence of concession negotiations; one can only assume that the association would be stronger with data that cover the current period. The trend in imports from 1972 to 1978 is a function of factors that are reasonably similar today; the data are likely to reflect accurately current conditions, making it a better predictor than changes in union coverage. The trend in coverage from 1972 to 1979 may not accurately reflect current developments because the forces that influence coverage vary greatly over time. The results indicate some support for the hypothesis.

It is an uncommon but not unknown event for unions to be confronted with a demand curve that has shifted and with the possibility of substantial unemployment. Under these circumstances, unions may be willing to accept a reduction in labor costs—grant a rollback or concession—in order to save jobs. Juris and Henle[4] cite examples from earlier concessions where this was apparently the case. These studies suggest that unions can adjust to a one-shot change in labor demand in a relatively straightforward fashion that does not change the basic bargaining relationship. One can argue that there was nothing fundamentally new or

[3] Transport industries (SIC 40–49) were excluded, first, because the notion of imports is not relevant, and second, because the union coverage data miss the important changes following deregulation in 1978; the first concern is also applicable to service industries (SIC 50–60) which were excluded because the density of the concession distribution here is too sparse to provide accurate estimates. When the data are fit into an OLS regression, the results are:

$$\begin{array}{lccc} y = & .0069 & - b_1\ .0062 & + b_2\ .0054 \\ & (.0038) & (.0123) & (.0009) \end{array}$$

R^2 = 58.8 and 55.1 adjusted for d.f.

[4] Juris, "Union Crisis Wage Decisions," and Peter Henle, "Reverse Collective Bargaining? A Look at Some Union Concession Situations," *Industrial and Labor Relations Review* 26 (April 1973), pp. 956–68.

different about these cases; true, there was some break in the trend of settlements, but there were few new topics in negotiations or new elements in the settlements. Master contracts were scaled down, but the uniform nature of settlement patterns was not changed. And the process of negotiations remained roughly the same—in particular, the unions still left management to set employment levels.

The simple wage cut is not likely to be the adjustment process when labor demand remains uncertain, however, and this is precisely the situation at present with the current cases of concession bargaining. Here, labor demand has shifted because of broad changes in markets—low-wage competition in the form of import penetration, nonunion producers, and price-cutting following deregulation—and because of changes in the ability of employers to substitute away from a union workforce (to move plants, to substitute capital for labor, and to avoid union coverage generally). Both effects have altered the elasticity of demand for labor (and the associated wage/employment trade-off) and have made its parameters uncertain. And these changes are continuing.

In these instances, the union's main concern is with the employment uncertainty associated with these shifting demand schedules. The negotiations associated with concession bargaining may in part be an attempt to establish the parameters of a new labor demand function. The parties consider employment levels as an explicit topic in negotiations.[5] Unions are not willing to simply make concessions and leave employment decisions again to management. One finds examples of this in previous periods as well as where the employment consequences of concession agreements were uncertain. In the Shultz and Myers studies,[6] for example, where contract changes were sought to meet increasing low-cost competition from imports, the production and employment consequences of proposed concession agreements were an explicit topic in negotiations. A detailed study of plant-level concession bargaining in the tire industry found that the local unions entered virtually every negotiation with an articulated concern about the employment effects of concessions.[7] Evidence for this view also comes from the increased demand for firm and industry operating information and the larger role that it is playing in negotiations. The unions are interested in this additional information in order to estimate the likely employment consequences associated with

[5] The consideration of both price and quantity in bargaining may have important implications for the efficiency of the settlement, as Leontief pointed out in "The Pure Theory of the Guaranteed Annual Wage Contract," *Journal of Political Economy* 54 (1946), p. 96.

[6] George P. Shultz and Charles A. Myers, "Union Wage Decisions and Employment." *American Economic Review* 40 (June 1950), p. 362.

[7] Peter Cappelli, "Intra-Industry Concession Negotiations," Sloan School, mimeo, November 1982.

settlements and to assess whether the employer's demands for concessions are legitimate. (Note the relative lack of interest in this information previously when labor demand functions were stable.) It is difficult to think of a major example of concession bargaining that did not include unusually thorough information from the employer about their prospects. The Rubber Workers and the Food and Commercial Workers, for example, now receive a continuing stream of detailed information from some employers about business decisions that may affect employment. In the auto industry, "mutual growth forums"—standing plant and national level committees—now provide information about company plans directly to the workforce.[8] Of course, efforts to place worker representatives on the boards of directors (successful at Chrysler and Pan Am) can also be seen as efforts to gather information and to influence firm decisions.

Union "Quid Pro Quos"

Further evidence of the new bargaining over employment comes from the improvements or "quid pro quos" that some unions have secured in return for concessions. Whether unions receive any improvements depends on their bargaining power, and that may depend on the level at which negotiations take place. There were 52 cases in the BNA survey where unions received quid pro quos; of these, 47 were cases of direct negotiation with the firm as a whole. (Problems and negotiations at individual plants are unlikely to threaten the firm as a whole, and firms are therefore less willing to grant improvements there as an inducement to secure plant-specific concessions.)

The improvements secured in the BNA sample fall into the following categories: employment guarantees, 60 percent; future wage and benefit improvements, 35 percent; additional information on firm performance, 10 percent; some involvement in company decisions, 8 percent. (Some contracts contain more than one improvement. It is often difficult to draw the line between explicit employment guarantees, counted above, and implicit ones. Obviously, continued employment is at least implied or there could be no quid pro quos—other than severance pay.)

The information and involvement items reflect concern with uncertainty associated with firm employment decisions. Far and away the most common improvement, however, was some explicit improvement in employment security. These were secured despite management's great reluctance to give them. For example, a *Business Week* survey[9] noted that only 2 percent of surveyed firms reported a willingness to give concrete

[8] Harry Katz, "Assessing the New Auto Labor Agreements," *Sloan Management Review* (Summer 1982), p. 57.

[9] Statistical tables from *Business Week*, "Concession Bargaining."

guarantees even in return for major concessions, reflecting their own uncertainty about future employment requirements.

The change and uncertainty in demand conditions and the associated bargaining over employment has also shaped the pattern of settlements. Whether one believes that the concessions or rollbacks this year represent a substantial break from the past depends largely on how one defines "substantial," but there is no question that it is a widespread phenomenon. Twenty-five percent of the firms surveyed by *Business Week* reported that they secured concessions of some kind from their unions (11 percent had asked but not obtained concessions).[10] More importantly, the relationship between settlements has been broken. Unions are much less willing to enforce uniform contracts across different units now that the variance in economic circumstances across units is uncertain. The main consequence of this has been the erosion of industry- or company-wide agreements and the rise of plant-level and firm-specific bargaining tailored to the employment prospects in each case. A study of concession bargaining in the tire industry found, for example, that 26 out of 65 tire plants had agreed to major concessions;[11] 40 out of 135 General Motors plants had also negotiated major concessions.[12] Across the economy, firms and plants are seeking exceptions to master agreement, multiunit contracts because of the marginal nature of their operations; local unions are granting the concessions because they fear the unemployment consequences, and the international unions, while objecting to the practice in principle, are reluctant to stop the locals for fear of watching the plant or firm close and the local disappear. Again, the problem is that the variance in the demand schedules across units is no longer stable or certain.

The change in demand conditions has affected the process of negotiations for management as well. The sharp drop in demand has forced many firms to reopen contracts and to press for major rollbacks in an effort to cut costs immediately and remain competitive. Because there is uncertainty associated with these changes, management often feels pressed to make its case directly to union members—not willing to take the chance that the problems would be misperceived. Management may also bypass its own labor relations experts in concession negotiations; they may be blamed for the current situation, and the experts may feel unable (or unwilling) to break long-standing arrangements that they helped create and that were the source of their influence within the firm.[13]

[10] *Ibid.*

[11] Cappelli.

[12] See, for example, "Can GM Change Its Work Rules?" *Business Week*, April 26, 1982.

[13] Thomas A. Kochan and Peter Cappelli, "The Transformation of the Industrial Relations/Human Resources Function," in *Employment Policies of Large Firms*, ed. Paul Osterman (Cambridge, Mass.: MIT Press, 1983).

It is too soon to tell whether these developments will lead to permanent changes in relations between the parties. As long as structural changes in the economy continue, no doubt the relations between parties will continue to change. If the economy stabilizes, relations may not necessarily revert to their previous form. Provisions secured in the present circumstances—such as continuing information on company operations—may have an influence on future relations. More importantly, management's approach to concession negotiations (often bypassing their own labor relations staffs) may carry over to future negotiations. And the unemployment that unions have experienced may change their concerns in the future, focusing more attention on job security and the decisions that influence employment levels. Much depends on whether the current period of change and uncertainty lasts long enough for current practices and concerns to become established.

Concession Bargaining—Something Old, But Also Something Quite New

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Few industrial relations developments in recent years have provided as much comment as concession bargaining. It is useful to pull together a number of themes in this discussion and draw conclusions from them.

The Breakup of Pattern Bargaining

To begin with, as Audrey Freedman and others have argued, this era of concession bargaining marks a further breakup of pattern bargaining as between industries and between companies. Such patterns have, of course, been eroding for several decades. I do think, however, that when one sees a clear-cut split between Chrysler, on the one hand, and Ford and General Motors on the other, and similar splits developing among rubber tire manufacturers as well as in some other industries, it can be argued that something new is occurring in parts of the U.S. bargaining system. Lest these developments be exaggerated, however, it is useful to recall that in the auto industry American Motors had much earlier become something of a split-off from the general automobile bargaining patterns, and concessions had also crept into some of the rubber settlements before the "era of concession bargaining." It should also be added that "concessions" have already been negotiated in the steel industry at a few of the smaller companies, and these, too, date in part to the preconcession era.

The Cases of Auto and Steel

As far as large companies are concerned, it would appear that particularly in those industries undergoing profound structural change in their markets, such as auto, steel, and rubber, putting together the broken pieces of pattern bargaining, even after some recovery occurs, will be an enormous and possibly impossible task. I would not be as certain as some critics who insist that such patterns are finished,[1] but I admit a strong

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[1] Audrey Freedman writes, "there will be no going back to the 'model' of the 1970s. We are returning to the individual conditions of the enterprise for good." *Challenge* (July/August 1982), p. 17. As I have already indicated, these patterns have been eroding for many years.

argument can be made for that position. One possible caveat that might be entered here is the past experience of bituminous coal bargaining which has certainly gone through ins and outs of pattern bargaining over many decades. The forces impinging upon auto and steel, on the other hand, and notably effective competition from abroad look to be different from the coal experience, and make long-run industrial relations problems in those industries more complex. It does appear, however, that in autos and some other industries, unions will be able to hold company bargaining systems together.

Before we turn away from the large companies, it is worth noting that it is ironic that the wheel has come full circle so far as the relative positions of auto and steel, on the one hand, and electrical manufacturing, on the other, are concerned. In the immediate post-World War II years, these three major industries (and several others including rubber and glass) tended to move together so far as general economic bargaining settlements were concerned. Wage patterns were closely linked from 1945 to 1949 or so, paid holidays came in the same year, etc. Soon after, however, the major electrical companies succeeded in splitting away from the general steel and auto patterns (not that these two were absolutely linked—auto pioneered the cost-of-living escalation well before steel, steel went off with its own sabbatical vacation plan for high seniority workers, etc.). Such fringes as supplementary unemployment benefits which were negotiated in auto and steel, for example, were successfully resisted by the major electrical companies.

It is ironic that even as the auto union has negotiated a series of concessions (for the most part in the form of giving up future increases rather than any sweeping absolute losses) and steel seems on the verge of doing so,[2] the unions bargaining with General Electric and Westinghouse have just negotiated a three-year agreement which provides a 7 percent increase in the first year, an improved cost-of-living escalator, plus a 3 percent wage improvement increase for the second and third years of the contract. The electrical unions also seem to have borrowed from the nonwage gains which the auto and meatpacking unions obtained in a trade-off for economic concessions, in that the new GE contract requires the company to give six months' advance notice to the unions before closing a plant or transferring work.[3] The results in electrical machinery

[2] During the steel negotiations that faltered in the summer of 1982, the union offered to concede some $2 billion in future benefits, while the companies sought, according to union claims, some $6 billion. *The New York Times* (September 19, 1982) attributes these figures to union and company sources, respectively. It now seems almost inevitable that in the 1983 negotiations for a new steel contract, some concessions will be forthcoming.

[3] For a useful summary of this GE contract with the various unions it bargains with, see *Daily Labor Report*, June 29, 1982.

and many others also point up the fact that concessions are not universal; indeed, they are not even the rule in bargaining.

In a sense, of course, some of the concessions in auto, with the likelihood that steel will follow shortly, involve pulling both of them back a bit to the main line of wages and benefits in industry generally. Between 1970 and 1979, hourly compensation levels in those two industries were increased relative to levels in manufacturing as a whole and to most other industries. As one union leader put it, "We were almost too successful in our bargaining."[4]

Even in the case of autos and steel, however, we should not overlook the differences in concession patterns. In the summer of 1982 the steel companies rejected concessions similar to those negotiated in the auto industry (see fn. 3). The auto companies were seemingly concentrating on strengthening their immediate cash-flow position to help them go forward with great new modernization programs, dictated by new fuel requirements and foreign competition pressures. They, therefore, agreed to defer some wage increases to a future date. The steel companies rejected such "mere" deferral, in the summer of 1982, and were apparently concentrating upon permanent labor-cost abatement. *Immediate* large improvements in cash-flow positions may be less important to steel companies, most of whom do not have in view the large-scale investment in modernization comparable to that in the automobile industry.

Concession Bargaining Differences—Large and Small Companies

While we do not as yet have a clear picture of what goes on with smaller, hard-pressed companies so far as concession bargaining is concerned, a few generalizations suggest themselves. In the first place, there seems to be less ability on the part of unions in small firms to extract quid pro quos for the economic concessions they are making.[5] Large companies also differ from small companies in their ability and willingness to use the threats of individual plant shutdowns to force general union concessions in company-wide bargaining. Clear instances can be found in the experience at Ford and General Motors in the past year of the use of such pressures by the companies. Obviously, this is a tactic which is nonexistent in small, single-plant companies.

[4] The chief employer negotiator for the steel industry, J. Bruce Johnston of the United States Steel Corporation, claims that in 1950 the average steelworker's wage and fringe benefits put him 15 percent ahead of the average for all U.S. manufacturing workers, but that in 1982 "as a result of a series of rich contracts." the steelworker "had advanced to 95% percent above the average of other manufacturing workers." *Daily Labor Report*, September 28, 1982.

[5] I am indebted to Stephen Rubenfeld (University of Minnestoa-Duluth) for this observation, which is part of a larger study he is making of concession bargaining in the Duluth area.

Another distinction between the experience of large and small companies in concession bargaining rests upon their different union bases. When a small company presses its case of economic crisis, the message tends to get home directly to union members as well as leaders. It is clearly their plant and jobs that are threatened. (Community pressures may also bear upon the worker in a single-plant situation.) The union leader is not so much in the middle in this case.

It can be quite different in a large company. Clearly in the instances of General Motors and Chrysler, the UAW top leadership was much more sensitive to the companies' problems than were some of the local leaders and the rank and file who in the GM case barely ratified a concession agreement, and in the Chrysler case turned down the second agreement negotiated by the union.

This really should not be a surprise in a larger, multiplant company. In the first place, the employer's ability to convey its distress message is probably more difficult in a large company (community forces don't come into play in the same way they may in a single-plant situation). Secondly, in a large company there are almost always some plants which have been much less troubled (in terms of production and employment experience) by the economic downturn, and workers and local union leaders in such plants may not be persuaded of the general necessity to make concessions. By now, too, a number of large companies have shaken their workforces down to high seniority employees who may feel secure enough to reject concession proposals even where the company offers some new benefits for laid-off employees. While it is difficult to judge the conflicting national and local interests operating in the auto union, some of the same forces also seem to be operating in the steel union. National union leadership in steel seemed more prepared for concession bargaining this past summer than were the local union leaders in large steel companies. On the other hand, concessions were made in some small, single-plant steel companies well before the national union and the major companies could come to grips effectively with their problems.

One consequence of this leader-member issue for those unions caught up in concession-making is likely to be more turbulence inside the unions. Leaders of concession-making unions find their positions made even more insecure by the successes of unions in some other industries where economic gains continue to be negotiated. This reflects the steady, if modest, advances of those industries even as severe structural change wracks auto, steel, and a few other sectors. Additional layoffs and plant closings, despite union concessions, in the structurally hard-hit industries create further discontent among union members. All of this is likely to have its impact in union elections, nationally and locally, and on union

stability in the next few years. In the case of auto and steel, both unions seem to be fortunate in that their top leaders are serving out their final terms of office. They can, and doubtless will, draw much of the fire that might otherwise have been more generally directed at all the officers.

While there has been some discussion about the problems of unions and union leaders in an era of concession bargaining, company leaders, too, many travel a thorny path. For example, President Iacocca, on the one hand, must present the Chrysler Corporation's finances in a manner to reassure potential investors and customers (for whom the company's continuity is critical to eventual trade-in values), but, on the other hand, when he paints too rosy a picture, he may encourage workers to demand an end to any concessions. Such seems to have been the case in the recent Chrysler workers' rejection of the contract negotiated by the UAW leadership. Steering a path between that Scylla and Charybdis isn't easy. Companies that press for overkill in the way of concessions can also be tripped up if members reject what is negotiated at the national level. Where "overkill" occurs in the form of "excessive" concessions, this can embitter future relations and, perhaps, lay the groundwork for a "revenge" strike when economic conditions improve.

Company Quid Pro Quos for Union Economic Concessions

As I have already indicated, concessions have not been a one-way street, particularly in the case of the larger companies. In some instances unions have been able to bargain their way into wholly new areas in return for yielding some economic ground. Thus, in auto and meatpacking new rights have been gained on the matter of plant closings or outsourcing to nonunion companies. These new rights are by no means comprehensive, but they represent an important breakthrough in an area where companies in those industries have not yielded ground in the past. Even where the newly gained rights are not extensive, a foot in the door in these areas almost inevitably means the union is entitled to flows of companies' internal information which they did not have in the past. The same goes for the various profit-sharing plans which are being offered to unions in lieu of wage adjustments; their information-value could be far-reaching.

Union members in the auto industry also seem to be achieving a variety of new job- and income-security benefits, as a trade-off for some present economic benefits. Experiments with "lifetime seniority" at a few plants and a "guaranteed income stream" to protect workers "with 10 or more years of seniority in plants which are permanently closed, and to workers with 15 or more years of seniority in all other cases" are notable

advances.[6] Prepaid legal services, a new benefit for most autoworkers, were also gained in a number of companies. The extension of health insurance to laid-off employees for one year, and in some cases two, has also been negotiated in the concession framework in a number of companies. Many other unions are likely to make a demand for this extended health benefit in the years to come.

In the light of these new gains, it is surprising that public attention has been devoted almost exclusively to the unions' economic concessions. Unions have also been able to strengthen already existing severance-pay plans, employees' rights to transfer from shutdown to still open company plants, and retirement benefits as part of bargaining in a recession era.[7]

New Union Rights in Management—Conceded or Offered

Some of the companies' concession trade-offs which did not quite come off are even more revealing of how far changes might go. Thus, General Motors in its first (unsuccessful) round of negotiations with the UAW in 1982 apparently offered to link any worker economic concessions directly to temporary price reductions. This linkage of wage and price bargaining is something that the UAW had proposed on several occasions after World War II, but which the auto companies had indignantly rejected. Further, according to Steelworkers' President McBride, steel industry negotiators (also in negotiations which "failed") had indicated their readiness to guarantee "spending all their returns and labor cost relief in basic steel" if the negotiations succeeded.[8] In an industry where a few steel companies have recently invested billions of dollars outside the steel industry, such an offer might have great significance. The steel union is likely to press this issue in future negotiations.

In addition to obtaining a moratorium on plant shutdowns, the United Food and Commercial Workers, under their agreement with the Armour Company, are to receive a copy of the company's "capital investment plan for the next five years and [the company] promised to reveal its actual expenditures each year."[9]

[6] From *The UAW-GM Report*. March 1982 (Detroit, UAW), p. 21, which includes an extensive summary of the contracts negotiated with General Motors. Similar benefits were negotiated at Ford. Both of these agreements also include provisions to strengthen the supplementary unemployment benefit funds at these companies.

[7] See, for example, the description of the "Closure Settlement," agreed to between the Brown and Williamson Company and the unions it bargains with, in June 1979, in Bureau of National Affairs, *Labor Relations in an Economic Recession* (Washington: 1982), p. 10.

[8] *Daily Labor Report*, September 29, 1982. The union had apparently pressed the companies to reinvest all savings in modernization of facilities. Although the companies' counteroffer didn't go that far, they did seemingly accept the principle of keeping the funds saved within the steel industry.

[9] *Daily Labor Report*, September 29, 1982, p. 10.

The ramifications of such management concessions—proposed or negotiated—might be far-reaching. Would the UAW have had access to all of General Motors' pricing processes? Would the Steelworkers have had the right to monitor the companies' entire cash flow, to be sure they held all concession-savings in the industry? Could the *right* to be informed lead to the union's having a voice in Armour's new investment decisions? It is no wonder that a few management spokesmen have expressed alarm about this trend. One such management counsellor argues that unions have not really made significant concessions, but only tempered their demands, while the concessions they obtained from management were a "shrewd tradeoff revealing a pattern of erosion in managerial rights. . . ."[10]

Another management counsellor has warned about the possible consequences of widespread information-sharing with the unions. Once "the spigot of confidential information is turned on, it cannot easily be turned off." Opening the books in hard times may moderate union demands, but it can be employed against "the company in collective bargaining when profit becomes more buoyant," since management "loses its ability to edit the data provided to unions." The same spokesmen also seem to fear such concessions as allowing UAW President Douglas Fraser to sit on the Chrysler Board, or permitting the Rubber Workers' President Milan Stone to appear before the Uniroyal Board twice a year. He sees these in a pattern similar to the growth of workers' access to information and board representation in Western Europe, though in Europe these matters generally proceed under a legislative umbrella.[11]

It is difficult to say how far these trends might go, and whether they may spread significantly from the "concession" industries to other sectors. John Dunlop recently remarked that it is surprising how slow most unions have been to "trade present or prospective compensation for principles and institutional status they value highly."[12] He attributes this to the fact that "real wage rates for industrial workers have declined over the past decade, and taxes have taken a larger bite out of real spendable earnings." As a result, those who remain at work are less ready to make any money income sacrifice, and there also "appears to be limited enthusiam for these principles among the rank and file of union members."

My own feeling is that this kind of union sharing in management's

[10] See the summary of remarks by former NLRB Chairman Edward B. Miller, at the 35th National Conference on Labor, held at New York University, in *Daily Labor Report*, June 16, 1982.

[11] Richard A. Beaumont, in the *Wall Street Journal*, October 18, 1982.

[12] John T. Dunlop, "Wage Moderation in 1982—Temporary or Lasting," paper submitted to University of California Conference on Industrial Relations Futures, Berkeley, October 1982 (mimeographed), p. 5.

fiscal power is generally so foreign to the ideology of American workers (and union leaders with a few notable exceptions), and to management tradition, that it may not advance rapidly. There are a few signs that employers outside of the most economically besieged industries are prepared to yield any important new share in management to unions. In those companies which do not regain economic viability, the newly gained union rights at the expense of traditional management prerogatives could become more or less moot. Still, on balance, what may be significant is that important managerial prerogatives have been (or may be) breached by unions in several large companies, and this will be an area commanding close observation and research in the next few years.

Concession Bargaining—Does It Come to Something New and Different?

Of course, as some have claimed, there have been earlier recession or depression periods when unions were forced to make concessions to management. (And in those years actual pay cuts, not just the forgoing of future benefits, were common enough.) In that respect, the present situation is not unique.

But it would be a serious mistake not to see that the present era is different in other respects. In a recent conference I attended, someone commented that the modern American labor relations system is less than 50 years old. When unionism jumped from a norm of 3 million (as had become the case for the decade of the prosperous 1920s) to 14 million in the space of one decade (1934–1944), what the philosophers would call a qualitative change occurred in the basic character of unionism and the labor relations system. What happened to labor-management relations during the downturn of 1907, 1920–1921, or even 1929–1932 is, therefore, not necessarily relevant to the present era.

One of the cornerstones of that modern American labor system was the leadership provided by the new, and powerful, unions in the auto and steel industries. They have been in the forefront of the collective bargaining system, which for the first time in American history has come to wield a great and lasting influence upon the wages and other benefits of tens of millions of American workers. There was no comparable influence of collective bargaining on the general labor market before 1932.

Of course, auto and steel were not alone in that new influence. However, their activities have served as the single most important innovative force in changing the benefits of American industrial workers. For example, private pension plans and health and hospital insurance were of only very minor significance for American workers until the auto and steel unions broke through with these benefits in 1949 and 1950. (Of

course they didn't invent these benefits, but until they broke through, only a relatively small number of industrial workers enjoyed them.) Cost-of-living escalators are an old device in collective agreements, but it was the development of this practice in the auto industry that helped spread it to agreements covering additional millions of workers. It was the same industry and union that popularized the long-term contract and the annual wage improvement factor. One could list other innovations. Anyone who studies the collective bargaining history of the U.S. in the entire post-World War II era cannot but be impressed with the signal importance of the auto and steel industries and their unions.

If one assumes the structural economic problems confronting the auto and steel industries will not disappear in the 1980s or that, at the least, these problems will remove them from any lead, innovative role in this decade, then one of the cornerstones of the collective bargaining system is no longer in place. It is reasonable to assume that, one way or another, the present recession-depression will pass, but the *lead-role* of the auto and steel unions, so far as economic bargaining leadership is concerned, is not likely to be restored. Indeed, for the metal industries and metal unionism as a whole, we have probably passed an important economic era in the U.S. as regards economic influence.

Will Anyone Inherit the Mantle from Auto and Steel?

This situation is further complicated, from a labor viewpoint, in that there does not seem to be any large industry (or union) on whom the mantle of bargaining leadership will fall. The very scale and concentrated character of steel and auto bargaining has made them almost unique. The new, more promising industries such as electronics, for example, are structured around smaller companies and plants. No such bargaining leadership is likely to occur there. (This is aside from the rather weak and fragmented character of unionism in the electrical equipment and electronics industries.)

Mere union size is no substitute for the pace-setting role hitherto enjoyed by auto, steel, and a few related unions. The Teamsters Union, despite its gigantic size, has never played that role. The International Brotherhood of Electrical Workers must, by now, be almost as large as the auto and steel unions. (It will almost surely surpass them before the end of the decade.) Its very diffuse nature, scattered across a number of industries and employers (many of whom are quite small) helps insulate the IBEW somewhat from the current downturn, unlike the large, more purely industrial unions. But the diffuse character of its jurisdiction also suggests it is not likely to fill that special national role played by auto and steel (sometimes unwittingly!) over three decades. (I use the IBEW only

for illustrative purposes; one could choose other large unions such as the Food and Commercial Workers to make the same point.)

The Communications Workers is a large union, and it operates in a key industry—one that should be at the center of the American economy in the decade ahead. As yet, however, there are no real indications it has the force to pick up the lead role. Moreover, it faces the difficult task of dealing with what will be many new and more fragmented companies as the AT&T dissolution comes to pass in the next few years. Clearly, however, this union and its leadership merits close attention in the years ahead.

I have also given some thought to the fate of several other key, lead unions of the past and what befell them over several decades as their industries ran into great structural changes. The most interesting cases that come to mind are railroads and coal. Just to stay with the railroad industry (and this case is interesting because it involves collective bargaining at a national level, even if by craft), it experienced a drastic employment decline from 1,276,000 in 1951 to 494,000 by 1976. The special, insulated semipublic character of that industry, however, helped its employees and their unions to hold their ground rather well on the wage and benefit front. Perhaps auto and steel may do the same in the years ahead, but they face *formidable foreign competition* as well as changed domestic markets, and this differentiates them from the railroads. New trade measures may offer them some assistance, but I suspect they face relative compensation declines, though perhaps somewhat smaller losses in employment than the railways. In any event, while railway bargaining was never as important a national influence as auto or steel, such influence as it had has greatly diminished in the post-World War II era. The lead role of auto and steel is almost certain also to be reduced.

Please do not misunderstand me. While significant changes loom in the U.S. labor system as a result of structural changes occurring in some key industries, it would be foolish to write off or down the union movement as a whole. Important new union organization in the U.S. has often come when capitalism has been weakened or vulnerable (after the Great Depression of 1929, or during World War I or II). Even with some recovery later in the 1980s (indeed, it is indispensable for any significant union gains), capitalism's greater vulnerability as a result of this current long recession might well open the possibility for significant new union organizing gains. Much, of course, would depend upon the response of top union leadership to such new opportunities.

I have already alluded to the quantum leap in the numbers of union members after 1934 and the resulting change in the general character of the labor movement. At the center of that leap was the organization of the

mass-production industrial unions. (Of course other unions grew rapidly, too, but in most cases this was adding on to older structures.) The central economic positions of these industrial unions led them to strike out in new directions with regard to macroeconomic policy, political action, and in other sectors. When this new force was added to the swelling number of union members generally, a rather different labor movement from that of the previous decade emerged.[13]

It would be absurd to think that a significant decline in the numbers and economic power of the great industrial unions would have no impact on the general labor movement. Of course the latter will not simply revert back to the pre-1930s. After all it is still twice as large (in relation to the wage and salary force) as that earlier movement. But it is likely to undergo change—not the least of which is apt to be added responsibility on the part of the central body as the Federation comes to fill some of the policy space left by the decline of the major industrial unions. The continuing problems of foreign competition and the need to restructure parts of the American economy are likely to increase the level of government intervention in the economy in the years ahead. This, too, should enhance the political activities of the union movement and strengthen the role of the AFL-CIO itself.

In the face of this decline in the role of the industrial unions within the general labor movement, there is likely to be an increase in the power of unions in the public sector and in services. This could also lead the movement toward an even larger commitment to political action—something that seems to be in the cards anyway—for the remainder of the 1980s. The post-industrial society which Daniel Bell and others were hailing a decade ago is now at hand in the world of union-management relations.

In sum, while the era of concession bargaining may not represent an entirely new phenomenon, it brings with it enough change to have a lasting influence on the U.S. labor system in this difficult decade.

[13] On the transformation of the unions in that era, see my chapter, "The Great Depression and the Transformation of the American Union Movement," in Joint Economic Committee, U.S. Congress, *The Business Cycle and Public Policy, 1929–1980* (Washington: U.S. Government Printing Office, 1980). (Also available as University of Wisconsin, Industrial Relations Research Institute, Reprint No. 234.)

Public Sector Concession Bargaining: Lessons for the Private Sector

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A lively debate is emerging about the significance of contemporary collective bargaining, especially so-called concession bargaining. Some analysts believe that recently bargained concessions mark the beginning of a new era of labor-management relations, while others view concessions merely as a standard or conventional response to economic recession and still others take a "middle-ground" position on this issue.[1] The question posed in this paper is, "To what extent can the significance of private-sector concession bargaining be adduced from recent concession bargaining in the public sector?"

At first glance this question may seem ill-formed. For example, writing in mid-1982, McKersie and Cappelli contend that because ". . . concessions have no possibility of increasing revenue . . . unions in the public sector are not engaging in concession bargaining."[2] Further, data for the first half of 1982 (see Table 1) show that pay and benefit changes in major bargaining agreements were considerably larger in the public than the private sector, implying that concessions are not a fact of life in the former sector. Nevertheless, it is the case that concession bargaining has occurred in some portions of the public sector and an analysis of these concessions may be instructive for interpreting the private sector bargaining experience.

Compensation Changes in Government

Concerning the public sector, systematic bargaining data are available only for major units in state and local governments and only since 1979 (see Table 1).[3] They show that (1) the average first-year settlement,

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[1] See, for example, Audrey Freedman and William E. Fulmer, "Last Rites for Pattern Bargaining," *Harvard Business Review* 60 (March/April 1982), pp. 30–48; John T. Dunlop, "Remarks by Former Secretary of Labor Dunlop on 1982 Wage Developments Before Conference of Business Economists," *Daily Labor Report*, February 23, 1982, pp. D1–D2; Daniel J.B. Mitchell, "Recent Union Contract Concessions," Working Paper, Institute of Industrial Relations, University of California, Los Angeles, 1982; and Audrey Freedman et al., *Labor Outlook 1983* (New York: The Conference Board, December 1982).

[2] Robert B. McKersie and Peter Cappelli, "Concession Bargaining," Working Paper, Sloan School of Management, MIT, June 1982, p. 20.

[3] See U.S. Department of Labor, "BLS Introduces Data on the Size of Collective Bargaining Settlements Covering State and Local Government Employees," *News*, August 18, 1980. At the time of this writing (November 1982), public-sector bargaining data were available only for the first half of 1982.

TABLE 1

Mean Percentage Increases in Major Collective Bargaining Settlements, 1979–1982

	1979		1980		1981		1982[a]	
	W[b]	C[b]	W	C	W	C	W	C
Public sector[c]								
First-year changes:								
State and local government	6.8	7.0	7.5	7.3	7.4	7.8	7.6	8.1
State government	6.7	7.0	6.5	6.7	8.1	8.2	9.1	9.7
Local government	7.4	6.8	7.7	7.4	6.7	7.4	5.3	5.6
Annual change over life of contract:								
State and local government	6.5	6.5	7.8	7.4	7.1	7.3	7.9	8.1
State government	6.6	6.6	7.1	7.0	7.5	7.4	9.4	9.6
Local government	6.4	6.2	7.9	7.4	6.6	7.3	5.6	5.7
Private sector[d]								
First-year changes:								
Total	7.4	9.0	9.5	10.4	9.8	10.2	3.0	2.0
Manufacturing	6.9	9.2	7.4	9.1	7.2	7.3	1.7	1.0
Nonmanufacturing	8.0	8.7	10.9	11.3	11.2	11.4	4.5	3.9
Construction	8.8	9.4	13.6	13.1	13.5	13.9	6.6	7.7
Annual change over life of contract:								
Total	6.0	6.6	7.1	7.1	7.9	8.3	2.7	1.4
Manufacturing	5.4	6.5	5.4	5.9	6.1	6.8	1.7	0.7
Nonmanufacturing	6.8	6.8	8.3	7.8	8.8	9.0	4.1	2.8
Construction	8.3	8.2	11.5	7.6	11.3	13.4	6.7	7.4

Source: U.S. Bureau of Labor Statistics, *Current Wage Developments* 34 (August and September 1982), and preceding issues.

[a] January–June 1982.

[b] W = wages. C = compensation (wages and benefits).

[c] Data for bargaining units of 5000 or more workers.

[d] Nonfarm business sector. Wage data are for bargaining units of 1000 or more workers; compensation (wage and benefit) data are for bargaining units of 5000 or more workers.

whether measured by wages or total compensation, increased by about one percentage point (from roughly 7 to roughly 8 percent) between 1979 and mid-1982, (2) the average annual settlement over the life of the contract increased by about one and one-half percentage points (from roughly 6.5 to roughly 8 percent) between 1979 and mid-1982, (3) rates of pay and benefit increases rose by about three percentage points in state government and declined by between one and two percentage points in local government from 1979 to mid-1982, and (4) public-sector settlements trailed private-sector settlements with respect to first-year contractual provisions negotiated between 1979 and 1981, whereas average annual changes over the life of the contract were about equal in the two sectors during this period.

TABLE 2

Predicted and Actual Median First-Year Increases in Wages and Compensation, State and Local Government (Percent)

	1979		1980		1981		1982[a]	
	W[b]	C	W	C	W	C	W	C
Predicted	6.0	6.2	6.6	6.7	6.8	6.7	6.9	7.0
Actual[c]	7.0	6.8	8.0	7.6	8.0	7.7	9.0	8.8

Source: U.S. Bureau of Labor Statistics, *Current Wage Developments* 34 (September 1982), and preceding issues.

[a] January–June 1982.

[b] W = wages, C = compensation (wages and benefits).

[c] Data for bargaining units of 5000 or more workers.

Were bargained compensation rates in state and local government during the first half of 1982 larger or smaller than might have been expected at the start of the year? To answer this question, standardized regression estimates of public-sector bargaining settlements were developed, using median first-year wage and compensation adjustments as dependent variables and economic activity, price inflation, and the proportion of national income expended on state and local government services as independent variables.[4] As shown in Table 2, the regression

[4] Economic activity was operationalized as the economywide unemployment rate, price inflation as the Consumer Price Index for urban wage earners and clerical workers, and expenditures on nonfederal public services as the proportion of net national income allocated to such services. Lagged measures were used in all cases, and a trend variable was included in the regression analysis, which was run for the 1960–1981 period. Other specifications of the basic estimating equation were also tested, but the results were not significantly different from those reported here. A complete list of results is available from the author. For a similar application to the private sector, see Daniel J.B. Mitchell, "Is Union Wage Determination at a Turning Point?" pp. 354–61 in this volume.

analysis yielded an estimated (mean) 7 percent increase in public-sector bargaining settlements in 1982, compared to an actual (median) increase of 9 percent. Moreover, the regressions consistently underpredicted bargained compensation changes in state and local government for the 1979–81 period. In contrast, regression estimates of public-sector compensation changes (not confined to bargaining situations) between 1976 and 1979 for several occupational specialities—police and firefighters, refuse collectors, and public school teachers—consistently exceeded actual compensation changes during this period (Table 3).[5]

Disaggregation and Bargaining Concessions

The "underprediction" of public-sector compensation changes in the early 1980s, especially the first half of 1982, may suggest that bargaining concessions have not occurred in this sector. However, and as with the private sector, the data must be disaggregated and individual bargaining relationships must be examined to determine the nature and extent of concessions.

Table 4 presents selected examples of bargaining concessions in state and local government that were reported for the first half (or so) of 1982. Most of these actions occurred in states with economies that are in general very sensitive to business cycles and which have experienced extremely

TABLE 3

Predicted and Actual Mean Changes in Police and Firefighter, Refuse Collector, and Public School Teachers' Annual Salaries, 1976–1979
(Percent)

	Predicted	Actual (Average Annual Increase, 1976–1979)
Police and Firefighters	6.9	5.5
Refuse Collectors	6.7	4.7
Public School Teachers	7.0	5.9

Source: U.S. Bureau of Labor Statistics, *Current Wage Developments*, Vols. 29–33 (1977–1981), various issues.

[5] Separate estimating equations were run for the 1960–1978, 1960–1979, and 1960–1980 periods to obtain the estimates reported in Table 2. The estimates in Table 3 are based on separate equations for each of the three public services listed there. The proportions of national expenditures on government services represented by public safety, refuse collection, and local elementary and secondary education, respectively, were entered into the equations as independent variables. John Hoerr of *Business Week* points out that the (underpredicted) bargained compensation changes in the public sector for the 1979–1982 period may merely reflect an inflationary "catch-up." However, it is not possible to test this proposition directly owing to the lack of public-sector bargaining settlement data for years prior to 1979. Note that regression estimates of federal government salary changes for General Schedule (GS) employees over the 1976–79 period were not significantly different from actual salary changes (6.1 v. 5.9 percent, respectively, on an average annual basis). See U.S. Bureau of Labor Statistics, *Current Wage Developments*, 33 (January 1981) and preceding issues for data on federal salaries.

TABLE 4

Selected Concessions in Public Employee Bargaining, 1982[a]

Public Employer and Union	Number of Employees	Contractual Provision(s)	Effective Date(s)	Comment(s)
Michigan				
Four Michigan school districts in western Wayne County and Michigan Education Association	760	One-year contract extension, pay freeze, and work sharing arrangement (two or more teachers permitted to share one full-time job)	1982–83 school year	Teachers initiated pay freeze to save jobs
State of Michigan and Michigan State Troopers Association	1,800	One-year contract extension, 10-month pay freeze, compensatory time off substituted for overtime pay, and substitution of unpaid holidays for leave credit	May 9, 1982 to September 30, 1983	Savings to State of Michigan estimated at $1.5 million
Detroit Public Library UAW Local 2200 (supervisors and staff librarians) and AFSCME (clerical and maintenance workers)	320	Pay freeze, with scheduled pay increase deferred to June 30, 1983, and 10 unpaid work days for librarians during 1982–83	July 1, 1982 to June 30, 1983	Effect of contractual changes was to prevent layoffs of 22% of librarian staff and planned service cutbacks
State of Michigan and AFSCME District Council #25	7,200	One-year wage freeze, elimination of vision care plan, and job guarantees	May 18, 1982 to September 30, 1983	Cancellation of 5 percent pay increase scheduled for October 1, 1982, cancellation of 500 scheduled layoffs, savings to state estimated at $10 million
Detroit, Mich., School Board and 14 separate unions	9,000	Four paid holidays eliminated	1981–82 school year	Five additional vacation days scheduled for 1982–83 school year
City of Benton Harbor, Mich., IAFF (firefighters), Police Lieutenants and Sergeants Union, and Police Patrolman's Union	60	One-year wage freeze and employees pay 20 percent of health plan premiums	July 1, 1982 to June 30, 1983	Savings to City estimated at $25 million

TABLE 4 (*Continued*)

Public Employer and Union	Number of Employees	Contractual Provision(s)	Effective Date(s)	Comment(s)
Pennsylvania				
City of Philadelphia, Firefighters' Union (IAFF Local 22) and Fraternal Order of Police	10,340	One-year pay freeze	July 1, 1982 to June 30, 1983	Benefits improved in first year, 8.5% pay increase scheduled for subsequent year (1983–84), savings to City estimated to be "hundreds of millions of dollars," settlements reached via arbitration
City of Philadelphia and AFSCME District Councils 33 and 47 (blue-collar, professional and housing agency employees)	16,350	One-year pay freeze and no layoff guarantee	July 1, 1982 to June 30, 1983	8.0% pay increase scheduled for subsequent year (1983–84)
Washington (State)				
State of Washington and local school districts, Washington Education Association (teachers), Washington Federation of State Employees, AFSCME (State and higher education employees), and Washington Public Employees Association (employees of "outdoor" agencies)	67,000	Extension of 8-month pay freeze for one additional year, hiring freeze, elimination of accrued annual leave pay in calculating retirement pay, future pay increments to be based on performance, and increased probationary period for new employees	July 1, 1982 to June 30, 1983	Savings to state estimated at $65 million, terms of agreements imposed by state legislature
Illinois				
City of Springfield, Ill. and Springfield Education Association	200	One-year pay freeze, no step increases, cuts in insurance benefits, and job guarantees	July 1, 1982 to June 30, 1983	New agreement reached March 15, 1982
Oregon				
State of Oregon, Oregon Public Employees Union (OPEU), and Teamsters	17,000	One-year wage cut of 6 percent for OPEU members and 2.5 weekly hours work reduction for Teamsters	July 1, 1982 to June 30, 1983	Cancellation of previously negotiated 6 percent pay increase, savings to state estimated at $21 million

TABLE 4 (*Continued*)

Public Employer and Union	Number of Employees	Contractual Provision(s)	Effective Date(s)	Comment(s)
Benton County, Ore. and Benton County Employees Union, AFSCME	140	One-year wage freeze in second year of three year agreement	July 1, 1982 to June 30, 1983	6 percent pay increases awarded for April-June, 1982, a wage and health benefit reopener instituted for third year of contract (1983–84)
Tennessee				
City of Memphis AFSCME Local 1733 (municipal employees), Fire Fighter's Local 1784, and Memphis Police Association	1,500 (municipal employment only)	4.0 percent wage increases granted for each of two years, with reopener in third year, and no-layoff guarantee for municipal employees	July 1, 1982 to June 30, 1983	Cost of settlement estimated at 25 cents per hour per employee, city agreed to no-layoff provision when unions reduced pay demands
Maryland				
City of Baltimore and Classified Municipal Employees' Association (CMEA)	5,700	CMEA members pay 15% of future increases in costs of health benefits, pay increases ranged from 2.0 to 5.0 percent, and no-layoff "assurances" granted	July 1, 1982 to June 30, 1984	Agreement expected to reduce/control health care costs, pay increases larger for top level than entry-level employees (5.0 vs. 2.0%)
Rhode Island				
City of Jamestown, R.I., Jamestown Teachers Union, and other municipal unions	N/A	Six-month cancellation of scheduled pay increases	September 1, 1982 to March 1, 1983	Savings to city estimated at $85,000

Source: Bureau of National Affairs, *Government Employee Relations Report*, Volumes 944-974 (Washington: 1982)

[a] January–June 1982.

severe economic declines and high unemployment in the current recession. Most of the actions taken are in effect for the 1982–1983 fiscal year, although a few apply to longer periods.

Clearly, the dominant response of public-sector employers and unionists to economic severity has been to *freeze wages and salaries.* For example, such freezes were in effect in all of the Michigan, Philadelphia, Illinois, Oregon, and Washington (state) bargaining situations listed in Table 4, and covered about 137,000 employees. In most cases, existing contracts were extended for one year, but several jurisdictions negotiated longer term agreements, some of which provide for pay or benefit improvements in the second or third years. However, and as has occurred previously in some of these jurisdictions, contracts may be reopened and scheduled pay increases may be deferred or cancelled if economic conditions do not improve.[6]

It is also clear that public-sector pay freezes are intended to *preserve jobs* and *prevent layoffs.* As examples, contracts negotiated in Philadelphia and Memphis include explicit no-layoff provisions, Maryland officials provided municipal employees with no-layoff "assurances," scheduled layoffs in the State of Michigan and the Detroit Public Library were cancelled as a result of pay freezes for 1982–1983, and work-sharing was incorporated into 1982–1983 bargaining agreements in several Michigan school districts.

Other notable bargaining actions and contract provisions in these jurisdictions that might properly be labeled concessions include the *substitution of compensatory time off for overtime pay* and *unpaid holidays for work leave credit* (Michigan State troopers), elimination of paid holidays (Detroit public schools), scheduling of *unpaid work days* (Detroit librarians), and inauguration of *cost-sharing* for health insurance coverage (Baltimore municipal employees). Of particular note are actions taken in the State of Washington that *eliminate the accrual and application of annual leave time* to the calculation of public employees' retirement pay, require future pay increments to be based on *employee performance* rather than seniority, and *extend probationary periods* for new employees from six months to one year.

How significant are these concessions, and do they portend a new era of public-sector bargaining in the United States? First, the concessions apply to between one-quarter and one-third of all those represented in public-sector bargaining during the first half of 1982; thus, the majority of

[6] For example, the State of Washington deferred salary increases for higher education employees that were scheduled to take effect in 1981, and the same occurred for Oregon state employees and Jamestown, R.I., employees in 1982 (see Table 4). In effect, these actions mean that wage cuts as well as wage freezes have characterized public-sector concession bargaining.

public employees apparently are not operating under concession-type contract provisions.[7] Second, governments at all levels have grown more slowly since the recession of the mid-1970s than they did prior to that time, and personnel layoffs, budget reductions, and various productivity improvement schemes have become commonplace. For example, the federal government, 44 of the 50 state governments, and 59 of the nation's 100 largest cities reported personnel layoffs for fiscal 1981 and 1982 and had planned some layoffs for fiscal 1983.[8] Most of these layoffs were not formally subject to collective bargaining, but where they were the most common union response was to press for seniority clauses to guide layoffs. It is largely where reductions in force could not be accomplished via attrition and where major layoffs seemed imminent that (some) organized public employees have agreed to concessions in collective bargaining.

Third, present-day concessions in public employee bargaining appear mild in comparison with the concessions that characterized *some* public-sector bargaining relationships in the late 1970s. For example, in the wake of New York City's mid-1970s fiscal crisis, no general wage increases were granted between 1976 and 1980, various fringe benefits were reduced or given up, and municipal unions were called upon to invest $2.3 billion of pension funds in city notes so as to prevent municipal bankruptcy.[9] Further, such productivity improvement measures as one-person police patrol cars, two-man sanitation crews, and "broad-banding" were introduced during this period.[10] Similar, if not as severe, measures emerged from collective bargaining in other local and state governments during the

[7] See U.S. Bureau of Labor Statistics, *Current Wage Developments* 34 (September 1982), pp. 49–55. Little more than 300,000 public employees were in major bargaining units that negotiated new agreements with employers in the first half of 1982. I estimate that another 100,000 employees were in "minor"bargaining units. Note that in the second half of 1982, more than 250,000 public employees were in bargaining units that negotiated agreements containing one or another type of concession. Conceivably, this could account for *more* than half of all public employees covered by new bargaining agreements. See Bureau of National Affairs, *Government Employee Relations Report*, Vols. 975–92 (Washington: 1982).

[8] See Bureau of National Affairs, *Layoffs, RIFs and EEO in the Public Sector*, BNA Special Report, DLR No. 25 (Washington: February 1982). These data help to remind us that the majority of public employees in the United States are not organized or represented in collective bargaining; rather, their terms and conditions of employment result from legislative, employer, and civil service commission determinations. The extent to which nonunion public employees have been subjected to wage freezes and other "concession-type" actions is unknown. However, for some evidence of the effects of civil service coverage on public-sector compensation, see David Lewin, "The Effects of Civil Service Systems and Unionism on Pay Outcomes in the Public Sector," in *Advances in Industrial and Labor Relations*, ed. David B. Lipsky (Greenwich, Conn.: JAI Press, forthcoming 1983).

[9] See David Lewin and Mary McCormick, "Coalition Bargaining in Municipal Government: The New York City Experience," *Industrial and Labor Relations Review 34* (January 1981), pp. 175–90.

[10] See David Lewin, Peter Feuille, and Thomas A. Kochan, *Public Sector Labor Relations: Analysis and Readings*, 2nd ed. (Sun Lakes, Ariz.: Horton and Daughters, 1981), pp. 177–78. The term broad-banding refers to the establishment of widened job classifications that permit greater flexibility and skill interchangeability.

late 1970s.[11] As economic conditions improved in some of these governments (including New York City) during the early 1980s, pay increases were negotiated and other—but only some other—characteristics of more "normal" bargaining re-emerged.

What lessons for private-sector collective bargaining can be learned from recent bargaining experiences in the public sector? Perhaps the main lesson is that the concept of a "sector" is overly encompassing, for it includes a wide range of bargaining experiences, relationships, and outcomes. We have seen that in the first half of 1982, the median first year wage change in public-sector bargaining agreements was 9.0 percent, yet well over 100,000 public employees were parties to contracts that featured bargaining concessions, most notably pay freezes. In the private sector during the same period, the median first-year wage change in major bargaining settlements ranged from zero in manufacturing, to 3.6 percent in nonmanufacturing to 7.2 percent in construction.[12]

Another lesson is that the structure of collective bargaining, while not inmutable, is relatively stable. Almost no multiemployer bargaining takes place in the public sector, and this is as true today as it was prior to the mid-1970s slowdown in the growth of government in the United States. Coalition bargaining has emerged in New York City's municipal government and in a few other jurisdictions, and this appears to be one tangible consequence of fiscal crisis,[13] but the overwhelming proportion of public-sector contracts are still negotiated on a single-employer, single-union basis. Similarly in the private sector, where single-employer agreements outnumber multiemployer agreements,[14] concession bargaining does not seem to have featured major changes in bargaining structure. This is not to deny that some changes in bargaining structure have occurred in industry[15] or that "wage patterning" is becoming diluted as the parties appear to give more emphasis to productivity and ability-to-pay and less emphasis to cost-of-living and comparability in making wage and benefit decisions. Rather, it is to underscore that, in 1982, private-sector labor agreements, including those containing concessions, were reached largely

[11] Lewin, Feuille, and Kochan, pp. 17–24.

[12] U.S. Bureau of Labor Statistics, *Current Wage Developments* 33 (August 1982), pp. 52–54. The median first-year wage settlement for all industries was zero during the first half of 1982.

[13] Lewin and McCormick.

[14] See U.S. Bureau of Labor Statistics, *Characteristics of Major Collective Bargaining Agreements*, July 1, 1980, Bull. No. 2095 (Washington: U.S. Government Printing Office, 1982).

[15] See, for example, Wallace E. Hendricks and Lawrence A. Kahn. "The Determinants of Bargaining Structure in U.S. Manufacturing Industries," *Industrial and Labor Relations Review* 35 (January 1982), pp. 181–95.

through the same structural arrangements that characterized previous bargaining rounds.

A final lesson concerns the somewhat slippery matter of labor-management cooperation. In times of severe fiscal strain, numerous public employers have expanded the scope of bargaining, formed joint labor-management committees and, in general, "invited" organized workers to play a larger role in management policy-making. The same seems to have occurred in 1982 in the private sector, especially in severely depressed industries, and takes such specific forms as widened information-sharing, company-wide quality-of-work-life and joint productivity committees, and profit-sharing arrangements.[16] Perhaps the key analytical question here is whether or not the "expanded" union role in management that is implied by these practices and arrangement will persist, increase, or diminish over time. What relatively little public-sector experience exists in this regard suggests that employers draw back from an expanded union role in management as fiscal strain eases.[17] Further, a labor movement that represents a shrinking proportion of the workforce, loses more representation elections than it wins, and faces numerous employers and consultants bent on achieving a union-free environment might be thought to oppose rather than support the concept of labor-management cooperation. Nevertheless, through their contractual agreements, particularly those reached in 1982, private-sector unionists have shown their support (albeit limited) for cooperative arrangements with employers. Thus, it perhaps rests with management to demonstrate that labor-management cooperation is not a passing, recession-associated, fancy. Given that, in less than two decades, public-sector employers and managers have shown that they can accommodate to unions and collective bargaining, negotiate concessions when circumstances warrant, and occasionally pursue cooperative arrangements with organized employees, it may be proposed that private-sector employers and managers are capable of pursuing labor-management cooperation irrespective (or at least not solely because) of economic circumstances. The extent to which they do so will provide further evidence about the significance of contemporary collective—and concession—bargaining.

[16] See David Lewin and Audrey Freedman, *Information Sharing in Collective Bargaining* (New York: The Conference Board, forthcoming 1983). As examples, the 1982 General Motors-UAW agreement provides for companywide quality-of-work-life and joint labor-management committees, and the Ford-UAW agreement contains a profit-sharing provision.

[17] See, for example, Melvin H. Osterman, Jr., "Productivity Bargaining in New York—What Went Wrong?" in Lewin, Feuille, and Kochan, pp. 162–74.

DISCUSSION

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Reviewing the papers presented from the perspective of a participant in the collective bargaining process was a fascinating experience. My background is in the metal can business; therefore, my observations are limited to the mechanisms of collective bargaining that have evolved in that industry. In general, the papers were useful and I learned a good deal from the review. However, I was disappointed that most of the analysis was a surface reading of developments and relied for the most part on quantitative data.

Professor Mitchell concludes that collective bargaining trends will not be significantly impacted by the current struggles known as "concession bargaining." To use his analogy, Humpty Dumpty is alive, whole, and will probably climb back on the wall—if, indeed, he ever "had a great fall" in the first place. In my view, Humpty's condition is not the issue; rather, it is the competitive vitality of the industrial support base upon which he sits that is the real issue. Unfortunately, a simple reading of the numbers does not, and will not for some time, indicate the nature and magnitude of competitive forces closing in on the mature industrial sector.

The observations of Kassalow and Cappelli come closer to anticipating what is happening in employee relations and collective bargaining. It is interesting that their data seem softer, almost intuitive, yet on point. The difficulty faced by the research community is that the conventional feedback mechanisms are not equipped to measure, quantify, or report the character and strength of the phenomena operating in the traditional collective bargaining process. Indeed, I would submit that the leadership of the management and labor institutions are having trouble reading the feedback. During any confusing period of change, the participants will attempt to feed back the results of their efforts in a culturally and institutionally consistent fashion. This is understandable and necessary, given the pragmatic political considerations existing in their respective constituencies. The research community of the U.S. must push past the usual feedback mechanisms and take deeper readings of what's going on in an evolving system of collective bargaining.

In softer, but deeper, readings of the data as approached by Kassalow and Cappelli, one finds a fascinating and fundamental ideological struggle

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emerging that will dominate employee relations in the mature industrial sector well into the 1990s. The issues transcend both labor-management cooperation and concession bargaining. What is being called to question in the domestic and international marketplace is the viability of leadership models that have governed our socioeconomic process since the industrialization of the U.S. A new style of leadership is trying to emerge. The question is: Will business, labor, and government leaders modify a culturally accepted leadership style, based on individual power and independence, in favor of a collaborative process which is more consultative and interdependent?

Logic and economic theory alone will not stimulate the style change necessary to assure the interdependent functioning of government, business, and labor leaders. By definition, interdependent leadership requires some divestiture of the concentrated control found in the above sectors of our society into a common direction. Partisan politics must somehow be moderated enough to establish the long-term strategic time frames necessary to implement a new industrial policy.

Labor unions must be able to trust both government and business in order to allow new, flexible relationships to evolve. The mutual trust necessary has to be articulated and then backed by demonstrations of long-term good faith from both sides. Adversaries involved in the labor-management process should move to lower the political and cultural barriers which currently make real interdependent planning impossible.

Perhaps the toughest questions of all are: How to begin? And who has the responsibility for the first step? In our society the burden rests with the private-sector leadership. Most of what government manages and labor adversely influences has resulted from too narrow a view of private-sector leadership's responsibility in our society. Government and labor leaders have to be willing to react in a supportive manner to those first tentative steps toward a more integrated leadership model. If labor resists a good-faith effort at interdependent leadership development, or partisan politicians destroy the move in frenzied efforts to get reelected, then chances for the implementation of collaborative concepts are very poor. Time is growing short; improved productivity and competitiveness in our industrial sector are essential. There is considerable evidence that conversion to an information/service economy will not provide sufficient employment to support the loss of jobs caused by industrial erosion—at least not in the short term. Mediocre to poor economic performance in the United States will eventually lead to the same wrenching shocks experienced in the United Kingdom.

To accomplish the program, the private-sector leadership must be willing to share the power and control on a tripartisan basis with labor and

government. It will be fascinating to see if the trust and understanding necessary to get started can be pulled from the traditional adversarial mechanisms that have heretofore characterized our social and economic systems. We need investigation, understanding, and communication from the research community if we are to sustain our drive to a more competitive position in the world economy.

XVI. IS COLLECTIVE BARGAINING CHANGING? CASES AND SPECIFIC ISSUES

Contract Reopening: Issues and Relationships

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A casual reading of almost any daily newspaper or the regular watching of television news would lead one to believe that a not-so-quiet revolution is occurring in labor-management relations. The frequency with which articles about concessions and contract reopenings appear in the popular press seems to suggest that labor's hand is greatly weakened vis-à-vis managements and that we are in a new period of labor relations. The message seems to be that across much of U.S. industry a shift in the rules of collective bargaining has occurred. According to Douglas Fraser, president of the UAW, "It's almost a reversal of roles with the companies making demands and you trying to fend them off."[1]

The popular business periodicals also seem to suggest that the revolution is quite real, with headlines declaring "Detroit's New Balance of Power," "Unions: Testing a New Kind of Power," "Labor Seeks Less," and "Smudging the Line Between Boss and Worker." These articles are just some that appeared in one business magazine within approximately a two-month period.

All of this attention has raised several questions for me: (1) How pervasive are the negotiated concessions? (2) What form(s) are these concessions taking? (3) Are we seeing a new and dramatic change in labor-management relationships in the U.S.? This paper reports some preliminary answers to these questions.

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[1] "Bad Bargaining for Labor," *Newsweek*, November 23, 1981, p. 85.

Methodology

This study grew out of an earlier study of the effects of 1981–1982 negotiations on pattern bargaining.[2] In the process of examining the news stories related to industries that traditionally have had strong wage patterns, considerable attention was devoted to the automobile industry, and especially the Chrysler negotiations that led to projected concessions approaching $1 billion. This attention led to a limited number of interviews with managers whose companies recently had been through concession-producing negotiations.

Based on the library work and interviews, a short questionnaire was developed that addressed the questions raised above. This questionnaire was mailed during the late summer of 1981 to the vice presidents of human resources management (or equivalent title) for the companies making up the 1981 *Fortune* 500. The response rate was 28.6 percent, or 143 partially usable responses.

This preliminary report focuses primarily on the 70 companies that had reopened and/or were discussing reopening and compares them to the remaining 73.

How Pervasive Is the Phenomenon?

A surprising discovery was that at the time of the survey only 13.9 percent (20/143) of those answering reported that there was now serious discussion between company representatives and a union about reopening contracts in the near future. However, 46.5 percent (67/143) reported that contracts had been reopened for negotiating before the designated expiration date in the last 10 years.

Those companies reporting that they were giving serious consideration to reopening contracts identified themselves most frequently as being in the following industries: chemical, paper and forest products, petroleum, automobile, and metals. (Several companies were described as manufacturing firms.) They also identified themselves as primarily dealing with one of the following unions: Teamsters, United Automobile Workers, United Steelworkers, Oil, Chemical and Atomic Workers, United Paperworkers, United Rubber Workers, and United Glass and Ceramic Workers. (All but the last two unions were mentioned at least twice, with the Teamsters and OCAW being the most frequently mentioned.)

The majority of the companies reporting an actual reopening of the contract in the past 10 years indicated that many of the concessions had been in the form of wage increases as a result of unusually high inflation

[2] Audrey Freedman and William E. Fulmer, "Last Rites for Pattern Bargaining," *Harvard Business Review* (March-April 1982), pp. 30–48.

rates. In general, the industries reporting the greatest incidence of reopenings were petroleum, chemicals, food, packaging, and paper and forest products. The most frequently mentioned unions were Oil, Chemical, and Atomic Workers, Steelworkers, Machinists, and Teamsters.

Forms of Concessions

Those companies reopening contracts before the expiration date or conducting serious discussions with the union about doing so in the near future reported very little enthusiasm for granting unions much control over the running of the organization. As can be seen in Table 1, no

TABLE 1

Company Has Made (or Is Willing to Make) the Following Concessions

	Yes	No
Union participation on the board of directors	0	54
Union involvement at the corporate planning level	0	53
Union participation in a profit-sharing plan	4	50
Company agreements to open the financial records	4	50
Giving a voice to workers in lay-off decisions	3	51
Other	18	1

TABLE 2

Company Has Made (or Is Willing to Make) Concessions in the Following Areas

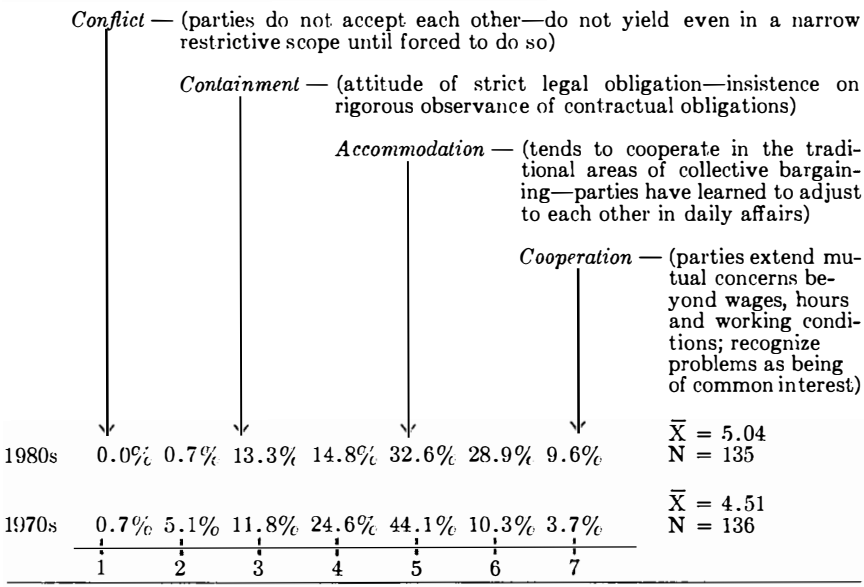
	Yes	No
Benefits	0	39
Work Rules	20	27
Wages	10	35
Starting Pay	12	33
Retirement Benefits	2	40
Sick Leave	2	41
Holidays	4	38
Seniority	6	37
Other	14	2

companies reported a willingness to give union representatives a place on the board or a role in corporate planning, and only 4 out of 54 who responded to the question were willing to open their books to unions or to grant some form of profit-sharing. There were no commonly mentioned management concessions falling into the "other" category.

Unions were seen as much more willing to make concessions in the area of work rules, with starting pay and wages ranking second and third, respectively (Table 2). The most commonly mentioned others were contract expiration extensions and some form of increased flexibility of assigning or scheduling employees.

TABLE 3

General Relationship Between Company and the Major Union Representing Employees During the 1970s and 1980s



A Changing Relationship?

In an effort to better understand if there is a management perception of a changing relationship between labor and management, the personnel vice presidents were asked to use a modified version of a continuum developed by Professor Benjamin Selekman[3] to indicate their opinion of the general relationship between their company and the major union representing their employees during the decades of the 1970s and 1980s. The responses for each decade are shown in Table 3. As can be seen, the average relationship in the 1970s could be described as approaching accommodation. By the 1980s, however, the average relationship is believed to be one of accommodation.

As can be seen in Table 4, when the results for companies that have reopened in the past 10 years or that were seriously considering doing so in 1981 are contrasted with those who have not done so and have no plans to do so, the figures show that while the average relationship has changed for both groups of companies, the relationship has moved farther along the continuum for those companies who have reopened contracts or who had serious plans to do so.

[3] Benjamin M. Selekman et al., *Problems in Labor Relations* (New York: McGraw-Hill, 1964), pp. 4–9.

TABLE 4

General Relationship Between Company and Major Union Representing Your Employees During Decades of the 1970s and 1980s

	1970s				1980s			
	Yes[a]		No[b]		Yes[a]		No[b]	
	No.	%	No.	%	No.	%	No.	%
1. (conflict)	—	0.0	1	1.5	—	0.0	—	0.0
2.	5	7.2	2	3.0	—	0.0	1	1.5
3. (containment)	10	14.5	6	9.0	8	11.6	10	15.2
4.	15	21.7	18	26.9	9	13.0	11	16.7
5. (accommodation)	25	36.2	35	52.2	20	29.0	24	36.4
6.	10	14.5	4	6.0	22	31.9	17	25.8
7. (cooperation)	4	5.8	1	1.5	10	14.5	3	4.5
$\bar{X}$	4.54		4.49		5.25		4.83	
N	69		67		69		66	

[a] Contracts have been reopened for negotiations before the designated expiration date in the last 10 years or there is now serious discussion between company representatives and the union about reopening contracts in the near future.

[b] Contracts have *not* been reopened for negotiations before the designated expiration date in the last 10 years and there is *no* serious discussion between company representatives and the union about reopening contracts in the near future.

Discussion

It seems clear that the current instances of contract reopening are not widespread. A close examination of news reports of contract concessions seems to confirm the results of this survey. The most frequently reported instances seem to be in the automobile, steel, trucking, and airline industries. Occasionally one finds mention of such industries as farm implement, rubber, railroad, meatpacking, construction, and newspaper publishing.

In spite of the attention focused on Chrysler's placing a union representative on the board of directors, very little seems to have changed in the U.S. industrial relations system. Not only are very few companies willing to consider a stronger role for unions in the management of the corporation, but labor concessions are for the most part limited to such traditional areas as work rules and wages.

The answers to the first two questions raised at the beginning of this paper seem to argue that no dramatic change currently is occurring in U.S. labor-management relationships. The responses to the relationship questions seem to confirm that no dramatic or revolutionary change in institutional relationships is occurring. Rather, it seems that we are seeing a gradual, evolutionary movement away from conflict and toward accommodation.

Conclusions

I see little evidence that the "new mood" in labor-management relations is the beginning of a new era in industrial relations. Instead I see the new mood as primarily limited to a few industries and an outgrowth of basic economic forces set in motion in the 1960s and 1970s.

As indicated earlier, most of the widely reported reflections of the new mood have been in a relatively few mature industries—automobile, trucking, and the airlines and, to a lesser degree, steel and rubber. In each of these industries, for more than a decade and in some cases three decades, wages have been greatly influenced by pattern bargaining and/or industry-wide bargaining and cost-of-living clauses. The result has been wages that increased more rapidly than the cost of living and most U.S. employees' wages.

As labor costs for these industries rapidly increased in the 1970s, competition also increased for U.S. companies in these industries. For automobile and steel, the evidence of increased foreign competition, especially from Japan, is well documented. Foreign competition also has affected the rubber industry, not only in tire sales but especially in nontire products. The airline and trucking industries have been forced into a more competitive situation as a result of industry deregulation and an increasing number of nonunion companies.

The combined forces of rising costs and increased competition that prevent companies from increasing prices to cover the higher costs are forcing companies to take a close look at operating costs. The result has been layoffs and frequent plant closings. As plants close, workers lose jobs and unions lose members and, ultimately, economic and political power. Consequently both labor and management seem to be recognizing the new economic realities and have begun to bargain accordingly. New and powerful competitive forces are now being unleashed in ways which make prior collective bargaining agreements untenable. What we are seeing is a relearning of a basic business principle—no firm can long afford to let its labor costs spiral upward with little regard for productivity and cost competitiveness. Firms that ignore this basic tenet will in time be priced out of the market and their positions undercut by more cost-conscious enterprises. This is precisely as it should be. There is little room for sympathy for either managements or unions who think that they can escape the power of a competitive market. The corrective actions now taking place are overdue and, in the long run, are healthy. It is something that affected firms and industries have to go through to restore their competitive vitality, and even though the process is painful, our economy will be better off for the process. Without this process, the future of U.S. business and labor in these industries is in jeopardy.

The Decline of Union-Management Cooperation: Kaiser Long Range Sharing Plan

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The Long Range Sharing Plan (LRSP) was an effort by Kaiser Steel Corporation and the United Steelworkers of America to improve the collective bargaining process, and to cooperate in obtaining and sharing the benefits of technological change. The origins, provisions, and early success of the LRSP were widely reported, and the plan was regarded as a highly innovative labor relations program.[1] This paper reports on the 20-year experience of the plan and examines the problems and decline of the LRSP and union-management cooperation.

1959–1963: Origins, Provisions and Success

The LRSP emerged from an agreement to end the 116-day steel strike in 1959. The ageement resulted from extended discussions between David McDonald, President of the United Steelworkers of America (USWA); Arthur Goldberg, Counsel for the USWA; Edgar Kaiser, Chairman of the Board of Kaiser Steel Corporation (KSC); and George Taylor, head of the Taft-Hartley Board of Inquiry. The agreement established a tripartite Long Range Committee (LRC) that was to establish a long range plan for sharing. The plan would protect the employees against increases in the cost of living, promote stable employment, provide for sharing of increased productivity, and encourage the expansion of the company.

The LRC was responsible for improving union-management relations from 1959 to 1963, but the establishment of the LRSP in 1963 was the

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[1] Gerald E. Balsey, "The Kaiser Steel–United Steelworkers of America Long Range Sharing Plan," *Proceedings* of the 16th Annual Meeting, Industrial Relations Research Association, 1963 (Madison, Wis.: IRRA, 1964), pp. 48–58; "A Case Study in Creative Bargaining: The Kaiser Experience," in *Creative Collective Bargaining*, ed. James J. Healy (Englewood Cliffs, N.J.: Prentice-Hall, 1965), pp. 244–81; Frank Polara, "Automation and Retraining: The Steelworkers–Kaiser Steel Experiment," *New York University 16th Annual Conference on Labor* (1963), pp. 73–80; David L. Cole, "The Kaiser–Steel Workers Long Range Sharing Plan: Has It General Application?" in *Jobs, Men and Machines*, ed. Charles Markham (New York: Praeger, 1964), pp. 63-71; and The Diebold Institute for Public Policy Studies, *Labor-Management Contracts and Technological Change*, ed. Herbert J. Blitz (New York: Praeger, 1969), pp. 25–39.

committee's greatest achievement.[2] The LRSP was designed to (1) reduce worker and union resistance to technological change by providing employment security and sharing of benefits from technological change, and (2) reduce wage inequities between incentive and nonincentive workers. The plan had three major provisions: (1) Employment and Income Security provisions protected workers from layoff, a lower wage rate, or less than 40 hours pay per week in the event of technological or work method change but *not* reduced levels of production or changes in product mix; (2) the Cost Sharing provisions provided for monthly cash payments of 32.5 percent of the total savings in labor, material, and supply costs less a "wage and benefit reserve" for wage or benefit increases in the industry–USWA agreement; (3) incentive provisions allowed incentive workers to join the cost sharing plan and accept either the LRSP bonuses or a cash payment equivalent to 30 months of incentive earnings.

The LRSP became effective on March 1, 1963, and the LRSP bonuses and worker committees on cost savings accounted for the plan's initial success. In the first three months of the plan, about 4,000 employees received average monthly bonuses of $90, or about 25 percent of average monthly pay. The high cash payments were attributed to (1) declining raw material costs, and (2) management cost-cutting in 1962 that reduced costs below the 1961 base used to determine cost savings and bonuses. In addition to the high cash payments, 169 worker committees made more than 700 suggestions for cost savings. Seventy percent of the suggestions were implemented during the plan's first year.[3]

Endemic Problems

Between 1964 and 1967, problems in the cost-savings formula, the substitution of the sharing plan bonus for incentive pay, and total cost savings emerged and troubled the LRSP for eight years. Several changes were made in the LRSP to resolve each problem, but none of the changes was ultimately successful.

Formula Problems and Changes

Four changes were made in the cost-savings formula that were expected to double monthly cash payment. First, the public members of the (LRC) awarded an average payment of $85 to 5,400 KSC workers for the company's deductions in 1964 from cost savings for processing costs for iron ore from KSC'S Eagle Mountain mine. As part of the award, KSC was allowed to deduct ore and coal processing costs after 1964. Second, to

[2] C. A. MacIlvaine, "Appraisal of Kaiser's Sharing Plan," *Monthly Labor Review* 87 (April 1964), p. 401.

[3] MacIlvaine, p. 404.

adjust for the decrease in cost savings because of declining steel prices, the metal-product component of the Wholesale Price Index replaced the steel component in the cost-savings formula. Third, variable cost standards were weighted more heavily in the cost-savings formula and allowed workers to share in the cost savings from increased production and the demand for steel. Fourth, with major wage and benefit improvements in the basic steel industry agreement, the wage and benefit reserve increased to exceed cost savings available for LRSP payments. The 1967 KSC-USWA agreement eliminated the wage and benefit reserve and required monthly payment of labor's share of cost savings.

Incentive Problems

Despite revisions in the plan, two problems occurred because LRSP payments were less than incentive earnings. First, incentive workers who transferred to the LRSP received LRSP payments that were about one half of their former incentive payments. In 1967, workers were allowed to remain on LRSP or transfer to an incentive plan if they had transferred from an incentive plan to the LRSP. Second, new workers were automatically placed on the LRSP, performed the same work as incentive workers, but received LRSP payments that were about half the amount of incentive payments. In 1966, about 400 "new" workers were removed from the LRSP and placed on incentive plans.

Cost Savings

LRSP cash payments declined from 55 cents per hour in 1963 to 10 cents per hour in 1967.[4] The decline in cash payments was the result of the failure of cost savings to increase in the 1963–1967 period. After adjusting for the lower material costs in 1963 and a higher wage and benefit reserve in 1967, cost savings from management's 1962 cost-cutting program accounted for almost 90 percent of the total cost savings, and the more than 1,500 employee cost-saving suggestions implemented from 1963 to 1967 accounted for only 10 percent of the total cost savings.

The 1972 Strike and the "New LRSP"

The LRSP was the major issue of a 43-day strike in 1972. The major problem concerned the size of LRSP payments and incentive payments. From 1968 to 1970, LRSP payments were between 15 to 18 percent of hourly pay, but the total cash payment of $100 for 1971 was only 1 percent

[4] Kaiser Steel Corporation, *The Long Range Sharing Plan*, 1972, Exhibit "A."

of hourly pay. Incentive workers received as much as $100 in incentive payments in one week, and only 42 percent of KSC workers were on incentive, about one half the proportion covered by incentive plans at other steelmakers.

To settle the 43-day strike, KSC and the USWA agreed on a "new long range sharing plan" which differed substantially from the 1963 LRSP. First, LRSP participants received a minimum cash payment of about 15 percent of their base pay.[5] Second, the cash payments were calculated by measuring the 12-month improvement in labor productivity and not cost savings. Improvement in labor productivity was measured in worker-hours per ton, and material and supply costs were omitted from the calculation. Third, approximately 55 percent of KSC workers were covered by the new LRSP, and 45 percent were covered by incentive plans and paid according to the production of their assigned unit. Fourth, the LRC was replaced by worker suggestion committees, variously named department or plant labor-management, quality, or productivity committees.

The LRSP has not changed since 1974. Cash payments averaged 8 to 9 percent of hourly pay from 1977 to 1982, and LRSP payments were about $160 per month in January–July, 1982. Labor productivity also improved from 1977 to 1982 as the number of worker hours per ton of finished steel decreased about 7 percent.

Union-Management Attitudes

The payments, productivity, and LRSP stability suggest union-management satisfaction. However, a survey of KSC management and union members indicates a less favorable assessment of the LRSP.[6] Only about 10 percent of the sample believed that the LRSP improved union-management relations, increased productivity, or decreased costs. Attitudes were almost equally divided on whether the LRSP was good for the workers or good for the company.

When responses were classified as either union or management, union members agreed that the plan was good for the company, but disagreed that the plan was good for the workers. Management respondents strongly disagreed that the plan was good for the company, but agreed that the plan was good for the workers. These results indicate that management and union members perceive the impact of the plan quite differently. This suggests at least an absence of shared understanding of

[5] Base pay was 1961 standard hourly wage rate plus 50 cents per hour.

[6] William Aussieker, "The Decline of Union-Management Cooperation: Kaiser Long Range Sharing Plan," Center for Business and Economic Research, California Polytechnic State University, San Luis Obispo, 1982, pp. 14–22.

the plan's impact and mutual dissatisfaction with the plan. Also, the union-management attitudes are not consistent with the LRSP's purpose to improve employee-company communication or attain constructive attitudes.

The LRSP's cost, small cash payments, lack of incentive, and the plan's complexity were the four most frequently mentioned problems with the plan. According to half of the management respondents, the LRSP raised labor costs to the highest in the steel industry, and the major problem with the company was high labor costs. Management respondents stated that profit sharing, stock ownership, or more individual incentives are better for the company because they increase costs less and provide more incentive than the LRSP.

To about half of the union members, small cash payments were the major problem with the plan. Payments were 6 to 10 percent of base pay, and LRSP workers received pay between 10 and 20 percent less than similarly skilled workers on incentive plans.

The lack of relationship between effort and reward was mentioned by at least half of the sample. Payment based on a 12-month, weighted average reduced the range of differences in cash payments, but workers were not paid bonuses directly related to their most recent performance or production. LRSP participants also resented that the plan was plantwide and had nothing to do with the work within their unit or their individual effort. As one union member remarked, "You get the same amount if you work or sleep on the job."

The complexity of the plan and poor communication were problems cited by 40 percent of the sample, mostly union members. Almost one in five union members believed that the LRSP consisted of only the bonus, and 10 percent of the union members believed that the plan had been abolished. About a third of the union members thought that the plan was too complex and not understandable.

1982 Development

The LRSP is again a major issue in the USWA-KSC relationship because of a single grievance based on employment security provisions of the LRSP. In January 1982, the USWA filed a grievance on the possible closure of KSC's primary steelmaking facility. The USWA alleges that the closure and the introduction of steel slabs in the manufacturing process are technological or work method changes and seeks placement of 2,000 workers in the employment reserve for 65 weeks if KSC proceeds to close the primary steelmaking facility. The potential cost of the settlement may be more than $50 million. The grievance is one of several grievances alleging KSC violated the LRSP by not placing workers in the employment

reserve when displaced by changes in the staffing of the continuous casting operation, efforts to modernize the rolling mills, and the closure of the open hearth process. In each grievance, the union sought to negotiate settlements that increased jobs, early retirements, and cash payments.

In August 1982, Local #2869, KSC production and maintenance workers, invited KSC to begin discussion on labor costs and renegotiating the current contract which expires in August 1983. More than 2,500 workers on layoff and a 50 percent decline in membership prompted the local leadership's offer. Possible cost concessions include deferral of cost-of-living adjustments, a 25 percent wage and benefit decrease, and suspension of the LRSP payments. The offer of cost concessions is not new to Local #2869. In August 1980, the local voted to restrict pay increases, but USWA national leadership retracted the offer after the KSC Board of Directors voted not to close the steel mill.

Local #2869 has also offered to purchase KSC under an employee stock ownership plan (ESOP), but KSC and the USWA national leadership rejected the ESOP offer. The local has retained the Kelson Group to assist in establishing the ESOP, and the local leadership has not excluded the use of a tender offer to establish the ESOP. Posters on the walls of the local's office say, "Kaiser ESOP, Inc.—We Built It With Pride, We'll Buy It With Pride."

Factors in the LRSP's Decline

The LRSP's design, the KSC-USWA relationship, and changing market and production conditions have contributed to the plan's difficulties.

The largest source of union member dissatisfaction with the plan concerned low cash payments and invidious comparisons between LRSP and incentive workers. The design of the LRSP exacerbated the incentive-LRSP problem. Under the LRSP, the percentage of workers on incentive actually was reduced from 40 percent in 1963 to 25 percent in 1965, but as the number of LRSP participants increased, the average cash payment decreased because total cost savings were paid to more workers. In 1982, the estimated 50 percent of the workers on incentive plans is more than the 40 percent on incentive plans in 1963.

The incentive-LRSP problem may have been abated by less emphasis on the cash payment and more emphasis on union-management relations. Between 1959 and 1963, union-management relations improved significantly as evidenced by a decrease in the number of grievances filed and the number of grievances at the prearbitration stage. When the sharing plan became effective in 1963, publicity on the cash payments gave workers the impression that the sharing plan bonus was the LRSP, and efforts to improve union-management relations were sacrificed in favor

of efforts to boost the sagging bonus payments. There are about 900 grievances at the prearbitration stage in September 1982, about twice as many as in 1963.

Since 1959 KSC has adopted the provisions of the steel industry's basic labor agreement, a "me too" arrangement with the production and maintenance workers represented by Local #2869. Negotiations are conducted by local and international officers, but the authority to make a binding agreement with the company is restricted to the international officers, principally the USWA District #38 Director. The international-local relationship and the "me too" arrangement have severely restricted the ability of the local and KSC to negotiate an agreement that meets their needs. Instead the LRSP has been the basis for adjusting differences in the union-management relationship and the focal point for either union or management dissatisfaction.

An assumption underlying the LRSP was that attrition and increased demand for steel excluded the possibility of layoff for employees displaced by work method or technological change. With employment and income security and a sharing of the benefits of technological change, the LRSP reduced the incentive for union resistance to change and encouraged union-management cooperation. The proposed closure of the primary steelmaking facility and layoff of 2,000 employees sorely tests the underlying assumption of the LRSP and encourages union resistance and not cooperation. Union-management cooperation is dependent on management's ability to offer employment security in exchange for labor cost concessions, but labor cost concessions are insufficient to maintain a viable KSC steelmaking facility. Limitations on foreign steel shipments and pollution control, reduction in energy costs, and a foreign source for iron ore are also required to improve the competitive condition of the KSC steelmaking facility.

Collective Bargaining Over Plant Closure

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This paper has two objectives. The first is to investigate the determinants of the inclusion of provisions relating to plant closure or permanent dislocation of workers in the formally bargained contracts in effect in 1974 and 1980, an interval when the structural change in employment opportunities started to become more apparent.[1] The second is to explore whether the three forms of bargaining over plant closure can serve as a starting point or basis for public policy, or as an alternative to direct regulation.

Conceptual Framework

The underlying premise of this research is that contract provisions over plant closure are scarce resources. Therefore, an economic choice in addition to the expenditure of bargaining capital is involved in their inclusion in negotiated contracts. Economic choice not only entails deciding whether to pursue plant closure provisions, it also includes deciding which provisions to pursue.

Since contract provisions are scarce resources, it is expected that the workers in those industries and locations undergoing the greatest structural changes would be willing to make the tradeoffs required to obtain these provisions.[2] Although cross-sectional analysis assumes long-run equilibrium, by examining relationships at two different long-run positions, it is hoped to observe the short-run movements associated with the structural changes, either real or perceived.

Based on this scenario, two hypotheses are considered.

1. Due to the structural changes in manufacturing employment in the last decade, variations in the incidence of contract provisions related to permanent job disclocation should be

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* The statements of fact and the views expressed in this paper are the sole responsibility of the author. The viewponts do not necessarily represent position of the W.E. Upjohn Institute for Employment Research.

[1] Between 1970 and 1980, manufacturing employment decreased from 27.3 percent of total employment to 22.4 percent of total employment. Moreover, approximately 50 percent of the major contracts negotiated were in industries experiencing actual declines in production employment.

[2] See Audrey Freedman, *Security Bargains Reconsidered: SUB, Severance Pay, Guaranteed Work* (New York: The Conference Board, 1978). She wrote: "Still it seems axiomatic that as an individual job hunter's chances in the open labor market worsens, job security becomes more important." (p. 67)

negatively related to variations in employment growth across industries.

2. Due to the impression that the Sunbelt is gaining manufacturing jobs at the expense of the Frostbelt (Northeast and Midwest), the incidence of contract provisions related to permanent job dislocation should vary positively with whether the contract covers an establishment(s) in the Northeast or Midwest.

Data and Methodology

The basic sources of data were the U.S. Department of Labor's files of major collective bargaining agreements for 1974 and 1980. These files include all major agreements in effect in the respective years, not just those that were negotiated in these two years. The major agreements are limited to those that cover more than 1,000 workers. Only those agreements in the manufacturing sector (SIC 200 through SIC 399) were used. After editing the data and by limiting the analysis to just those contracts covering production workers, the number of contracts available was 631 for 1974 and 676 for 1980.

The Department of Labor codes the provisions in the contract, usually indicating the presence or absence of the provision. As a result, the provisions become homogeneous even though there may be considerable variation in the way they are written and/or interpreted. Eight contract provisions were categorized as being directed to the permanent worker displacement issue. They were: (a) relocation allowances (*RELOCATE*), (b) transfer rights (*TRANSPLT*), (c) preferential hiring rights (*TRANHIRE*), (d) a combination of b and c (*TRANCOMB*), (e) severance pay (*SEVRANCE*), (f) supplemental unemployment benefits (*SUB*), (g) advance notice of plant shutdown (*SHUTDWN*), and (h) advance notice of technological change (*CHANGE*).

The Department of Labor also codes the structure of the bargaining relationship—single firm-single plant (*PLANT*), single firm–multiple plant (*MULTI*), industry (*INDUS*), association (*ASSOC*)—the number of workers covered (*WORKERS*) and the state in which the establishments are located, which was used to construct a *REGION* dummy variable, and a variable indicating whether the contract covered workers in a right-to-work state (*RTW*). Collective bargaining coverage (*COV*) at the 3-digit SIC level was taken from the estimates developed by Freeman and Medoff (1979). Their estimates of contract coverage are for 1968–1972 period. Change in production worker employment (*GROWTH*) at the 3-digit SIC code for the period 1969 to 1979 was calculated from *Employment and Earnings*. This period was chosen because both 1969 and 1979 were peak years prior to recessions. Consequently, the measured

change in employment should be reflecting long-run structural changes as opposed to short-run cyclical changes. Discussions of most of these variables are available in Kochan and Block (1977) and Hendricks and Kahn (1982).

Employment growth (*GROWTH*) is an indicator of expected job security. If employment in the industry declines, it may signify the increased probability that the establishment may close in the future, which should prompt the union to place provisions concerning closure as priority bargaining goals. The impression also has been created that plant closure primarily is a problem in the industrial heartlands, the Frostbelt. Thus, workers in Frostbelt locations may perceive themselves to be in greater jeopardy of permanent displacement and, therefore, attempt to incorporate protective provisions in the bargained contracts. *REGION* is coded 1 if the establishment is in the Frostbelt, 0 otherwise.

Union bargaining over plant closure can have one of several objectives. First, unions can accept the fact of closure and negotiate employment rights at the new plant or other existing operations. Second, closure also can be accepted, but the objective will be to ease the displacement by securing financial payments. An alternative interpretation would be that these provisions also raise the cost of closure, thereby reducing the probability of closure. Third, the decision to close may not be accepted as final, so advance notice is sought to provide time to negotiate in hopes of maintaining the operation, and if not successful, to prepare for the closing bargain.

Indices were developed for each of these objectives, plus an overall index was calculated based on the eight provisions for each contract. Each provision was weighted equally in the construction of each index. The value of each index (except for *INDEX*4) ranges between 0 and 100. The first index, *INDEX*1 is constructed from *RELOCATE*, *TRANPLT*, *TRANHIRE*, *TRANCOMB*. The second index, *INDEX*2 is constructed from *SEVRANCE* and *SUB*. The third index, *INDEX*3 is constructed from *SHUTDWN* and *CHANGE*. *INDEX*4 is constructed from all eight provisions. Indices of bargaining provisions have been used by other researchers, most notably Gerhart (1976) and Kochan and Block (1977).[3]

The associations are estimated using ordinary least squares (OLS) multiple regression analysis. Although OLS violates the assumptions of the best linear unbiased estimator, the estimates are consistent, and since the relationships primarily are associative and not necessarily causal,

[3] Using equal weights implies that each provision is equally desirable or effective. This is a tenuous assumption, particularly when only eight provisions are involved and may be partially responsible for the results that follow.

statistical significance rather than the exact values of the coefficients are of greater interest.

Results

First Hypothesis: This hypothesis concerns whether the incidence of contract provisions addressing permanent job dislocation is directly related to negative employment growth in the industry in which the contract is negotiated. The key variable (*GROWTH*) for testing this hypothesis is the percentage change in production worker employment between 1969 and 1979 in the three-digit industry. *GROWTH* during the entire period from 1969 to 1979 was used in both specifications for a number of reasons. First, it provides a check to the alternate hypothesis of whether unions anticipate or react to trends. Second, Lilien (1982) has suggested that the structural shift accelerated after 1973.

Table 1 lists the results for both the 1974 and the 1980 analysis. The variable *GROWTH* was not statistically significant in explaining the variations in the dependent variables for the 1980 contracts filed. The coefficient of *GROWTH* was negative in most specifications and the *t*-statistic frequently was approximately 1.00, but it is impossible to reject the null hypothesis. The coefficients for the other variables conformed to expectations.

The specification also differed considerably in its ability to explain the variation in the several indices used as dependent variables within any one year. For example, in the 1974 analysis the specification explained 23 percent of the variation in *INDEX*1, 10 percent of the variation in *INDEX*2, and only 2 percent of *INDEX*3. The explanatory power for the combined measure, *INDEX*4, reached 12 percent. A similar pattern was observed for the 1980 analysis.

The results that are most interesting relate to *INDEX*3, the measurement of the incidence of advance notice of shutdowns or technological change. These provisions probably have been the most frequently mentioned in policy discussions of plant closure. They also most directly address the question of management rights.[4] The independent variables included here have virtually no explanatory power. Thus, there is no insight into what features of the bargaining relationships or environments have resulted in approximately 15 percent of the contracts containing these provisions.

Second Hypothesis: This hypothesis concerns whether the incidence of contract provisions pertaining to permanent job displacement is

[4] A series of regressions were run incorporating whether the bargained agreement included a management rights clause. The coefficient on this variable tended to be negative, but was not statistically significant.

TABLE 1

Determinants of the Incidence of Plant Closure Provisions
in Bargained Contracts, 1974 and 1980
(standard errors in parentheses)

	1974				1980			
Variables	*INDEX*1	*INDEX*2	*INDEX*3	*INDEX*4	*INDEX*1	*INDEX*2	*INDEX*3	*INDEX*4
COV	.107***	.349***	.003	.460***	.110***	.317***	−.066	.361***
	(.025)	(.060)	(.045)	(.090)	(.028)	(.057)	(.044)	(.089)
GROWTH	.001	−.102	−.012	−.113	.013	−.065	−.052	−.103
	(.026)	(.062)	(.047)	(.093)	(.031)	(.065)	(.050)	(.101)
RTW	−6.307***	−9.932**	−2.137	−18.377***	−6.840***	−11.828***	1.065	−17.604***
	(1.777)	(4.122)	(3.104)	(6.205)	(1.913)	(3.915)	(3.010)	(6.097)
REGION	−2.403*	3.520	−2.809	−1.692	−6.005***	−3.784	−3.751*	−13.540***
	(1.287)	(2.986)	(2.248)	(4.495)	(1.396)	(2.858)	(2.197)	(4.451)
WORKERS (100)	.021***	.035**	.003	.059***	.011***	.016**	.008	.036***
	(.006)	(.014)	(.011)	(.022)	(.003)	(.007)	(.005)	(.011)
PLANT	3.188*	−4.542	−5.204*	−6.558	4.503**	−3.669	−3.272	−2.439
	(1.764)	(4.093)	(3.082)	(6.161)	(1.974)	(4.041)	(3.107)	(6.294)
MULTI	14.459***	−.347	−0.328	13.782***	13.273***	7.020*	2.733	23.027***
	(1.845)	(4.282)	(3.224)	(6.445)	(2.016)	(4.127)	(3.173)	(6.427)
INDUS	1.553	−13.677*	6.809	−5.314	4.405	−2.878	8.056	9.583
	(3.100)	(7.193)	(5.415)	(10.827)	(3.578)	(7.323)	(5.631)	(11.404)
Intercept	−3.097	7.750	15.867	20.520	.385	12.220	19.617	32.224
R^2	.229	.103	.024	.123	.179	.101	.037	.132
Cases	631				676			

* Significant at .10 level (two-tailed test). ** Significant at .05 level (two-tailed test). *** Significant at .01 level (two-tailed test).

greater in the industrial heartland, the Northeast and Midwest (*REGION*), the area which appears to have borne the heaviest burden of the structural shift.

As indicated in Table 1, the variable *REGION* frequently is negatively related to variations in the indices, and usually at statistically significant levels. This is a very surprising finding. Consider the first specification for 1980. The dependent variable measures the incidence of relocation allowance, job transfer rights, and preferential hiring rights. The coefficient is -6.00 and the *t*-statistic score is 4.30. Assuming that manufacturing has moved from the Frostbelt to the Sunbelt, expectations are such that the workers remaining would have had the greatest incentive to make the tradeoff. The opposite appears to be the case.

One possible explanation is that unions may want these provisions irrespective of their geographical location. However, management may view these provisions as being very expensive in the Frostbelt because the expected probability of closing the establishment in the near future is high. Therefore, they bargain very hard to keep them out of the contract.

Another possibility is that it is inappropriate to assign the same expected behavior to unionized establishments in the Northeast and the Midwest. Specifically, Bluestone and Harrison (1982) report that only in the Northeast was there an actual job loss in private business establishments between 1969 and 1976. Furthermore, the proportion of "jobs destroyed" through closure and outmigration of the 1969 job base was least in the Midwest (32.4 percent). The rates for the other areas of the country were 37.1 percent for the Northeast, 42.5 percent for the South, and 44.9 percent for the West.

Given this information, the analysis was repeated with separate dummy variables representing the Northeast and the Midwest. The results (which are available from the author on request) indicate that in 1980 the coefficient of the dummy variable representing the Northeast was still negative and statistically significant for *INDEX*1, but insignificant in the other specifications. The coefficient of the dummy variable representing the Midwest was negative and statistically significant for *INDEX*3, both of which are contrary to expectations. For the 1974 contracts, both regional dummy variables were positive and statistically significant for *INDEX*2, the *SUB* and *SEVRANCE* provisions. Thus, holding other factors constant, it appears that the recent negotiations covering establishments in the South and West have been more successful at including provisions directed at plant closure and permanent worker displacement than those in the Northeast and Midwest.

Other Bargaining Concerning Plant Closure

As indicated above, formal contract bargaining is one of three forms of bargaining over plant closure. Bargaining is required over the effects of closure according to judicial interpretation of the duty to bargain in the National Labor Relations Act, Section 8(d). The closing bargain is the last-resort position. "Effects bargaining usually involves rights of employees that arise as a result of a closing, such as severance pay, pensions, other accrued benefits, seniority, dates for unemployment eligibility, pending grievances and possible reemployment in other parts of an employer's enterprise" (Heinsz 1981). Whether actual bargaining can take place when there is only a duty to bargain over the effects must be questioned. What is the source of bargaining power? There is no real power to strike. An equitable settlement may be achieved, but it is likely to be dependent on the good will of the firm.[5]

The National Labor Relations Board and several circuit courts also have interpreted Section 8(d) to apply to the decision to close, but the United States Supreme Court ruled in 1981 in the *First National Maintenance* case that Section 8(d) does not impose a duty to bargain over the decision to close one plant of a multiple plant firm. Requiring the duty to bargain over the decision, however, would have opened up a number of interesting alternatives.

Consider the following. Stevens (1963) discussed the problems that may arise by showing weakness in the bargaining process. For instance, suppose the union discerns that the establishment is in severe trouble. It may want to broach the possibility of wage or work rule concessions in order to turn the plant around. Management, however, could view this as a sign of weakness and demand greater concessions than (a) are necessary and (b) the union is willing to make given the available alternatives in the labor market. No agreement is reached and the plant eventually closes. Negotiations begin over the effects.

Next, consider the situation if there is a mandatory duty to bargain over the decision. Management must inform the union of the decision to close. It is a requirement; it is not a sign of weakness. The data are presented and tradeoffs are calculated. The outcome may be that (a) with reasonable concessions the plant can continue to operate, (b) reasonable concessions can not salvage the operation so bargaining commences on the effects, or (c) management is not interested in saving the operations, but the employees can use the duty to bargain over the decision-to-close requirement as a chip to negotiate a more attractive closing agreement. There also are other possibilities.

[5] An equitable settlement must be structured differently when severance pay and/or pensions are actually postponed earnings (Lazear 1981), Stoikov (1969).

On the surface, it may appear that a combined judicial approach—bargaining over the decision to close and the effects—and the formal contract could accomplish the same end. However, there still is the problem that may arise from showing weakness. To request a reopening of the contract could be construed as a sign of weakness and result in no agreement being reached. The formal contract could interact with the judicial approaches establishing the framework for bargaining over closure and addressing the specific needs of each bargaining relationship.

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Collective Bargaining: Concessions or Control?

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The 1980s have been widely touted as an era of labor concessions in which the economic crisis provides management with a pretext for demanding major givebacks. Certain industries have been particularly hard hit by the economic slump of the past two years, making workers in key industries such as rubber, automobiles, construction, and steel especially vulnerable to corporate demands. The views of two union leaders I recently interviewed suggest a poignant picture. Said a machinist, "Labor is being held hostage by the threat to cave in to concessions now or they'll close us down in six months." And an official of a United Automobile Workers (UAW) local concurred: "These are the toughest times we've faced. Management is holding our jobs hostage until we agree with them. It's blackmail."

Managers, union officials, and outside observers articulate a wide range of interpretations of the contemporary scene.[1, 2] One major view is that economic reality has broken the back of labor forever, and that collective bargaining in the future will consist of more moderate demands for wages and benefits. An alternative assumption is that the current wave of concessions has not eroded labor's power in any permanent way—that we are witnessing only a temporary aberration in labor's evolutionary history of significant increases to achieve a higher living standard for American workers.[3] Others become more specific: there is no general thrust. Only case-by-case can any analysis occur.[4] Instead of pattern-setting by the dominant industries, the question is one of particular circumstances. "The framework is no longer follow the leader; instead it is

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[1] William Serrin, "Auto Workers and Wage Concessions," *The New York Times*, December 12, 1981.

[2] *Labor Relations in an Economic Recession: Job Losses and Concession Bargaining* (Washington: Bureau of National Affairs, 1982), pp. 12–14.

[3] "Moderation's Chance to Survive," *Business Week*, April 19, 1982, pp. 123, 126.

[4] "Labor Concessions: More Fable Than Fact?" *Industry Week*, February 8, 1982, pp. 19–21.

the specific labor cost and competitive situation of the individual firm" (p. 16).[5]

Concessions as a Tradeoff

In certain instances, unions are only agreeing to concessions in exchange for something of equal, but different, value. That is, instead of simply surrendering to company demands, workers are insisting on a tradeoff. If forced to freeze wages or reduce benefits, they expect a significant corporate concession in return. It may be economic, such as the demand that the fat be trimmed from salaried ranks or that management take a 10 percent pay cut. More often, the exchange is one of power in which the union increases its control by giving up a bit of bread and butter. A key operating principle to labor regardless of company economics is that of parity.

One of the more intriguing strategies for unions facing concessions is to bargain for stock ownership of the firm. The threat of factory closings and runaway plants is increasingly being countered by attempted worker buyouts. This tactic is not new. Workers in the plywood mills of the Northwest bought up over a dozen failing firms early in the 1900s and they have survived for decades with higher than average profits. Growing in importance, worker-owned firms in America today include newspapers such as the *Milwaukee Journal* and rail transportation like the Chicago and Northwestern Railroad. Concession bargaining led to UAW workers presently owning 15 percent of Chrysler's stock (over 12 million shares), a figure which will rise to approximately 25 percent by 1984. During 1982, unions bargained for 10 percent of Pan American World Airways and $35 million worth of Wheeling Pittsburgh Steel Corporation stock. Currently hundreds of United Food and Commercial Workers (UFCW) in Philadelphia are involved in taking over some 20 closed supermarkets once owned by A&P, and turning them into a cooperative food chain. And in Weirton, West Virginia, 10,000 steelworkers are putting the finishing touches on their bargaining for the purchase of the Weirton Works from National Steel Corporation, a move which will make it the eighth largest steel company in the U.S.

To illustrate the process of achieving worker ownership in the face of an impending plant shutdown and the potential for workers' control, two cases with which I have been heavily involved will be briefly highlighted.

[5] Audrey Freedman, "A Fundamental Change in Wage Bargaining," *Challenge* (July-August 1982), pp. 14–17. See also Audrey Freedman and William E. Fulmer, "Last Rites for Pattern Bargaining," *Harvard Business Review* (March-April 1982) pp. 30–48.

The Hyatt Clark Model

One of the most important illustrations of a successful worker buyout occurred in the fall of 1981. The old Clark, New Jersey, plant had been owned by General Motors for decades, producing high volume roller bearings for automobiles and rail cars. As the industry turned to front wheel drive, the plant was declared to be uncompetitive and needing to be closed.

A coalition of managers and leaders of UAW Local 736 responded to the factory's threatened demise by offering to purchase the plant. After considerable negotiation, GM not only agreed to sell its operation, but to help finance the deal and purchase products for the next three years. With loans from several major banks, GM received $30 million in cash, $10 million in nonvoting stock for the land and buildings, and $13 million in notes. As the debt is paid off, the stock reverts to the company, so that within 10 years it will be fully worker-owned. Workers feel that they can run a tight, effective, and profitable organization in contrast to their sluggish performance as part of the huge GM. While wages had to be reduced, an incentive system based on productivity boosts monthly earnings. And, far different from the authoritarianism of Detroit, workers have a significant voice in running their company, now incorporated as Hyatt Clark Industries.

The Employee Stock Ownership Plan (ESOP) at Hyatt reflects the critical role of the union in negotiating a legal structure that includes significant power now and more in the future. For instance, the union countered the management, board chairman, and bank's proposal that stock be distributed according to salary (which would give managers more shares) and insisted that the shares be equally divided among all employees. Two UAW leaders of Local 736 also administer the rank-and-file workers' pension program. They sit on the board of directors along with a third union-appointed board member, three representatives from management, and seven outside directors. Shares are held in a trust and can be sold only upon departing the company, at which time the firm will pay the worker for the value of his or her stock in cash.

While still too new to be fully evaluated, it appears the Hyatt plant is moving in a rather democratic direction. For instance, one of the first things the top union and management did was create a joint union/management Employee Involvement Committee. The previously private dining room for GM executives was converted into a training room in which consultants trained all labor and management personnel on the dynamics of worker ownership and participation. First-line supervisors are currently undergoing intensive skill-building sessions in consensus decision-making, communication, and other democratic methods. A

labor/management Works Council has been established to operate the plant, evaluating productivity, quality, and labor relations problems. Among office employees a Salaried Council of 12 elected representatives from the clerical staff, engineering and accounting departments, and the ranks of management meet monthly to review policies and practices affecting their roles.

At the top, the union's two leaders serve on important board of directors' committees and they had a major impact in the selection of a new company president brought in from the outside. A number of task forces have been created to deal with problems of shipping, inspection, and manufacturing. In each department bulletin boards have been hung on which the area's performance is available for all to see. Groups of workers and supervisors meet weekly to assess progress, solve problems jointly, and plan for upcoming schedules.

Progress in unfreezing the GM tradition has been slow in certain respects, yet a new climate of labor relations at Hyatt is emerging. Of course, there are problems. This worker buyout has been politicized with conflicting expectations. Management attempts to define its prerogatives while the new worker-owners anticipate a more powerful voice in the business. So far the company has saved a thousand jobs, established its own marketing and finance operations, and produced millions of bearings. Only time will tell what the future of Hyatt may be. To effect a genuine change in organizational culture requires a process of evolution.

Workers' Control at Rath Packing Company

Perhaps the largest corporation in the U.S. which is majority owned by its workers is Rath Packing in Waterloo, Iowa. After years of economic erosion, layoffs, and aging technology, the company's hog-slaughter and processing business was on the verge of bankruptcy.

Instead of further concessions with no assurance anything would improve, the leaders of Local 46, UFCW, proposed that the union would be willing to provide the company with much-needed capital by purchasing a controlling interest in the firm.[6] In a plan ratified by a 20-to-1 margin in 1980, the workers agreed to begin having $20 deducted from their weekly paychecks in exchange for 1.8 million new shares of stock to be issued by Rath. A trust of five workers was elected to administer the new plan on the egalitarian principle of one person, one vote. The union was able to appoint 11 new seats on the board of directors, giving them control of major policy issues and power to subsequently replace the firm's president.

[6] Warner Woodworth, "Workers as Bosses," *Social Policy* 11 (January-February 1981), pp. 40–45.

Community civic leaders worked with company and union officials in securing an Economic Development Administration (EDA) grant and a Housing and Urban Development (HUD) loan which totaled over $7 million to ease Rath's cash-flow problems and purchase more modern equipment. Within the plant, a top Labor/Management Steering Committee of equal representation from both sides began to be engaged in cooperative decision-making regarding production, quality, and employee relations issues of the business.

Formal control is designed into the Rath ESOP as the workers buy stock through payroll deferrals. This means they do not have ownership merely on paper, but can vote their stock through the worker trust. The trust wields a significant amount of power as it votes 60 percent of the company's stock in the annual stockholders' meeting. The trust sends mandates to the board of directors, it votes on the composition of the board, and it establishes corporate policies. This bottom-up collective power has enabled Rath's worker-owners to force several key managers into retirement, hire a new president, monitor the millions of dollars allocated for capital improvements to ensure that the funds are actually being spent on modernization, and so on.

The negotiating of the buyout at Rath was a tough and complex process. The economic deferrals made by the workers were used to obtain considerable control of the company. The tradeoff looks like the following:[7]

Workers Defer	*Workers Gain*
$20 per week (buys 10 shares of stock)	60 percent of company stock (1.8 million shares)
Half of vacation pay	Five worker trustees vote the stock held in a trust (one person/one vote)
Half of holiday pay	Union appoints 11 of 17 members of the board of directors
Three-day wait for sick pay	Joint union/management steering committee manages the business in a democratic fashion

[7] Christopher Meek and Warner Woodworth, "Employee Ownership and Industrial Relations: The Rath Case," *National Productivity Review* 1 (Spring 1982), pp. 151–63. It should be noted that the deferred benefits are to be repaid to the workers in a profit-sharing plan that gives workers 50 percent of all pretax profits.

Rath represents perhaps the most extensive development in shifting from managerial exploitation to genuine self-determination. Top labor and management leaders initially developed a charter statement of their new philosophy regarding worker rights, job satisfaction, and corporate productivity. The Steering Committee became the mechanism for implementing this new set of participative values. The committee evaluates any relevant issues at the Waterloo facility and sets in motion blue-collar Action Research Teams to solve them. Recent teams have done such things as design and begin a new product line, improve safety, cut absenteeism by half in the hog-kill department, save $200,000 in energy costs through a conservation program, restructure the workflow on the shipping docks, and begin a number of departmental level team projects regarding productivity and quality.

Rath has also institutionalized participation in the long-term future of the company by creating a top union and board level Corporate Planning Committee. This group meets weekly to examine market forecasts, explore new financing sources for capital improvements, and plan scenarios several years into the future.

To be sure, Rath is no utopia. But when compared with other meatpacking communities in the area, Waterloo looks healthy. During 1981–1982 in Iowa alone, the litany of shut-down packers is depressing: Oscar Mayer's slaughterhouse in Davenport, Wilson Foods' pork plant in Des Moines, the Hygrade hog plant, Dubuque Packing Company, and Hormel's slaughter operation in Fort Dodge. Juxtaposed against this picture of five rusting plants and regional economic disintegration, the workers at Rath have gained legal and managerial control over a half-a-billion-dollar business, and put millions into their own pockets in wages.

Conclusion

The challenges of combatting economic dislocation and runaway plants are formidable. Collective bargaining in the face of overwhelming pressures to give concessions is fraught with difficulty. While some observers bemoan the erosion of labor's clout, others see the contemporary negotiations as a step forward. Says UAW Vice President Donald Ephlin, "The job security, worker involvement, and profit-sharing gains we have recently achieved are no less important than the economic gains in previous years."[8]

An alternative option for the labor movement is that of buying one's job. Admittedly many factories will close anyway. And a cautionary note needs to be added to ensure that unions proceed with critical evaluation

[8] A. Verespej, "Labor Concessions: A New Era—Or a Long Fuse?" *Industry Week*, October 4, 1982, pp. 32–38.

of any potential buyout. If the parent company does not possess a degree of social responsibility, if facilities are too run down, if market predictions are too bleak, hard data results of a feasibility study should rule subsequent action. Labor should not become the guardian of "sunset" industries.

However, the forces of fatalism and intimidation can be overcome by an innovative union role. The possibilities include a broad array of mechanisms for achieving industrial democracy. ESOPs which simply become management scams to obtain new financing without any fundamental shift in power can be blocked by an aggressive union buyout which insists on voting rights, board membership, and shop-floor democracy. To maximize the success of such efforts, support by the leadership of the international unions is necessary. And this requires a redefinition of labor itself. The debate over the meaning of this era of concessions will continue well into the future. In the end, an important phenomenon of the times may prove to be the emergence of a new labor-owned sector of the American economy.

XVII. CONTRIBUTED PAPERS LABOR ECONOMICS

Why Women Earn Less Than Men: The Case of Recent College Graduates

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Although sex inequality in earnings has been the subject of much research, our understanding of this inequality remains quite incomplete. The thrust of most empirical studies has been to decompose sex differences in earnings into that portion accounted for by sex differences in productivity-related factors that individuals bring to the labor market, and a residual that presumably represents labor market discrimination—that is, differences in earnings and occupations between men and women with equivalent characteristics. As each new study emerges, the question asked is whether the substantial sex difference in earnings unaccounted for by sex differences in productivity-related factors represents sex discrimination or model misspecifications. Recent researchers have pursued a number of hypotheses, sometimes exploiting unique features of specific data sets, in attempts to answer this question. One tack has been to incorporate more complete and detailed information on labor supply, work experience, and training in empirical models of sex inequality. However, such attempts do not seem to have substantially reduced the size of the unexplained earnings gap. For example, Corcoran and Duncan (1979), exploiting the richness of the Michigan Panel Study of Income Dynamics data, found that even after including in their model improved measures of work experience plus explicit measures of on-the-job training, absenteeism, and self-imposed restrictions on job choice, the major portion of the earnings gap remained unexplained.

Other researchers have tested whether the residual earnings gap could be explained by sex differences in labor market tastes and/or differences in the way that men and women prepare for the labor market. In this vein,

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Angle and Wissman (1981), examined the role of sex differences in college major but concluded that these contributed little to an explanation of the earnings gap. Most recently, Filer (1983) incorporated measures of individual personalities and tastes into an earnings model. However, his results indicated that these factors accounted for only a small portion of the earnings gap among men and women who did not go to college and virtually none of the earnings gap for those who did go to college.

Thus, after many empirical attempts spanning more than a decade, researchers are still unable to account for more than about half of the sex differences in earnings with sex differences in productivity-related factors. For some this is compelling evidence that labor market discrimination is the primary factor producing earnings inequality. Others remain unconvinced, however, believing that some important productivity-related factors have been either omitted or measured imprecisely.

In this paper, we argue and demonstrate that sex differences in preferences or tastes and in preparations for various types of work account for a substantial portion of the earnings gap between males and females who are recent college graduates. A key element of the human capital explanation for the sex differential in earnings is that young women *expect to* spend less time in the labor market than men, presumbably due to child-rearing and family responsibilities, and that this leads to lower human capital investments and, hence, lower earnings. Moreover, this hypothesis is supported by an empirical analysis by Sandell and Shapiro (1980), who found that expectations about future labor force attachment were significantly related to postschool human capital accumulation through work experience. We contend, however, that it is not just expectations about the amount of time one will spend in the labor market that are important, but also expectations and preferences about job content and job rewards (e.g., the relative importance of making money versus working with and helping other people).

Despite their potential importance, labor market preferences for different types of work have only very recently been included in empirical analysis of sex differentials in earnings (and, to our knowledge, preferences measured prior to labor market entry have not been included at all). Perhaps the main reason for the paucity of empirical studies of the role of preferences in explaining sex inequality is the (perceived) lack of data on preferences in data sets otherwise suitable for studying sex inequality. Indeed, Filer (1983) justified his use of a nonprobability sample of the labor market drawn for the personnel records of a management consulting firm on the basis of the availability of such measures. Fortunately, the lack of data on preferences is not as pronounced

as generally believed. In particular, the data to be used in this study, the National Longitudinal Surveys of the High School Class of 1972 (NLS72), contains valuable information on preferences for different types of job rewards and job activities that are potentially relevant for earnings and are dimensions along which males and females are likely to differ.

Young people with different tastes can be expected to prepare themselves for the labor market differently by, for example, choosing different majors in college. Such a presumption is supported by an empirical analysis by Polachek (1978) using the NLS72 data in which it was found that college major was related to expectations and preferences measured in high school concerning labor market commitment and the importance of making money. In addition, sex differences in these preferences seemed to explain a portion of the substantial sex differences in college major. In part, the present study can be viewed as an extension of Polachek's analysis in that we examine the degree to which sex differences in preferences and college major explain differences in earnings between young male and female college graduates.

Data and Analytical Strategy

We performed the analysis with data drawn from the National Longitudinal Studies of the High School Class of 1972 (NLS72) (U.S. Department of Health, Education, and Welfare, 1975). Data were obtained from the first four waves of the surveys, the last of which took place in 1979 when the respondents were approximately 25 years old and out of school for only three years.

The basic analytical strategy is straightforward. We estimated regression equations expressing the natural logarithm of hourly earnings as a function of factors which previous research suggested to be important determinants of earnings and unevenly distributed between the sexes. We included four sets of explanatory variables: (1) labor market experience, (2) family situation, (3) preferences or "tastes" for various types of jobs, and (4) preparations for various types or work. The set of labor market experience variables includes measures of the number of weeks worked in the last year, the number of hours worked in the last year, and the total number of hours worked in the previous three years (1976 to 1979). Since very few members of the high school class of 1972 would have completed college before 1976, the measure will capture nearly all of the postschool work experience for most respondents. Family situation was measured by a marital status variable indicating whether or not the respondent was married with her/his spouse present, and a variable indicating the number of children.

Labor market preparation variables included the highest degree

completed (0–bachelor's, 1–master's, 2–Ph.D. or professional), and a set of dummy variables measuring major field of study.

Finally, preferences for various types of work were measured by the responses to questions asked of the respondents during their senior year in high school about the importance of five dimensions of job rewards or work content: (1) making a lot of money, (2) opportunities to be original and creative, (3) opportunities to be helpful to others or useful to society, (4) the chance to be a leader, and (5) opportunities to work with people rather than things. For each of these dimensions, a score of two indicated the respondent felt that the dimension was very important in selecting a job or career, a score of one indicated that it was somewhat important, and a score of zero indicated that it was not important.

Separate equations were estimated for men and women. To assess the degree to which earnings differences are due to factors outside of the labor market, we performed standard decompositions to partition the earnings gap into (1) that portion accounted for by sex differences in characteristics—the explanatory variables enumerated above, and (2) that portion accounted for by sex differences in the coefficients—that is, in the way in which the labor market rewards these characteristics.

Results

The mean scores for men and women in our sample of college graduates on all variables included in the analysis are shown in Table 1. These results indicate that the gap in average hourly earnings between male and female recent college graduates was about 14 percent in 1979. This sex difference in earnings is substantially less than that found in many other studies when all workers together are considered, and reflects the lower levels of sex inequality among young adults and among college graduates. Of course, age-earnings profiles for men and women suggest that sex inequality will increase for this cohort as they become older, at least to the extent that past experiences for earlier cohorts and time periods are indicative of the future.

Very small sex differences in labor market experience exist in our sample. Women in this sample accumulated only 6 percent fewer hours of work over the previous three years, on average, and during the year immediately preceding the measurement of earnings, worked only 2 percent fewer weeks and 6 percent fewer hours per week than men. The small size of these differences relative to older cohorts may be partly due to the trend toward greater labor force participation by more recent cohorts. It may also be due to a sort of sample selection phenomenon. Of the women in this cohort who will eventually display intermittent labor force participation, many have either not yet experienced their first

interruption or are in their first interruption and are thus excluded from the analysis.

TABLE 1

Mean Values and Regression Coefficients for All Variables in Model of Log Hourly Earnings

Variables in Analysis	Mean Values			Regression Coefficients	
	Men	Women	Dif.	Men	Women
Log hourly earnings	1.83	1.70	.13**	—	—
Total work exp. (1000 hrs)	5.044	4.734	.310**	.0296**	.0091
Weeks worked last	45.1	44.0	1.2**	.00189*	.00399**
Hours/week last year	41.6	38.9	2.7**	−.00455*	−.00444**
Married spouse present	.44	.44	.00	.0753**	.0125
Children	.16	.12	.04**	−.0025	−.0151
Highest degree	0.19	0.16	.03**	.0613**	.1445**
Major field of study					
Business	.26	.13	.13**	.104**	.159**
Computer science	.02	.02	.00	.168**	.060
Education	.09	.27	−.18**	−.068	−.043
Engineering	.10	.01	.09**	.289**	.166
Humanities	.07	.11	−.04**	.002	−.088**
Health or biology	.05	.14	−.09**	−.012	.178**
Science or math	.03	.02	.01**	.130**	.208**
Social science	.11	.11	.00	−.002	−.026
Professional	.13	.07	.06**	.038	.120**
Other	.13	.11	.02*	—	—
Career Preferences					
Make a lot of money	1.08	0.89	.19**	.0233	.0235
Be creative	1.28	1.36	−.08**	−.0126	.0067
Help others, society	1.40	1.70	−.30**	−.0199	.0032
Be a leader	0.94	0.71	.23**	.0470**	.0343**
Work with people	1.21	1.62	−.41**	−.0266*	.0098
Const.				1.683**	1.515**
N	1482	1353			
R^2				.10	.10

* Statistically significant at the 5% level.
** Statistically significant at the 1% level.

Although the men and women in this sample acquired fairly similar levels of schooling, there were substantial differences between them in their "tastes" and preferences for various types of work and, in turn, their preparation for the labor market during college. Consistent with their familial role as income provider, men are more likely to feel that making a lot of money is important in selecting a job or career. Consistent with societal expectations that men be assertive and dominant, they are more likely to feel that it is important to choose a job or career that provides an opportunity to be a leader. And consistent with societal expectations that women be sensitive to the needs of others and fill nurturant roles, they are more likely to feel that opportunities to be helpful to others or society and

opportunities to work with people rather than things are important in selecting a job or career.

Analogously, and partly as a result of these sex differences in tastes for different types of jobs, these women and men tended to prepare themselves differently for the world of work by choosing quite different fields of study in college. Consistent with societal expectations that women fill nurturant roles, recent female college graduates were much more likely than men to major in health-related fields or education. Similarly, and consistent with societal expectations that they fill instrumental roles, recent male college graduates were much more likely than women to major in business, engineering, or the professions. In addition, we also find evidence of the traditional tendency for men to be more likely to major in science or math and women to major in humanities.

Of course, in considering these sex differences, it should be remembered that there is substantial within-sex variation and a substantial overlap between the distributions for men and women for each of these characteristics. Nevertheless, it is important to observe that even in this relatively recent cohort of college-educated individuals, we find evidence of a significant degree of traditional sex role socialization and differentiation with respect to labor market preparation and preferences.

Table 1 also contains the results of the regression analysis in which the logarithim of hourly earnings was regressed on the explanatory variables. The model explains 10 percent of the variations in earnings for both men and women. At first glance, this value may seem quite low; however, we believe it to be reasonable given the very restricted variation in the sample in terms of education and experience, the two most important predictors in most earnings models. Interestingly, for this sample, the major field of study and career preference variables explain a higher proportion of the variation in earnings for both men and women than the set of variables measuring work experience, quantity of education, and family situation. Of course, this does not mean that these traditional variables have insubstantial effects on earnings. Indeed, the regression coefficients indicate, in general, that the men and women in our sample with higher levels of education and experience have significantly higher earnings.

The results indicate that the payoffs to traditionally male majors like engineering and business are greater than the payoffs to traditionally female majors like education. Noteworthy exceptions to this pattern exist, however, such as the substantial payoff to health or biology for women.

Similarly, the labor market seems to provide positive economic rewards to both men and women who choose the traditional male objectives of being a leader or making a lot of money, although the effect

of this second objective is not significant. On the other hand, preferences for traditionally female objectives like working with people or helping others are not rewarded. Indeed, the adoption of these goals by men appears to imply an economic disadvantage. This leads to difficult questions about the reason for the greater payoff to traditionally male objectives. Is it because (1) instrumental and leadership roles are more valuable to the organization because they are more critically related to organizational success, or (2) historically, male employers have shaped the nature of labor market processes and, explicitly or implicitly, have placed an artificially high value on traditionally male objectives and behavior?

Following Corcoran and Duncan (1979), Filer (1983) and others, we performed a standard decomposition analysis to partition the earnings gap into (1) the portion due to sex differences in work experience and productivity-related characteristics developed outside of the labor market, and (2) the portion due to sex differences in the returns of these characteristics (Table 2). The results indicate that 70 percent of the earnings gap can be accounted for by mean differences between men and women in the characteristics included in the model. Or put another way, if labor market processes were sex neutral (in the sense that both men and women were rewarded according to the male regression equation), but sex differences in productivity-related characteristics remained the same, then the hourly earnings of women would rise 3.8 percent or 30 percent of the total earnings gap.

Table 2 also shows the results from a further decomposition of the earnings gap into sex differences in (1) the means for each set of work experience or productivity-related characteristics and (2) each set of regression coefficients. Not surprisingly, the small sex differences in work

TABLE 2

Decomposition of Male-Female Earnings Differential for Young College Graduates

	Portion (percentage) Accounted for by Sex Differences in:	
Characteristic	Means	Coefficients
Work experience	−.001 (−1)	.000 (0)
Family situation	−.001 (−1)	.029 (22)
Level of highest degree	.001 (1)	−.013 (−10)
Preferences	.033 (26)	−.115 (−89)
College major	.059 (46)	−.031 (−24)
Constant	—	.168 (130)
Subtotal	.091 (71)	.038 (29)
Total	.129 (100)	

experience noted earlier account for virtually none of the sex difference in hourly earnings. Clearly, this is largely due to the youthfulness of the members of the sample, although a larger portion of the earnings gap may have been explained had we been able to include a more complete array of labor market attachment variables.

Sex differences in college major account for almost half of the earnings gap. Moreover, when the effects of these differences are combined with the effects of differences in preferences, 70 percent of the earnings gap can be explained. The power of these variables and this model to explain the earnings differential between men and women stands in rather sharp contrast to the conclusions of previous studies, two of which included factors similar to some of the ones included here. Angle and Wissman (1981) used data for young men and women from the National Longitudinal Surveys to examine the impact of college major on earnings differences and concluded that they had little effect. However, this conclusion was based upon a misinterpretation of the interaction terms in their regression model that allow the effects of gender to vary by level of education and major. When these interactions are interpreted correctly, the results suggest that college major accounts for about one-quarter of the sex difference in earnings among young college graduates.

More difficult to reconcile, perhaps, are these results with those of Filer (1983). While we found that sex differences in preferences for different dimensions of job rewards and job content accounted for about one-third of the earnings gap among college graduates, Filer found that they had virtually no effect among college graduates. However, several differences exist between the two studies that may help explain the difference in results. First, the members in the sample used in this study are concentrated around 25 years of age whereas the members of Filer's sample vary in age. Second, the NLS72 is a probability sample representative of the nation, while Filer's sample represents employees of clients of a management consulting firm. Third, tastes were measured when the respondent was a senior in high school in the NLS72; in Filer's study they were measured at a later point in the life cycle, presumably while the employee or applicant was being evaluated. Although it is not entirely clear what effect this difference would have on the size of the explained differential, our measures have greater conceptual appeal in that they are more likely to be shaped by nonlabor-market institutions such as the family, schools, the media, and religious institutions and not influenced by the labor market experiences of the respondent (although they may have been influenced by accurate perceptions of past labor market discrimination). Fourth, Filer includes one-digit occupation and industry as ex-

planatory variables in his analysis, while we do not. Tastes can influence earnings both by leading individuals to choose different occupations and by leading them to behave differently within occupations. While our analysis captures both these effects, Filer's captures only the latter.

The results in Table 2 also indicate that 22 percent of the earnings differential between the men and women in our sample is accounted for by sex differences in the coefficients for the family situation variables. Similar to several previous studies we find the effects of marriage on earnings to be positive for men and negligible for women (Table 1). Somewhat surprisingly, we find the effects of children to be close to zero for both men and women, although the effects are slightly but insignificantly more negative for women. An important question is: What does the difference in the effect of marriage mean? It could mean that married women are confronted with greater discrimination in the labor market than single women. However, to the extent that discrimination results from stereotypes held by employers, it seems more reasonable to assume that such stereotypes are held not just about married women, but about women in general. As Rosenfeld (1980:588) observes "if a woman is married she may be seen as unstable and lacking labor force commitment; if she is not married (or married and has no children) she may be seen as unstable because she will get married and will have children." It seems more plausible that the sex difference in the effects of marriage are primarily due to the traditionally sex-based division of labor within the family in which husbands tend to concentrate more on income-producing activities and wives concentrate more on nonlabor-market family responsibilities. Impressionistic observation and empirical research suggest that the extent of this sex-based division of labor is pronounced. For example, the results of Berk and Berk's (1978) study of the division of household labor indicate that even in a household where the wife is employed in a professional occupation, the wife did almost three times as much of the housework as the husband. This sex-based division of labor can also be expected to influence the workings of the marriage market leading to a consistency between the qualities that make a man attractive to an employer and a potential spouse, and if not an incompatibility, at least a greater independence between the qualities that make a woman attractive to an employer and a potential spouse.

Conclusions

These results support the hypothesis derived from human capital theory that sex differences in work expectations are an important factor in understanding sex differences in earnings. However, these results also

show that this hypothesis needs to be expanded from a traditional focus on sex differences in expectations about the amount of time to be spent in the labor market to a broader consideration of sex differences in tastes for job rewards and job content. The pattern of job preferences found in these data suggest a tendency for young men and women to aspire to occupational roles that are consistent with societal expectations concerning the appropriate role for men and women in the family and in social relations in general. In addition, these results suggest that partly because of these differences in tastes, young men and women prepare themselves differently for the world of work by, for example, choosing quite different fields of study in college. Most importantly, we find that these sex differences in tastes and labor market preparation have a profound effect on the sex differential in earnings. Indeed, these differences can account for 70 percent of the sex difference in hourly earnings in our sample of young college graduates. And if the sex difference in the effects of family situation on earnings is a function of the traditional division of labor in the household where the husband bears the major responsibility for producing income and the wife bears the major share of the household responsibilities and not a function of different levels of labor market discrimination against single and married women, then less than 10 percent of earnings is left unexplained and hence attributable to labor market discrimination.

These results underscore the fact that the elimination of labor market discrimination would not lead to sexual equality in earnings, at least for recent college graduates, unless accompanied by greater similarities between men and women in their preferences and preparation for the labor market. It should be noted, however, that sex differences in labor market preferences and preparations such as those documented here most likely result in part from an accurate perception by women of past labor market discrimination. Thus, to the extent that labor market discrimination is eliminated, one probable cause of sex differences in preferencces would also be eliminated.

The power of sex differences in preferences and preparations in explaining sex differences in earnings early in the career raises a number of important questions for future research. To what degree do the effects of these differences persist over the life cycle? To what degree do these differences help explain sex differences in labor market attachment or intermittency? And, to what degree do these differences in preferences and preparation contribute to differential occupational assignments in which men are more likely to obtain jobs with more valuable on-the-job training and, hence, greater returns to work experience?

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The Mismatch Hypothesis and Internal Labor Markets: A Study of White-Collar Employment

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One of the most persistent explanations for the high unemployment rates of inner city—often minority—residents is an alleged mismatch between their education and skills and the requirements of downtown jobs. The argument runs as follows: The suburbanization of jobs has been accompanied by the suburbanization of people, and hence the ratio of central city jobs to residents has not deteriorated. However, the jobs which remain downtown are increasingly white-collar and highly skilled. Residents are not qualified for these positions and, hence, a skill mismatch exists.[1]

This view is plausible. It resonates well with intuitions about the skill content of office jobs and the educational deficiencies of inner city school systems and their products. However, the mismatch theory has not been subjected to a careful test. The reason is not hard to find: reliable data on the actual skill content of downtown jobs are not available, nor are data on hiring criteria, training procedures, and other related issues. Thus, research on the topic has been inferential. For example, one recent study examines the spatial distribution of Census occupational codes.[2] This is useful, but the results are weakened by the enormous heterogeneity within even three-digit categories.

It is unfortunate that the mismatch hypothesis has not been carefully tested since it has significant implications both for employment and training policy and for understanding the dynamics of white-collar

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[1] The history of this debate is quite long. For early arguments representing advocates and skeptics, see John Kain, "Housing Segregation, Negro Employment, and Metropolitan Decentralization: An Alternative Perspective," *Quarterly Journal of Economics* 72 (May 1968), pp. 175–97, and Bennett Harrison, *Ghetto Economic Development* (Washington: Urban Institute, 1974).

[2] Brian J. O'Connell, *Blacks in White Collar Jobs* (Montclair, N.J.: Allenheld Osmun, 1979), pp. 45–51.

employment. Clearly, if the mismatch argument is correct, employment policy is best directed toward education and training efforts. On the other hand, if the argument is not upheld, then other strategies might be implemented.

As part of a larger project on white-collar internal labor markets,[3] we collected information on skill requirements in three categories of white-collar jobs: first and second level managers, computer programmers, and clerical workers. This paper employs these data to provide an evaluation of the mismatch hypothesis. We conclude that as a first approximation the hypothesis is supported, but that a more careful examination of the evidence suggests that the education barriers are somewhat arbitrary and of diminishing importance in terms of actual job requirements.

The Data

The data upon which this paper is based were generated through intensive interviews with 12 major white-collar employers in Boston. The industrial distribution of these firms was broadly representative of downtown employers.[4] For each firm we administered, over the course of at least four visits, a lengthy and detailed questionnaire. In addition, we conducted a series of open-ended sessions. The questionnaire collected data on aspects of the internal labor markets of the three occupations, such as the shape of job ladders and wage determination. For our purposes here the important point is that extensive data were also collected on hiring criteria, skill levels, and training.

The strength of these data—and what differentiates this study from others on the same topic—is the attempt to measure education and skill requirements directly with interviews with employers. A second strength is that the evidence on skill requirements can be interpreted in the context of knowledge of the characteristics of the firm's internal labor market and personnel policies. This is important because it will enable us to understand the relationship between skill levels and other personnel practices. Of course, the price for this concreteness and detail—and indeed what makes it possible—is the limited sample size. For this reason the findings, rich as they may be, must still be treated with caution and subjected to additional tests.

[3] Additional results are reported in Paul Osterman, "Employment Structures Within Firms," *British Journal of Industrial Relations* (Nov.-Dec. 1982), and Paul Osterman, ed., *Internal Labor Markets* (Cambridge, Mass.: MIT Press, forthcoming).

[4] Four firms were insurance companies, four were banks, two were utilities, and two were manufacturing. The average number of employees of the companies interviewed was 22,758 and the average number at the sites where the interviews took place was 3623. Information was collected only for Boston area employment and, hence, all data refer to firms operating in the same labor market.

TABLE 1
Characteristics of White-Collar Occupations

	Low Level Managerial	Programming	Clerical
Importance of high school degree[a]	1.1	1.4	2.5
Importance of some college[a]	2.1	2.5	4.1
Importance of college degree[a]	2.5	3.0	4.2
Importance of previous similar experience[a]	2.0	2.2	3.1
Importance of vocational training[a]	3.8	2.6	3.4
Months required to achieve average proficiency at entry job	14.4	8.8	5.1
Minimum education required for successful training[b]	3.6	3.4	1.5
Costliness of turnover[c]	1.9	1.6	2.6
Skill specificity[d]	2.2	2.8	2.9
Relative importance of personality[e]	2.2	2.3	2.2

[a] Firms were asked to rank these hiring criteria on a scale of 1 to 5, with 1 indicating absolutely essential and 5 completely irrelevant.

[b] The scores were: 1 = less than a high school degree, 2 = a high school degree, 3 = community college, 4 = some four-year college, 5 = college degree.

[c] The variable was scored from 1 to 4, with 1 being very costly and 4 not at all costly.

[d] Firms were asked a series of 14 questions to which they responded "always true," "usually true," "usually false," and "always false." Two of these questions were: "If you can do the job at one company, then you can quickly perform as well at another," and "Although skills may seem similar, each company's procedures are so different that movement among them involves substantial retooling." The replies were coded so that 1 indicated high firm specificity and 4 was no specificity.

[e] This scale also results from some of the multiple choice questions described in fn. c. The questions were: "Personality and manner are as important as skills in this job," and "If a person gets along well with his fellow workers, then he is well on the road to being successful at this job."

In the next section of the paper the basic findings are presented for the entire sample of firms. Following this we examine a group of firms at the two extremes: those whose educational requirements are unusually high and those which are low. The final section briefly takes up the results of the open-ended interviews.

The Basic Findings

Table 1 presents the basic results on the education and skill requirements for each of the three occupations. The notes accompanying the table explain how the results were derived. It is essential to understand that these findings with respect to education and skill requirements refer to the *entry* job of the ladders. Hence we are not measuring average requirements for the occupation as a whole, but rather requirements to be hired at the bottom of the ladder. This distinction is important both because considerable on-the-job training and education occurs and because some individuals are mobile at higher levels across firms.

First, as is hardly surprising, there is considerable variation across occupations. In particular, the level of education required and the length of time it takes to become proficient in the entry job show clerical work to lie at the low end of the skill hierarchy while computer programming and managing are more demanding.

It is difficult to reach a firm conclusion concerning the mismatch hypothesis. In part, of course, this results from the absence of a standard against which to judge it: How high must educational barriers be before we can declare a mismatch?[5] In addition, the data are mixed. Clearly, clerical jobs do not seem to have steep requirements. A high school degree is important, though not essential, and the typical new entrant can learn the job in five months. The minimum level of education required to successfully train an applicant is less than high school.

The situation is different for low level managers and computer programmers. Some college is required for these workers, both in practice to get hired and in principle for training. Furthermore, it takes nearly nine months to achieve entry level proficiency for programmer and 14 for managers. For both occupations, previous similar experience is helpful, though not essential, but vocational training is not very important. Clearly, then, these are occupations in which education is important and the level required may well pose barriers for inner city residents.

In order to probe somewhat more deeply into the nature of the skills, we devised a series of questions aimed at two issues: the extent to which skills are firm-specific and the relative importance of personality versus skills in job success. The degree to which skills are firm-specific, as opposed to general and, hence, applicable to a wide range of firms, is important in determining the amount of mobility which is possible and the social efficiency of alternative mechanisms for providing training. The personality issue is important because it is sometimes asserted that white-collar occupations place a premium on getting along well with co-workers and that social distance creates a mismatch between inner city residents and potential white-collar co-workers. Neither of these topics has been previously addressed.

Data on these issues are presented in the last two lines of Table 1. Before turning to substance, it is apparent that there is considerably more homogeneity across occupations in these skill characteristics than there was in the case of skill level. Evidently these are general characteristics of white-collar skills which remain constant across skill levels. With respect to substance, it is clear that these occupations are not characterized by very firm-specific skills. Evidently the skills are easily transferable from

[5] This points to the need for comparable data on the supply characteristics of the inner city labor force, but that is beyond the scope of this paper.

one firm to another. As we would expect, managers' skills are somewhat less transferable than others, but even here the degree of specificity is not extensive. This ease of movement has a variety of implications for the structure of internal labor markets (these ladders are relatively open to the outside), but for present purposes it demonstrates that these skills may be learned in a variety of settings (for example, training programs) and effectively transferred to firms.

The evidence on personality is mixed. The scores show that skill is relatively more important than personality, though barely so. On the other hand, if one imagines how these scores would stand for most blue-collar employment, it does seem apparent that personality does play a significant role in the white-collar jobs. This suggests that group differences—real or perceived—may act as a significant entry barrier.[6]

To summarize: it would appear that education and skill requirements do pose some barriers for entry rungs of low level managerial and programming ladders, but not clerical ladders. In addition, there is some evidence that social considerations play a role. With these findings in hand, the next question is whether the entry barriers are inevitable or are, rather, subject to discretion. The next section takes up this topic by examining firms which lie at two extremes with respect to entry requirements.

Variations in Entry Requirements

Although the evidence thus far gives at least partial support to the mismatch hypothesis, there is good reason to probe further. First, we would be interested in learning whether a credential effect is at work—that is, whether some firms set educational requirements at high levels for reasons not related to productivity. Second, it is possible that firms can hire less well educated entry workers and find ways to compensate.

In order to probe these issues, we have selected six firms from our sample, three with unusually high educational entry requirements for the three occupations and three whose educational standards are unusually low.[7] We will examine selected occupational and personnel characteristics for these firms.

[6] Rosabeth Moss Kantner has suggested that since communication is a significant task of white-collar employees, firms place a premium on recruiting a homogeneous group of employees so that implicit assumptions and attitudes are widely shared and communication errors consequently minimized. See her *Men and Women of the Corporation* (New York: Basic Books, 1979).

[7] We selected three firms whose educational requirements, when averaged for the three occupations, were the highest (or lowest). To give a sense of spread, for managers the score on whether a college degree was required was 2.0 for the highest education group and 4.3 for the lowest.

TABLE 2

Characteristics of White-Collar Occupations for Firms with High and Low Educational Entry Requirements

	Managerial		Computer		Clerical	
	High Education	Low Education	High Education	Low Education	High Education	Low Education
Annual turnover rate	.12	.09	.16	.21	.26	.26
Entry compensation	$15,700	$17,720	$19,533	$15,793	$8,961	$8,198
Previous similar experience required[a]	2.0	1.0	1.6	4.0	3.0	4.3
Months required for average proficiency at entry job	14.0	17.0	7.5	9.3	4.6	3.6
Costliness of turnover[b]	1.5	1.6	1.0	1.6	2.5	2.6
Skill specificity[c]	2.6	2.5	2.6	3.0	2.8	3.2
Relative importance of personality[d]	2.1	2.3	2.5	2.3	2.3	2.6
Routine[e]	2.5	3.0	2.4	2.4	2.3	2.1

[a] See fn. a, Table 1. [b] See fn. c, Table 1. [c] See fn. d, Table 1. [d] See fn. e, Table 1.

[e] This variable is constructed from some of the multiple choice questions described in notes to Table 1. The questions were: "Most jobs have something new happening every day," "The same step must be followed in processing every piece of work," "People do much the same job in the same way every day," "When a person finishes a piece of work, it always goes to the next person," and "Whenever a problem arises, employees are supposed to go to the same person for an answer." The scale ranges from 1 (very routine) to 4 (little routine).

Table 2 presents characteristics of high- and low-education firms for each of the three occupations. We are searching for evidence of systematic differences across the two groups of firms. That is, we want to know whether the low-education firms share common characteristics and can be differentiated from the high-education group. We determine this by asking whether, for each variable, there is some systematic pattern of responses across occupations which distinguishes the two education groups.

The first question might be the implicit trade-offs that result from the firms' entry hiring strategy. These results suggest two such trade-offs. In two of the three occupations, entry salaries are lower for the less well educated group. In addition, in two of the three somewhat more job training (in the sense of time required for proficiency) is required by the low-education group.

Beyond these points one is struck by the similarity of the two groups of firms. There is no systematic relationship among turnover rates and the educational requirements, nor are there any systematic differences in the firms' evaluation of the costliness of turnover. There is no relationship between skill requirements and education level of the firm, nor does a measure of working conditions and of job responsibility—the routineness of the work—show any systematic variation.

The absence of significant substantive differences in the nature of the work combined with evidence of differences in compensation and training suggest that the structure of the firms' internal labor market distinguishes the two groups of firms. In particular, the results suggest that the amount of internal training is the key difference. We would expect that firms which engage in considerable internal training probably have a greater commitment to internal promotion than do other firms. We can test this by examining how open each of the ladders is to entry from elsewhere within the company.

Table 3 shows the frequency with which companies indicated that it was "common" or "very common" for employees to move to the top, middle, and entry levels in the job ladder from elsewhere in the firm.[8] There are clear differences across occupations, with programming—the most technical area— least accessible at the upper levels. The key finding, however, is the generally greater internal openness of the low-education firms. In the case of managers and programmers this is unambiguous, with the result less clear for clericals. On balance, however, it is apparent

[8] For each occupation we constructed a job ladder by having the respondent identify the entry job, the highest job, and the middle job in the ladder. We then asked a series of questions about each of these jobs, including how common it is to enter the job directly from elsewhere (i.e., another ladder) in the company.

TABLE 3

Openness of Internal Labor Markets to Mobility within Firms for Firms with High and Low Education Entry Requirements

	Managerial		Programming		Clerical	
	High Education	Low Education	High Education	Low Education	High Education	Low Education
Top Job in Ladder Percent of firms in which it is very common or common to enter this job from another ladder in the company	0%	66%	0%	0%	33%	33%
Middle Job in Ladder Percent of firms in which it is very common or common to enter this job from another ladder in the company	0%	33%	0%	0%	100%	33%
Entry Job in Ladder Percent of firms in which it is very common or common to enter this job from another ladder in the company	50%	66%	33%	66%	0%	33%

that the firms with the lowest education barriers have more extensive internal mobility and promotion.

The open-ended interviews provide some additional support for this interpretation. We asked firms to describe all of their in-house training efforts for each of the three jobs. None of the high-education firms offered programming training for people outside the computer ladder, while all of the low-education firms did. Two of the low-education firms offered formal seminars and training programs for new managers, while only one of the high-education firms did. On the other hand, the clerical training efforts were essentially the same across the two groups.

The thrust of these findings is that high- and low-education firms do not seem to differ in the nature of the work they offer, nor do they seem to experience differential turnover or firm attachment. Rather, it would appear that the low-education firms require and provide more extensive on-the-job training and they facilitate that training and enlarge their pool of internal candidates by structuring their internal labor market to be more open to movement across job ladders. The price they exact for the provision of training is a lower entry salary.

This finding suggests that, at least in part, the mismatch is actually a choice variable. There are, should firms choose to take them up, internal training strategies for avoiding it—strategies which seem economically feasible. Why different firms make different choices is beyond the scope of this paper, but it is worth noting in passing that company culture and belief systems stood out in our interviews as a significant consideration.[9]

Trends in Skill Content

In our open-ended interviews we sought to gather evidence on likely changes in the skill content of the three occupations. This would provide some clues as to whether the mismatch will ease or worsen in the near future. What evidence we were able to gather is, it should be emphasized, at best anecdotal and suggestive. We will discuss programming and clerical work since there was no evidence of significant shifts in the nature of the low level managerial occupations.

It would appear that the skill content of the most technical of the three occupations—programming—is likely to diminish. This is happening in response to the recent shortages of programmers and the volatile wage movements. Firms are seeking to diminish their reliance on the external

[9] Companies clearly varied in how committed they were to inside promotion, to training, to rewards for seniority, and to a variety of other "philosophical" issues. There appeared to be considerable variation among firms in the same product market and the same labor market. These variations can best be attributed to company culture. We also observed instances of companies actively attempting to modify or change their culture. The origins of these "cultural" differences is a fascinating but speculative topic.

market by establishing in-house training programs for employees. The employees, drawn from other ladders, are trained in company-specific programming procedures with an emphasis on routine maintenance programming as opposed to developing new systems. Hence, the skills are both more firm-specific than normal and truncated. The consequence is that the entry barriers to the profession are lowered.

Clerical occupations posed the least mismatch difficulties in the analysis developed above. The future of these occupations is, however, surprisingly cloudy. The major uncertainty lies with the impact of the electronic "office of the future" technologies. On the one hand, there is the sense that the skill content of some clerical occupations will be reduced with the introduction of large-scale mass-production word-processing operations. On the other hand, the further elimination of some menial filing and paper-handling work combined with the greater complexity of a CRT versus a typewriter argue for an opposite effect. Thus far only two conclusions seem warranted. First, large-scale introduction of the "office of the future" is not nearly as imminent as popular discussion would suggest. Only one of our firms had anything more than a small-scale experimental effort under way. Second, it would appear from these experiments that there are alternative configurations of the same technology and, hence, that the impact upon skill content is again a choice variable.

Conclusion

The possibility of a mismatch between the skill requirements of downtown white-collar jobs and the ability of residents has long been cited as a potentially significant cause of unemployment. Adequate testing of this hypothesis has proved difficult because no evidence on the level of skills required has been available. This paper employs a unique data set, based on detailed interviews with firms, to address the topic. The conclusion is twofold. First, skill and education requirements do seem on average sufficiently high to pose a potential barrier. Second, however, this conclusion is modified when we examine firms at the two extremes of entry requirements. It would appear that what distinguishes these sets of firms is not so much the nature of the work, but rather the structure of the internal labor market and the commitment to on-the-job training. This, in turn, suggests that the mismatch is not inevitable and that public training as well as efforts to induce private firms to experiment with more flexible entry requirements may succeed.

A secondary contribution of this paper is that it provides some of the first qualitative evidence on the nature of white-collar internal labor

markets. It would appear that the three occupations share some common characteristics. Several suggestive points—such as the general nature of skills, the relative openness of the ladders, and the importance of personality—have emerged. However, on these points as well as the findings concerning mismatch, the limitations of the sample must be kept in mind. Further research is needed, but I hope that this paper has, at the minimum, demonstrated the fruitfulness of our perspective and research technique.

Product Markets, Establishment Size, and Wage Determination

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Postwar institutional labor economists stressed the critical influence of industry structure and employer characteristics in labor market outcomes. Later, human capital theory and the availability of microdata on individuals led to an emphasis on worker characteristics as determinants of labor market outcomes. Research on union wage determination epitomizes this development. Early research focused on the union impact on the interindustry wage structure; partly because of data limitations, union coverage and industry wages were the variables of interest. Research from the mid-1960s until recently mainly estimated the effects on wages of an individual's being a union member (or being covered by a labor agreement) and ignored industry characteristics, even the extent of union membership or collective bargaining.

In recent years, however, economists have paid more attention to the role of employer and/or product market characteristics and to the importance of the worker-firm attachment. This trend is evident in the union wage determination literature [Ehrenberg, Freeman and Medoff, Geroski et al., Mellow, Weiss and Mishel].[1] A parallel trend is found among sociologists who examine labor market outcomes [Kallenberg et al., Stolzenberg, Sorensen and Kalleberg].

This paper examines the role of product market and employer characteristics, that is, industry structure, in both union and nonunion wage determination. It posits and estimates the effects of industry structure on hourly compensation and then examines the problems and prospects of incorporating industry structure into wage determination models.

Some Institutionalist Wage Determination Themes

It is worthwhile recalling the institutional labor economists' analysis of the role of trade unions and industry structure in wage determination. Three themes can be identified in this early research.

Theme One: There is a labor market structure composed of different types of labor markets (external/internal, institutional/

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[1] Page limitations did not permit inclusion of the bibliography. It is available from the author.

> structureless, primary/secondary, etc.). "Structure" implies that the forces governing outcomes in the various markets differ. These outcomes are interrelated, but less so than competitive theory presumes. Within this framework there is latitude for sustained union wage effects and employer wage policies.[2]

According to Ross [p.174], for example; "Broad outlines are governed by market forces but the range of administrative latitude permitting alternative choices is considerable."

> *Theme Two*: The impact of unionism should be examined as it interacts with the particular economic environment within which it operates.

Garbarino and Ross and Goldner reached this conclusion in concurrent pioneering articles on the interindustry wage structure. The latter authors [p. 281] were clear on this point. "our own belief is that unionization is a source of wage advantage, which operates most effectively under facilitating environmental circumstances," they said. "Under conditions which have recently prevailed in the United States, unionization has thus been a necessary but not sufficient condition for larger-than-average increases in earnings." Levinson [pp. 264–65] reminds us that in the earlier studies union coverage "was considered to be the 'initiating' power variable, but with its degree of success facilitated by favorable product-market characteristics."

> *Theme Three*: The structure of the product market is an important determinant in wage determination and labor market outcomes generally. This may be seen as a more particular statement of Theme Two.

For instance, to Reynolds [p. 216], "Differences in industrial structure are fundamental to an understanding of inter-industry wage differentials. . . ." And Hildebrand [p. 296] says that if "we are to account for diversity and selectivity in the behavior of internal wage structures," that is, in differentials, particular rates, and the average level of rates, "we shall have to pay renewed attention to the role of the product market as an environmental force." As Dunlop [p. 136] puts it, the product market

[2] McNulty [pp. 172–74] points out that the "heart of the institutionalist controversy" is the view that market forces are often "modified, restricted and even replaced by social and other noneconomic elements," and thus market analysis must be *complemented* by the examination of institutional controls as well. Kerr, Ross, and Slichter have asserted that market forces allow for administrative decisions of management and labor. Given this latitude, wage determination studies focused on the units of decision-making—unions, firms, and industries.

"tends to be mirrored in the labor market and to determine the wage structure."

The Role and Measurement of Industry Structure

Economists and sociologists who incorporate product market characteristcs into wage determination models do so by reference to their effect on employer ability to pay in the collective bargaining setting. That is, industry structure defines employer ability to pass on to consumers or otherwise offset union wage gains. This ability may be due to discretionary pricing power, government regulation, or productivity growth. Various dimensions of industry structure are important in wage determination, and it is their measurement that occupies the empirical work that follows. It is customary, as here, to focus on the manufacturing sector because of data limitations.

The industry structure variable most commonly included in wage equations is the four firm concentration ratio. Maintaining a good public image, ensuring a queue of available workers, and passing on productivity increases through wage increases rather than price reductions are reasons given why oligopolists pay higher wages regardless of union action [see Dalton and Ford]. Institutionalist tradition argues that their discretionary pricing power creates a permissive environment for unionism. An equivalent statement is that oligopolistic price collusion implies a less elastic demand for union goods and thus lower employment costs for a given wage gain.

There are theoretical and empirical reasons for expecting a nonlinear relationship between concentration and wages [Geithman, Marvel, and Weiss]. Industrial organization literature indicates that at some critical level of concentration, collusion (explicit or tacit) becomes feasible and, at that point, prices or profit rates or both rise from competitive to monopolistic levels. For this reason, experiments are run with concentration specified linearly as well as qualitatively—a set of two dummy variables representing ranges of concentration (40–59, 60–100). It is expected that high levels of industry concentration are associated with high wages, as distinct from the hypothesis that wages rise with increases in concentration.

Levinson postulates a further role for concentration. In oligopolistic environments, *once unionized*, it is easier for unions to maintain jurisdictional control. It is difficult for nonunion firms to enter concentrated markets customarily characterized by high entry barriers. Measured entry barriers therefore directly reflect union ease of maintaining organizational strength. Barriers to entry are measured qualitatively as low, medium, or high, the last two being entered as dummy variables. Entry barriers have

also been shown to raise profit margins and are associated with a less elastic product demand because there are fewer potential substitutes. It is expected they increase the wages of union workers.

The profitability of a particular industry or in the economy has been included in previous wage equations. This is consistent with a bargaining view of wage determination but can also be integrated into a supply and demand framework. Since profitability is measured by price-cost margins (a measure which approximates the profit per dollar of sales), it is necessary to add the capital-labor ratio as a control variable. This ratio also suggests the labor costs to total costs ratio that is prominent in the Marshallian analysis. Profitability indicates employer ability to pass on labor costs, not a pool of money from which higher wages can be extracted by unions.

Product imports increase competition and lower the employer "ability to pay." As a result, union wage gains are expected to be lower where an industry's import penetration rate (the percentage of domestic consumption that is imported) is high. The recent trend of import competition is also entered as an independent variable. It is measured as the percentage increase of the import penetration rate over the last four years.

Another important determinant of wages is the size of the establishment in which workers are employed. A large establishment may pay higher wages for a variety of reasons: workers receive a differential for a more alienating, regimented, and impersonal workplace; workers have more job-specific training in these (likely to be) developed internal labor markets; production is more efficient due to economies of scale; there are stronger union organizations; or work is done under different (less intensive) monitoring systems. This size effect can be interpreted, in other words, as the result of a compensating differential, a product market characteristic, or an organizational quality. It is measured as a set of dummy variables, one for each of three ranges of employment (250–499, 500–999, 1,000 plus).

Industry structure may also affect nonunion wage determination. Employers with stable and protected market positions may have long planning periods and therefore prefer labor queues and developed internal labor markets which promote worker attachment. Nonunion employers may adopt practices and pay scales corresponding to those of union employers (which they themselves might be in their other plants) especially in industries and among firms where the rate of unionization is high. Yet the effect of industry structure—quite independent of the role of unions—on nonunion wage determination is an underdeveloped area of research. It can be expected, however, that an industry's structural

characteristics will have a different and larger effect on union than on nonunion wages.

Other characteristics of industries may also affect wages in union and nonunion sectors and therefore should be included. An industry's injury and illness rate, measured as the average number of lost workdays due to injury and illness per full-time worker, is included to capture possible compensating differentials for hazardous jobs. An imperfect control for increases in the demand for labor in an industry is also employed—the average annual employment growth rate. The level of union coverage is entered into the union equation to control for the ability of unions to take advantage of "permissive" conditions. In the nonunion equation, the level of union coverage controls for the presence of a union threat or spillover effect.

Empirical Results

Bureau of Labor Statistics Expenditures for Employee Compensation (EEC) surveys for 1968, 1970, and 1972 are used to examine the role of industry structure in wage determination. They provide data on production worker compensation (wages and fringes) for manufacturing establishments. Union status, level of employment, and three-digit Standard Industrial Classification (1967 SIC) are identified for each establishment.

This data base is the most comprehensive and accurate source of information for these variables. But personal characteristics of workers by establishment are unknown. As a result, an establishment workforce is assigned the characteristics (obtained from Current Population Surveys) of other workers of the same industry and union status. Product market characteristics are measured at the four-digit SIC level and weighted up (by employment) to the three-digit level for assignment to establishment observations.[3]

Estimated union and nonunion "wage" equations are presented in Table 1. The dependent variable is the log of average production worker hourly compensation (1972 dollars) in the manufacturing establishment. Regressions are run on the union and nonunion samples separately to allow industry structure effects to vary by sector. A set of variables whose coefficients and standard errors are not shown in Table 1 are included in each equation. These variables control for worker demographics (occupation, sex, race, education, and experience in the establishment's sector), region, and year of survey (dummies for 1970, 1972). Specification (1)

[3] More detailed discussion of the data is in Lawrence Mishel, "The Structural Determinants of Union Bargaining Power," PhD. dissertation, University of Wisconsin-Madison, 1982. James Medoff of Harvard University kindly provided the EEC data to which industry structure variables were added.

TABLE 1

Estimates of the Impact of Industry Structure on (Log) Hourly Compensation

Variable	Coefficients and Standard Errors[a]			
	Union Sample (N = 2659)		Nonunion Sample (N = 1563)	
Concentration (*ACR*)	−.0011** (.0005)		−.0004 (.0007)	
$40 \leq ACR < 60$		.011 (.014)		−.012 (.021)
$60 \leq ACR$		.042* (.022)		−.052 (.044)
Injury rate	−.017 (.022)	−.014 (.022)	−.080** (.034)	−.086** (.034)
K/L ($1000)	.0011** (.0004)	.0013** (.0004)	.0016** (.0007)	.0015** (.0007)
Employment growth	−.0023 (.0029)	−.0023 (.0029)	.0018 (.0034)	.0018 (.0035)
Price-cost margin	−.083 (.078)	−.153** (.076)	.234* (.127)	.227* (.125)
Import penetration (*MPR*)	−.637** (.108)	−.503** (.111)	−.461** (.164)	−.474** (.164)
MPR growth	−.002 (.012)	−.002 (.012)	.044** (.021)	−.041* (.021)
Barriers to entry-medium	.003 (.016)	−.004 (.016)	.009 (.024)	.010 (.024)
Barriers to entry-high	.076** (.020)	.038* (.020)	.062** (.030)	.074** (.032)
Plant Size:				
$250 \leq N < 500$	.042** (.012)	.039** (.012)	.071** (.019)	.070** (.019)
$500 \leq N < 1000$	.012** (.013)	.098** (.013)	.132** (.022)	.130** (.022)
$1000 \leq N$	.169** (.012)	.163** (.012)	.239** (.021)	.238** (.021)
Union coverage	.137** (.030)	.097** (.031)	.076** (.038)	.083** (.038)
Controls[b]	x	x	x	x
R^2	.4141	.4137	.4537	.4541
SEE	.2142	.2143	.2416	.2416

[a] ** and * indicate significant at 5% and 10% levels respectively.
[b] Demographic, regional, and survey year controls are included.

presents a model with a linear concentration ratio, but specification (2) enters concentration as a set of dummy variables representing ranges of concentration.

These estimates support the contention that the product market plays an important role in wage determination.[4] Generally, concentration, import competition, barriers to entry, and profitability, those dimensions of industry structure which reflect employer discretionary pricing power, do have the expected effects in the union sector. Union wages are higher where employers have the ability to pass on labor costs.[5] Another important finding is that industry structure variables have similar effects in the nonunion sector. A key difference, however, is that only in the union sector (see model (2)) are high levels of concentration associated with higher wages.

Plant-size differentials are large in the union sector and even higher (by half) in the nonunion sector. Wages tend to be higher in capital intensive industries, while industry employment growth rates do not have any effect on wages. Compensating differentials for injury-prone jobs are not evident in the union sector, while riskier jobs in the nonunion sector appear to pay lower wages.

Problems and Prospects

A major problem of incorporating industry structure variables in wage determination models is that some of the product market variables are themselves influenced by the level of wages (profits, imports, employment growth, and capital intensity).[6] Experiments which exclude these variables, however, yield similar qualitative results as those presented above. A move towards simultaneous models may be necessary.

Another problem is that the literature on wage determination and industry structure is decidedly empiricist, for example, measuring the effects of concentration on wages. Few resources have been devoted to showing the mechanisms by which product market characteristics affect labor market outcomes. Moreover, industry structure variables have not been integrated into analyses of labor market outcomes other than wage determination, and even these only partially. Most often aggregate

[4] In both the union and nonunion samples a test that the industry variables as a group were not significantly different from zero (at the 1 percent level of confidence) is easily rejected.

[5] The coefficient on the price-cost margin is negative, contrary to expectation in the union sample; however, when variables measuring other dimensions of unionism (bargaining structure, union fragmentation, and competition) are added to the model, the coefficient on the price-cost margin becomes positive and significant (Mishel, [19, pp. 161–64]). Also note that if price-cost margins are excluded from the model, larger estimated effects are obtained for other product market variables.

[6] Selectivity bias may pose an additional problem. With these data, however, there are no variables available that are likely to affect unionization but not wages. Thus it is not possible to identify a selection equation.

industry control variables (two-digit SIC dummy variables) are entered into equations to control for varying work conditions and consequent compensating differentials. This research and others, however, suggest that there are systematic economic relations beyond compensatingdifferentials which create large industry differentials.

The empirical results here and those of other recent studies raise as many questions as they answer. Profitability and employer discretionary power play an as yet unexplained role in wage determination in the nonunion sector. Explanations which associate union power with these characteristics are not sufficient. Second, wage differentials in large union and nonunion establishments appear greater than expected for compensating differentials based on harsh work conditions and need to be explained. Attempts to explain these differentials by claiming unmeasured worker characteristics required in large plants are not sufficient since Mellow and others have shown a large additional independent effect of *firm* size.

One explanation of these results is that discretionary pricing power and employer size are characteristics associated with "career labor markets" which Okun says occur in both union and nonunion markets. Research is needed which can link technological, effort control (monitoring), and product market considerations to the development of these "career labor markets." This will require a direct examination of employer policies and practices. Successful further research must also go beyond the manufacturing sector.

DISCUSSION

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These papers focus attention on the demand side of the labor market and the values and processes which operate within internal labor markets. In particular, they remind us of the limitations of our knowledge of the factors which determine choices made within specific firms regarding the level of skill required for port-of-entry jobs, the responsiveness of the internal labor market to technological change, and the valuation of the work performed by male and female employees.

Osterman employs extensive interviews with personnel practitioners to study directly the internal labor markets of 12 firms to explain the variation in entry-level skill requirements and wages for white-collar occupations. As a result of the methodology employed, Osterman has identified firm-specific trade-offs between the wages paid entry-level workers and subsequent training provided by a firm. Firms requiring higher entry-level skills pay higher entry-level wages, but provide little on-the-job training after hiring and limit internal mobility, while firms requiring lower entry-level skills pay less and subsequently provide more training and greater internal mobility. This trade-off is consistent with human capital theory applied to on-the-job training, but has not been well studied due to the difficulties of collecting the necessary data.

This research suggests a mechanism by which firms can improve their equal employment opportunity (EEO) record while simultaneously remaining competitive: they can modify their trade-off between wages and training provided on-the-job. The skills employees need to perform satisfactorily can be acquired equally well in a variety of situations, but on-the-job training creates greater opportunities for those groups underrepresented in any individual firm's workforce. The research further suggests that urban areas attempting to attract new employers to inner cities can advantageously focus their efforts on those firms which presently have lower entry-level skill requirements and/or who are willing to reduce their skill requirements.

However, before recommending the pursuit of this policy option, two issues must be addressed to determine the general applicability of the findings. First, we need to determine whether and to what extent the findings will vary by industry and occupational group. The high entry

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skills–high wage firms may be restricted to certain industry groups. Furthermore, different trade-offs may be made for white-collar workers in manufacturing or for blue-collar workers in any sector of the economy. Second, more research is needed to determine how a firm develops its specific trade-off pattern and the degree to which the trade-off represents a choice reflecting the company culture and/or rules of thumb employed by personnel practitioners.

Mishel analyzes the effects of a variety of product market and employer characteristics on union and nonunion wages and shows that these industry structure variables are important explanatory variables. However, no variable is included to measure the effects on wages of the rapid technological changes being experienced by some industries. The importance of this omission can be illustrated with reference to the automobile industry which is currently experiencing major labor market adjustments as a result of technological advances. The development of the world car and the expansion of multinational and multi-industry operations, combined with the rapid introduction of industrial robots, will affect employment, wages, and the internal labor markets of these firms. The replacement of workers with industrial robots has had particularly disruptive effects on the labor markets in the midwestern states which are so heavily dependent upon the automobile industry for employment, but relatively little attention has been devoted to analyzing the effects on the internal labor markets of the firms. For example, the Michigan Employment Security Commission has estimated that about 150,000 jobs will be permanently eliminated in the automobile industry and its supplier industries in Michigan from 1978 to 1986.[1] As a result, the size and power of the United Automobile Workers will be reduced, and the composition of the automobile workforce will shift toward more highly paid skilled workers needed to operate and maintain the robots. This change in the composition of the workforce, combined with continued EEO pressures to hire more women and minorities, will generate new skills and training needs. Consequently, training and seniority systems, union-management relations, and other features of the internal labor market will be variously affected, but the manner in which firms respond to these forces for change will reflect their past internal labor market characteristics and company culture.

Daymont and Andrisani analyzed earning functions for recent college graduates and found that 25-year-old women at an early stage in their employment history are already earning less than males of the same age due primarily to the women's "taste" for traditional female fields of

[1] Report for "Seminar on Unemployment in Michigan," sponsored by Urban Affairs Programs, Michigan State University, December 14, 1981, mimeographed, p. 3.

specialization. These female occupational choices reflect a socialized preference for working with people and being helpful to others, but result in lower pay since these skills are undervalued by employers. This study reminds us of the slowness of social change since these are young women who made career choices during the expansion of the women's movement in the 1970s. The study further suggests that unless employers place greater value on "women's work" and/or women's occupational preferences are changed, EEO and affirmative action efforts can only marginally reduce the male/female wage differential. In order to develop compensation systems based on comparable pay for comparable work to counteract the devaluation of the work and skills of women in the labor force, more attention needs to be given to understanding those internal labor market values and characteristics that result in biased job evaluation methods. This requires the study of how employers determine which job evaluation systems are used for specific jobs, the extent to which biases with regard to compensable factors and weights assigned these factors actually create wage structures harmful to women, and how the factors employed vary by industry. Efforts to modify the internal labor market can be reinforced by actively encouraging women throughout their education to pursue nontraditional occupational choices and to provide women with the career counseling needed to prepare for the realities of a lifetime of paid employment.

XVIII. IRRA ANNUAL REPORTS

IRRA EXECUTIVE BOARD SPRING MEETING
April 30, 1982, Milwaukee

President Milton Derber opened the meeting. In attendance, in addition to President Derber, were President-elect Jack Stieber, Past President Rudy Oswald, Secretary-Treasurer David Zimmerman, Editor Barbara Dennis, Newsletter co-editors Michael Borus and Kezia Sproat, Board members Gladys Gruenberg, Hervey Juris, Tom Kochan, Karen Koziara, Ed Krinsky, Sol Levine, Dan Mitchell, and Richard Prosten. Also present were Steven Briggs, Donald O'Brien, and Maureen Morehouse of the Milwaukee program and local arrangements committees, Hawaii local arrangements chair Joyce Najita, and IRRA staff members Betty Gulesserian and Marion Leifer.

Secretary-Treasurer Zimmerman gave the report on the financial and membership status of the Association. He noted that the publication costs were continuing to increase and that the sale of mailing lists was lower than last year, as was the postage budget. He predicted that the Association might have a small surplus at the end of the fiscal year. Mr. Zimmerman also noted that the Association was moving to a new computerized accounting system in order to increase efficiency and provide more timely information. The Board passed a motion to increase dues from $33 to $36 which is within the dues increase limit (not to exceed the annual rate of inflation) without a referendum of the membership.

Mr. Zimmerman also announced the slate of nominees for the 1982 summer election: for President: Jack Stieber; for President-elect: Wayne L. Horvitz; for Executive Board: John Gentry, Roy Adams, Lydia Fischer, Ruth Ellenger, Martin Ellenberg, J. Reid Akins, Jr., Bruno Stein, and Mario Bognanno. The Board decided that should Mr. Ellenberg be elected to the Board, he should resign from the nominating committee and a replacement be appointed.

President-elect Stieber and Joyce Najita gave a report on next year's Spring Meeting and the IIRA's Sixth World Congress. A possible tour arrangement through United Airlines or Japan Airlines is being investigated. Ms. Najita presented the proposed program for the Spring

Meeting. She also mentioned several special plans to enhance the meeting, such as a reception at the Governor's Mansion and a moonlight dinner cruise. The meeting will probably be held at the Ilikai Hotel.

Mr. Stieber also read a letter from Jack Barbash to the National Science Foundation requesting funding for people participating in the IIRA Sixth World Congress. Several questions were raised about the procedures to raise funds for participation and previous procedures were explained. It was also suggested that in the future information about possible funding should be known to program participants or potential delegates in advance, if possible.

Before their departure, President Derber expressed the appreciation of the IRRA to Don O'Brien, Steven Briggs, Bob Garnier, and Maureen Morehouse for their excellent planning and coordination efforts in "hosting" the Milwaukee meeting.

President Derber presented a revised program for the 1982 Annual Meeting in New York. The distinguished speaker will be Thomas L. Johnston, principal and vice chancellor of Heriot-Watt University, Edinburgh, Scotland.

Board member Dan Mitchell noted that an IRRA member had requested that time and space be made available at the annual meetings for special interest sessions. Discussion indicated that this request would be difficult to coordinate since virtually all of the space and time requests were handled through the ASSA and there were tight limits on the number of rooms and time slots available.

Co-editor Michael Borus gave the Newsletter Editors' report. The Board approved a motion to increase the price of position-available advertising from $25 an inch to $30 an inch. The Board also approved a motion, after some discussion, to allow situation-wanted advertising from members to be published once a year; the cost would be $15 an inch. A motion was defeated to accept ads from employment agencies in addition to the current practice of accepting ads from government, universities, unions, and companies. The Board also defeated a motion to accept paid meeting announcements from other organizations, since it was felt it would be contrary to the interests of the IRRA's own programs. A motion to allow paid ads for books and publications was also defeated by the Board. Several Board members expressed the opinion that the value of the Newsletter would be diminished if it gets too large. President Derber stated that the Newsletter currently plays an important role in the communication of the IRRA to its members and thanked both co-editors for their efforts.

Barbara Dennis gave the Editor's report. She noted that the present proceedings are going to be very long, which presents a budget problem.

She urged that Annual Meeting programs be limited to stay within printed-page limits; President Derber, Mr. Zimmerman, and Ms. Dennis will work on reducing the size of the winter programs. Ms. Dennis also noted that the present supply of *Collective Bargaining* volumes is depleted. She said that the book appears to have a lasting value as a text, and the Board approved a motion authorizing the Editor to reprint up to 1000 copies of the volume. Ms. Dennis also noted the printing problem in the most recent research volume and said that requests for corrected copies seemed to be declining. The Board recommended that a short announcement that members may secure their corrected copy from Pantagraph be put in the Newsletter. The Board passed a motion not to purchase extra corrected copies of the book from Pantagraph. Tom Kochan reported that progress on the 1982 research volume is satisfactory and that the volume should be published and distributed within the calendar year. Ms. Dennis noted that the 1984 volume will be the IRRA Directory, and discussion of the 1985 volume was tabled until the December meeting.

Secretary-Treasurer Zimmerman reported that the major topic of discussion at the Local Chapter officers' breakfast that morning was the issue of regional meetings and their relationship to the national Association's Spring Meeting. Because of the small response to the survey of chapters on the regional meetings issue, the committee (consisting of Gladys Gruenberg, Robert Garnier, David Zimmerman, and Milton Derber) recommended that regional meetings not be substituted for existing IRRA Spring meetings, but that the IRRA encourage regional meetings as a supplement to its own Spring Meeting. Three conditions would have to be met for national Association assistance in planning regional meetings: (1) at least one or more local IRRA chapters would be involved in planning the meeting; (2) the meeting should not compete with the national IRRA Spring Meeting dates; and (3) purposes of the regional meeting must be consistent with IRRA objectives as stated in the constitution and bylaws. If these conditions are met, the IRRA would provide assistance in the form of publicity in the Newsletter, an address list of regional members of the national Association, and the use of officers and Board members as speakers. The local chapters approved this arrangement and recommended its approval by the Executive Board. After some discussion about unauthorized use of the IRRA name in promoting industrial relations meetings, the Board approved the motion outlining the national Association's position on regional meetings.

Mr. Zimmerman also noted that chapter dues have never been increased and that an increase in the dues was warranted at this time. The subject of chapter dues increases was discussed at the local chapter

breakfast and there were no objections raised to increasing dues in each membership-size category. The local chapters also agreed to add a fifth category of dues ($150) for local chapters with 200 members or more. The motion to increase chapter dues was approved by the Board.

The Board passed a resolution instructing the Secretary-Treasurer to investigate a liability policy for the organization. The discussion raised problems concerning possible liability if somebody uses our name, as well as the possibility that securing liability insurance might increase the probability of cases against us. Mr. Zimmerman also noted that in the future it would be necessary to provide a health insurance policy for employees of the Association.

A former president of the Association had suggested the presentation of plaques to former IRRA presidents. A proposal for the presentation of plaques was being prepared by Secretary-Treasurer Zimmerman, who agreed to report on progress on this issue at the December Annual Meeting.

Board member Dan Mitchell presented a proposal concerning an IRRA formal position on cutbacks in statistics relating to industrial relations. The discussion noted that the Board members not present should have an opportunity to express themselves on the issue, and it was decided that the Editor of the Newsletter should be given a copy of the letter that was sent to Secretary of Labor Donovan from Trevor Bain; the letter would be published in the Newsletter along with encouragement of members to express their opinions on the issue.

The Board briefly discussed the fact that several Board members were not present at the meeting and that decision-making by the Board was hampered by the small number of members present. Past President Oswald suggested that if a newly elected Board member does not attend the first and second meetings of the Board that they be contacted about their desire to serve. If they indicate that they cannot serve, they should be replaced as soon as possible. No motion was made on this issue and President Derber indicated that the discussion should be reflected in the minutes of the meeting.

The meeting was adjourned at 3:30 p.m.

IRRA EXECUTIVE BOARD ANNUAL MEETING
December 27, 1982, New York City

The meeting was called to order by IRRA President Milton Derber. In attendance, in addition to President Derber, were President-elect Jack Stieber, in-coming President-elect Wayne Horvitz, Past President Rudy Oswald, Secretary-Treasurer David Zimmerman, Editor Barbara Dennis, Newsletter co-editors Michael Borus and Kezia Sproat, Executive Board members Wilbur Daniels, Gladys Gruenberg, Hervey Juris, Thomas Kochan, Karen Koziara, Edward Krinsky, Solomon B. Levine, Daniel J.B. Mitchell, Michael Moskow, Richard Prosten, Mark Thompson, and in-coming Board members Mario Bognanno, Martin Ellenberg, and John Gentry. Others present at the meeting were New York Chapter President Roy B. Helfgott, past IRRA President Jack Barbash, Hawaii local arrangements chair Joyce Najita, and IRRA staff member Marion Leifer.

The Secretary-Treasurer's report was given by David Zimmerman. He noted that membership was down slightly by about 200 members. He believed that this reflected the stricter policy of dropping members who are in arrears in payments, the change in the dues structure to increase the dues for Canadian and foreign members, and the general economic conditions at the time.

With respect to the financial condition of the Association, Mr. Zimmerman noted that for the first time the IRRA is using an automated accounting system and has moved to an accrual basis of accounting which should give us a more accurate picture of the IRRA's financial situation. The past fiscal year shows an excess of revenue over expenditures of about $12,000. Had the previous year been set up on an accrual basis, it would have exhibited a slight deficit of expenditures over revenues. A similar balance of $12,000 is expected at the end of the current fiscal year, although projected expenses can be estimated more accurately than projected revenue. The Association hopes to obtain an additional $8000 in revenue from the sale of the *Collective Bargaining* volume, which was reprinted in 1982. However, the IRRA Directory, published every six years, will be published in 1984 and is always a high cost item. It is hoped that more efficient methods of publication can be utilized in order to reduce expenses. Mr. Zimmerman recommended that the Association not increase 1984 dues if at all possible; he suggested deferring the final decision on the matter until the Spring Executive Board meeting.

preferably it be the calendar year rather than the period July through June. Use of the calendar year would be less disruptive since it would not require change in the IRRA membership year. After a short discussion, the Board unanimously approved the resolution changing the fiscal year to the calendar year in order to make it uniform with the membership year.

The possibility of a joint US-Canadian membership dues structure, with a reduction in total dues for members joining both, was raised. Several questions were raised about the feasibility and administration of such an arrangement, and President Derber suggested that the Secretary-Treasurer explore the implications of this idea.

Secretary-Treasurer Zimmerman also gave the annual election report. He announced that Wayne Horvitz would be the in-coming President-elect, and that the new Board members are Mario Bognanno, Martin Ellenberg, Lydia Fischer, and John Gentry.

Mr. Zimmerman also announced that Betty Gulesserian would be retiring as IRRA Executive Assistant at the end of March after over 20 years of dedicated service to the Association. He showed the Board members a plaque that would be presented to Ms. Gulesserian at the presidential luncheon. The Board also unanimously approved a resolution to defray part of the expenses of Ms. Gulesserian's participation in the IIRA Sixth World Congress in Kyoto, Japan. The Board also unanimously approved a resolution naming IRRA staff member Marion Leifer as the new Executive Assistant for the Association.

The Board also passed a motion to pay honorariums of $4000 to Editor Dennis and Secretary-Treasurer Zimmerman.

The Editor's report was then given by Barbara Dennis. With respect to the 1983 research volume, *The Work Ethic*, chairman of the editorial board Jack Barbash stated that, while some manuscripts were not arriving on time, he believed that a deadline of April 1983 was realistic and that the volume would be published in late 1983. The 1984 research volume will be replaced with the Membership Directory, pursuant to the regular publication of the Directory every six years. The Directory publication will be coordinated by Marion Leifer.

Several recommendations for the 1985 research volume were made by Board members. Hervey Juris, chairman of the 1985 editorial board, noted all of the suggestions and stated that the proposal of the eight editorial board members would be presented at the Wednesday morning session of the Executive Board. The Board also suggested that some of the items discussed as potential research volume subjects be used at the 1983 Annual Meeting program in San Francisco.

Pursuant to related discussion at a previous Board meeting, the Board

questioned whether any changes should be made in the copyright policy of the Association. Editor Dennis recommended that no changes be made, given that the policy seemed to be working tolerably well, and the Board took no action on the issue.

Co-editors Michael Borus and Kezia Sproat gave the Newsletter report, noting that four Newsletters were published in 1982 at a cost of $7725, while $1170 was collected in advertising. A new addition in 1982 was a listing of people who are available for jobs; this list was run in September and will run again in the February 1983 issue. Mr. Borus requested that this listing continue for another year, and no objections were raised by the Board.

Copies of the program for the 1983 Spring Meeting were distributed by Joyce Najita. Members were urged to register early, and Ms. Najita said special promotions about Hawaii would be held during the course of the New York meeting. It was also noted that a contributed paper session was scheduled for Friday afternoon to accommodate the large number of expected contributed papers by participants wishing to attend the meeting. The contributed papers will not be published in the Proceedings.

Jack Barbash gave a report on the International Industrial Relations Association and the Sixth World Congress in March in Kyoto, Japan. He noted that the meetings in Kyoto (and the industrial relations seminar and tour in Tokyo) are planned and travel arrangements are proceeding. Mr. Barbash reported that there is an active campaign going on for the President-elect position in the IIRA between John Niland of Australia and Roger Blanpain of Belgium. The annual meeting of the IIRA is traditionally held in the country of the president for that year. He also commented that the ILO has been contributing substantially to the financing of the IIRA, lending the support of staff members and sometimes making decisions about the Association. He noted that the issue of making decisions without much consultation with the IIRA board was a subject that would likely be brought up at the next meeting. He expressed his belief that the Association is valuable in bringing together people in the field from all over the world.

Some Board members were uncertain about how the IRRA was coordinating travel arrangements and details for the Japan meetings. The Secretary-Treasurer was asked to try to prepare a summary in January or early February to send to IRRA members interested in Hawaii and Japan travel.

With respect to public or private funding for travel to the meetings, there have been no answers from the many organizations that were contacted, except for the State Department Private Sector Programs. There is a possibility that some funding will be forthcoming for travel.

Invitations to host the 1984 IRRA Spring Meeting were received from six chapters: Western New York (Buffalo, with the meeting to be held in Niagara Falls), Detroit, Northeast Ohio (Cleveland), Chicago, Kansas City, and Southern Nevada–Las Vegas. After extensive discussion, the invitation from Cleveland was approved, and the 1984 IRRA Spring Meeting will be hosted by the Northeast Ohio chapter and will be held in Cleveland.

Secretary-Treasurer Zimmerman also informed the Board that applications had been received from two chapters seeking formal affiliation with the national IRRA: the Western Pennsylvania chapter, Loretto, Pa., and the Central Illinois chapter, Springfield, Ill. After the Secretary-Treasurer explained that the applicants met all the criteria for affiliation, a motion to accept the chapters was passed by the Board.

Secretary-Treasurer Zimmerman displayed two prototype plaques commemorating the service of the past presidents of IRRA. It was determined that these styles might be too expensive and that the possibility of using certificates rather than plaques should be investigated.

Board member Dan Mitchell then outlined the function and costs of the COPAFS organization, which is an organization concentrating lobbying efforts on the development and continuation of appropriate industrial relations statistics. His recommendation was that it would be premature to affiliate with this group and that possible costs to the IRRA would be between $1000 and $3000. Milton Derber and Jack Stieber received a letter from another organization, COSSA (Consortium for Social Science Associations), inviting the IRRA to join. A question was raised about whether or not membership would be contrary to the IRRA policy of not being involved in political issues. Members were also concerned about the cost and the control over the activities of the organization. President Derber asked Dan Mitchell to examine the two organizations and report back to the Board.

Secretary-Treasurer Zimmerman was asked by the Board members to obtain a legal opinion from our counsel on the possible need for liability insurance and to examine the use of such insurance by other agencies before the Board would make a final decision about whether such insurance would be purchased for the IRRA.

Before recessing the meeting until Wednesday, President Derber thanked Betty Gulesserian for her many years of dedicated service to the Association and informed her of the Board's decision to help defray her expenses to Japan. The session was recessed until Wednesday, December 29, at 9:00 a.m.

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The continuation of the Board meeting was opened by President Derber on Wednesday, December 29, at 9:00 a.m. President-elect Jack Stieber gave a report on the deliberations of the program committee for the 1983 Annual Meeting in San Francisco. The Board generally approved the topics proposed, and President-elect Stieber said he would finalize the plans for the meeting over the coming months.

Charles Rehmus, chairman of the IRRA nominating committee, then announced the tentative slate of candidates for the next election of Executive Board members. The slate was led by the committee's recommendation for president-elect, Everett Kassalow. The Board unanimously approved the nomination of Kassalow and instructed the IRRA national office to determine whether the recommended candidates for Executive Board would be willing to serve.

Hervey Juris reported on the decision of the 1985 research volume editorial board to propose the volume's subject as the impact of the world economic reordering on the management of human resources. After a brief discussion, the Board approved the subject and Mr. Juris agreed to report back to the Board on progress at the Spring Meeting.

The meeting was then adjourned by President Derber.

IRRA AUDIT REPORT

We have examined the balance sheet of the Industrial Relations Research Association as of June 30, 1982, and the related statements of revenue, expenses and changes in fund balance for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As described in Note 1, the Association has changed from preparing its financial statements on the basis of cash receipts and disbursements to the accrual basis which is in conformity with generally accepted accounting principles. The effect of this change, with which we concur, on prior years' statements has not been determined.

In our opinion, the financial statements referred to above present fairly the financial position of the Industrial Relations Research Association at June 30, 1982, and the results of its operations for the year then ended, in conformity with generally accepted accounting principles. The financial statements of the prior year were prepared on the cash basis of accounting which is not consistent with the accrual basis of accounting used in preparing these financial statements.

SMITH AND GESTELAND, Certified Public Accountants

EXHIBIT A

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

BALANCE SHEET
June 30, 1982

ASSETS	
Current Assets	
Cash—Randall Bank	$ 5,110
Certificate of deposit	28,737
Repurchase agreements	68,470
Accounts receivable	4,091
Accrued interest receivable	475
Total Assets	$106,883
LIABILITIES AND FUND BALANCE	
Current Liabilities	
Accounts payable	$ 31,492
Ford foundation grant unexpended balance	2,920
Advance dues, subscriptions and fees	59,794
Total Liabilities	$94,206
Unrestricted Fund Balance	12,677
Total Liabilities and Fund Balance	$106,883

EXHIBIT B

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

STATEMENT OF REVENUE, EXPENSES AND CHANGES IN FUND BALANCE
For the Year Ended June 30, 1982

Revenue	
Membership dues	$ 97,811
Subscriptions	14,860
Chapter fees	4,189
Book sales	16,065
Mailing list	5,166
Conferences and meetings	4,064
Royalties	717
Newsletter advertising	510
Interest income	11,705
ASSA refunds	3,644
Miscellaneous income	43
Total revenue	$158,774

EXHIBIT B

Industrial Relations Research Association
Madison, Wisconsin

STATEMENT OF REVENUE, EXPENSES
AND CHANGES IN FUND BALANCE
(Continued)
For the Year Ended June 30, 1982

Expenses	
Compensation	
Salaries	$ 31,284
Pension	4,314
Payroll taxes	2,426
Contract services	6,904
Officer honorariums	7,200
Total compensation expense	$ 52,128
Publications	
Proceedings	$30,884
Spring proceedings	3,440
Research volumes	27,965
Newsletter	9,207
Total publications expense	$ 71,496
Meetings	
Meals	$ 4,518
Officer staff and travel	1,687
Miscellaneous	330
Total meetings expense	$ 6,535
Office and general expenses	
Membership promotions	$ 916
Computer, label and duplication costs	2,233
Office supplies	1,048
Postage and freight	3,693
Telephone	890
Accounting and auditing	1,368
Insurance	204
Bad debts	795
Miscellaneous	228
Refunds	269
Total office and general expense	$ 11,644
Total expenses	$141,803
Excess of revenues over expenses	$ 16,971
Unrestricted fund balance, July 1, 1981 as previously stated	51,042
Adjustment for change from cash basis to accrual basis of accounting	(55,336)
Unrestricted fund balance, July 1, 1981 as restated	(4,294)
Unrestricted fund balance, June 30, 1982	$ 12,677

The accompanying notes are an integral part of the financial statements.

NOTES TO FINANCIAL STATEMENTS
June 30, 1982

NOTE 1—ACCOUNTING POLICIES

Financial statements are prepared on the accrual basis for the fiscal year ending June 30, 1982. This represents a change from prior years in which statements were prepared on the basis of cash receipts and disbursements. The fund balance at July 1, 1981 has been restated to reflect this change.

The certificate of deposit and repurchase agreement are carried at cost which approximates market value.

Membership dues, subscriptions and chapter fees are assessed on a calendar year basis and are recognized as income on the accrual basis. Therefore, dues, subscriptions and fees recognized as income in these financial statements consist of one-half of the calendar year 1981 amounts and one-half of the calendar year 1982 amounts. The other one-half of the 1982 amounts, representing income for the period July 1 to December 31, 1982, is carried as deferred income in the balance sheet and will be taken into income in the next fiscal year.

NOTE 2—ORGANIZATION

The Association is a nonprofit association. Its purpose is to provide publications and services to its members in the professional field of industrial relations.

The Association is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code. However, net income from the sale of membership mailing lists is unrelated business income and is taxable as such.

NOTE 3—RETIREMENT PLAN

The Association has a retirement annuity contract covering the executive assistant. The amount of funding in 1982 was $4,314. This amount is treated as additional compensation to the executive assistant.

NOTE 4—RESTRICTED GRANT FUNDS

During 1981 a $5,000 grant was received from the Ford Foundation. These funds will be available over a two year period beginning August 1, 1981 for support of three meetings in preparation of a research volume on the work ethic. The $2,920 represents grant funds which have not yet been expended.

ALPHABETIC LIST OF AUTHORS