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## Collective Bargaining in American Industry: A Synthesis

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## Collective Bargaining in American Industry: A Synthesis

### Abstract

The preceding eight chapters deal with the current status of collective bargaining in eight U.S. industries. The differences between collective bargaining for police officers and auto workers or between professional athletes and college professors are obvious and illustrate the richness and variety of contemporary collective bargaining. Despite that diversity, however, the eight industries exhibit important similarities in collective bargaining. The common themes that link most, if not all, of the industries examined in this volume are perhaps less obvious, but a careful reading of the preceding chapters reveals that there have been a number of common factors affecting collective bargaining in these industries even though the responses of the different labor-management pairs have varied.

This chapter identifies and discusses some of the most important of the common themes that emerge from the study of these eight industries. The same general framework used to organize each of the industry studies—a modification of Dunlop's systems model—is again used here to examine those themes. Although most of the topics discussed below will be illustrated with examples from at least two of the eight industries, some references will also be made to the experience in industries not covered in this book. We conclude by discussing the future of collective bargaining in American industry.

### Keywords

collective bargaining, labor, management, labor relations, industry, United States

### Disciplines

Collective Bargaining | Labor Relations

### Comments

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# Collective Bargaining in American Industry: A Synthesis

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**T**he preceding eight chapters deal with the current status of collective bargaining in eight U.S. industries. The differences between collective bargaining for police officers and auto workers or between professional athletes and college professors are obvious and illustrate the richness and variety of contemporary collective bargaining. Despite that diversity, however, the eight industries exhibit important similarities in collective bargaining. The common themes that link most, if not all, of the industries examined in this volume are perhaps less obvious, but a careful reading of the preceding chapters reveals that there have been a number of common factors affecting collective bargaining in these industries even though the responses of the different labor-management pairs have varied.

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## The Bargaining Environment

### *Technology*

Technological change has always been a major factor affecting collective bargaining relationships, and the 1980s were no different in that regard. Some recent technological changes had a direct effect on bargaining in the 1980s. Unions of office and clerical workers, for example, have negotiated special conditions for employees who spend substantial amounts of time working at computer terminals (Cornfield, forthcoming, and the references cited therein). In the maritime industry technological innovation has had a severe effect on

employment: containerization has dramatically cut the need for labor in the loading and unloading of ships, and other innovations, ranging from corrosion resistant materials to larger vessel sizes, have dramatically reduced the number of workers required to deliver a given cargo a given distance (Donn 1986, and the references cited therein). Often, the effect of technological change has been more subtle. Most of the industries in this book have recently been touched in many ways by technological change. The rubber, telecommunications, and automobile industries may be the three where the changes were most far-reaching and thus had the most influence on bargaining relationships.

As Karper documents, the tire industry experienced dramatic changes when radial tires replaced bias-ply tires. This change required substantial retooling by the tire companies, but retooling was not the source of the greatest impact. Rather it was the increased durability of radial tires, which reduced the demand for replacement tires, just as a variety of other economic factors, such as economic recession and the steady growth of auto imports, all combined to reduce the demand for tires on new cars as well. Together with these other factors, the change to radial technology helped produce a massive contraction of employment in the industry.

Hendricks discusses the myriad technological advances that have had major effects on employment in the telecommunications industry. The modular assembly of telephone components has reduced the time and skills required for telephone repair. The change to electronic switching has reduced costs, automated many maintenance and operator functions, and reduced the need for central office technicians. The more profound effects of technological change, however, have arisen from changes in signal transmission technology, which have allowed the substitution of microwave transmission for traditional signal transmission over wires. As Hendricks emphasizes, these changes were instrumental in the deregulation of the industry because much of the technological argument for the preservation of a "natural monopoly" disappeared. Indeed, the development of this technology makes it feasible for large telephone users to by-pass local telephone companies entirely, which has had severe implications for the pricing structure of telephone services.

Katz has pointed to the role of technological change in the auto industry in promoting the internationalization of production in that industry. Standard cars can now be constructed of interchangeable parts manufactured all over the world. Management's consequent desire to negotiate more flexible work rules in the industry has also been prompted, in part, by its desire to make greater use of robotics and microelectronic technology.

A key to understanding the effect of technological change on collective bargaining is to recognize that technological change per se is seldom an issue negotiated directly by unions and employers. Some unions, such as those in the maritime industry and the printing trades, have in the past tried (and, in

general, failed) to block the introduction of new technologies, but this kind of Luddite mentality is not characteristic of American unions. Most unions in the United States, including those examined in this volume, have been willing to give employers virtually a free hand in introducing new machines and new methods of production. Instead, they have focused on attempting to control the *effects* of technological change on their constituents, using two basic approaches to protect those workers adversely affected. First, they have negotiated work rules, staffing requirements, retraining programs, procedures to govern layoffs, transfers, and displacement, controls over “outsourcing” (subcontracting), and other procedural devices to mitigate the effects of technological change. Second, they have sought compensation, often in the form of severance pay, supplemental unemployment benefits, early retirement benefits, or income and job guarantees, to reimburse workers harmed by the new technologies (Slichter, Healy, and Livernash 1960, 342–71; Somers, Cushman, and Weinberg 1963; Kochan 1980, 435–38).

### *The Economic Environment*

There is nothing new in economic instability and nothing new in that instability having an effect on collective bargaining. The ten years following 1975, however, were characterized by economic instability on a scale not witnessed since the 1930s. The long post–World War II period of relatively steady growth came to an end, with bargaining relationships having to face economic challenges more substantial than they had seen in more than 30 years.

The two most salient economic challenges to collective bargaining in the 1980s were the recession of the early part of the decade and the growth of foreign competition, which had resulted from growing international economic interdependence. The apparel and electrical products industries especially suffered, and the three manufacturing industries examined in this volume—automobiles, agricultural machinery, and tires—as well as the airline industry, all clearly showed the severe effect of recession on collective bargaining relationships. The three manufacturing industries also are good examples of industries hard hit by foreign competition.

In the early 1980s the automobile industry suffered its worst contraction of output in 40 years because of the combined effects of recession and foreign competition. Imports had long been a growing share of the automobile market in the United States, but the trickle of imports in the 1960s became a flood in the early 1980s just as the recession was shrinking the total size of the U.S. automobile market. As Katz explains, the industry responded in a variety of ways. Temporary protection from Japanese imports was obtained through “voluntary” quotas. Japanese manufacturers were subjected to pressures, not all of them subtle, to do more of their assembly work in the United States. American automakers enlisted foreign companies in a variety of joint

ventures, ranging from selling foreign-produced vehicles in this country under the name of the U.S. manufacturer (Chrysler-Mitsubishi), to joint production ventures in the United States (General Motors-Toyota), to the virtual takeover of a U.S. company by a foreign company (American Motors-Renault).

Auto imports became the symbol of the public's unhappiness with the trade imbalance, especially that with Japan. The response of many of the foreign producers has been to move part of their production capacity to the United States. General Motors, Ford, Chrysler, and American Motors had been essentially the only domestic producers, but by the mid-1980s Volkswagen, Nissan, Toyota, and Mazda all had facilities operating in this country or were committed to opening facilities in the near future at locations already identified. Some of those companies, such as Volkswagen and Mazda, have accepted union representation without strong opposition, while others, such as Nissan, have tried to avoid organization. The United Auto Workers has tried to meet with the latter producers to allay their fears and assure them that cooperative relationships are possible, but obviously the union has not persuaded all of them. The success or failure of the innovative UAW-GM Saturn agreement may play a key role in determining whether the foreign companies take the union's overtures of cooperation seriously.

The decline in auto sales alone would have made for difficult economic times in the tire industry, but along with the switch to radial technology noted above, the industry was also hit by the dramatic growth of foreign competition. The Europeans (Michelin) and the Japanese (Bridgestone) gained large shares of the shrinking tire market. Again, the union, the United Rubber Workers, agreed to significant local concessions at the negotiating table, but that did not prevent most of the major companies from abandoning certain segments of the tire market and moving into other, sometimes unrelated, product lines. This change in the companies' production strategies placed even more pressure on the URW.

Agricultural machinery companies prospered during the 1970s when commodity prices and land values were increasing. But as Seeber explains, both of those trends reversed in the first half of the 1980s, causing a marked decline in the demand for new farm machinery. The agricultural machinery industry was also adversely affected by foreign competition and, perhaps to a greater degree, by the near-collapse of the farm economy in the mid-1980s. These two forces together reduced employment in the industry by over one-third between 1979 and 1984.

Airlines have long been especially sensitive to recession. Vacation travelers postpone or cancel plans and businesses reduce travel when they need to control costs. The recession of the early 1980s hit the airline industry, as Cappelli notes, at a time when changes in public policy designed to enhance competition in the industry had already disturbed long-standing bargaining relationships. Recession and deregulation combined to bring about the most

dramatic bargaining concessions in American industry and at the same time, as in the case of Eastern Airlines, the appointment of union representatives to company boards of directors.

Another factor in the economic environment has been the growing competition of nonunion employers in a variety of industries. Sometimes nonunion competition takes the form of newly created domestic companies operating in industries that were once entirely or almost completely unionized, as in steel and telecommunications. At other times the source of nonunion competition is foreign producers that either export to the United States or build nonunion facilities of their own in this country, as in autos and electrical products. Deregulation has proven to be a factor that can open a previously unionized market to nonunion competition. Trucking is one example of an industry once dominated by unionized companies but now facing serious competition from nonunion employers (Levinson 1980; Mills and McCormick 1985, 423–63). The growing number of nonunion contractors in major segments of the contract construction industry has long been evident; unionized construction employers are now almost completely excluded from the residential building segment of the market and are losing their share of the commercial and even the industrial segments as well (Mills 1980; Mills and McCormick 1985, 90–92). Coal mining was once almost totally unionized, but more than half of all coal tonnage is now produced by nonunion companies, most of which are open pit operations west of the Mississippi (Navarro 1983). Among the industries studied here airlines, automobiles, and tires all provide examples of different forms of nonunion competition and different methods of addressing it.

The principal factor leading to the recent increase in nonunion competition in the airline industry has been deregulation, which has enabled the existing local carriers to expand into trunk routes and the new carriers to enter those routes as well. A number of the local carriers and new carriers have been nonunion, People Express constituting perhaps the archetypical example of the new nonunion company. Another employer strategy that has to some degree increased nonunion competition in the airline industry involves a technique long used in the construction industry, “double breasting.” Cappelli notes that a few unionized carriers have spun off their own nonunion subsidiaries, which then compete with their unionized divisions.

Foreign competitors moving to the United States have been the principal source of nonunion competition in the tire industry. The United Rubber Workers, however, has not as yet had any success in organizing the new domestic facilities of Michelin, although the union does represent workers at Bridgestone. Of course, as Karper indicates, the domestic producers have also moved facilities out of their traditional base in Akron, Ohio. Goodyear, Firestone, General, and Uniroyal have all tried to avoid the organization of their new facilities. Other unions faced with similar circumstances, such as

the United Auto Workers and the United Steelworkers, have repented in part by seeking to organize workers in other industries, but the URW has decided to confine its organizing efforts strictly to the rubber industry. To date, the union's success has been limited at best.

Thus, the industry studies contained in this volume serve to illustrate how recession, foreign competition, and nonunion domestic competition undercut union bargaining power in the 1980s. In industries particularly hard hit by those developments, unions suffered the loss of many members. To stem the erosion of membership, the unions reluctantly granted wage and benefit concessions. In some cases (such as autos) those concessions seemed to stanch the loss of members, at least temporarily. But in others (such as rubber) union concessions did not sufficiently counter the opposing forces of the marketplace, and union power and membership continued to erode.

### *The Legal Environment*

In the early years of the Carter presidency, the union movement mounted a major effort to persuade Congress to amend the Taft-Hartley Act, the major federal statute that directly regulates labor-management relations in the private sector. The union movement sought amendments to the statute that would expedite certification election procedures and increase the scope of remedies for unlawful employer activities. The business community, however, strongly opposed labor law reform, and the reforms died in the Senate in 1978. The subsequent opposition of the Reagan administration has effectively prevented the resurrection of labor law reform in the 1980s, with the consequence that the statutory framework governing labor relations in the private sector has remained basically unchanged since the Landrum-Griffin amendments were added to the Taft-Hartley Act in 1959 (Kochan 1980, 64–65; Kochan, Katz, and McKersie 1983, 40–45 and 230–36).

Nevertheless, changes in other federal statutes, and in state and local laws, and rulings and interpretations by administrative agencies and the courts significantly affected the public policy context of collective bargaining in many industries. For example, Cappelli notes the use of the bankruptcy laws by some airline companies to avoid the obligations of existing collective bargaining agreements. That strategy was not confined to airlines and was one factor that helped precipitate a significant reworking of the federal bankruptcy code. Since 1984 federal law requires that a company that files for bankruptcy must negotiate in good faith with its unions on changes in its labor contracts and, if it fails to reach agreement, cannot dissolve its contracts without the approval of the federal bankruptcy court (*New York Times* 1985a).

One public policy change that dominated all others in its influence on collective bargaining in the 1980s was deregulation. In a process that began



in the 1970s and accelerated under the pro-market philosophies of the Reagan administration, numerous industries in which competition had been restricted found themselves exposed to at least some of the rigors of the market. Among our eight industries telecommunications and airlines provide excellent examples of bargaining relationships that have struggled to adjust to deregulation and have done so in different ways and with different degrees of success.

For 40 years the airline industry was closely regulated by the Civil Aeronautics Board, which controlled the routes flown by carriers, the prices they charged, and the entry of new carriers into the industry. Then in 1978 Congress passed the Airline Deregulation Act, which over the following several years virtually eliminated federal controls in the industry. Soon after passage of the act new carriers began to enter into competition with the existing carriers. Some of the new carriers (People Express, New York Air, Midway) were nonunion, but as Cappelli points out, the nonunion carriers still account for only a small portion of the industry's trunk markets. Price and route competition became much more prevalent than in the past, and a wave of mergers and acquisitions swept through the industry. The effects of deregulation on collective bargaining were dramatic, producing what are probably the most profound changes in bargaining relationships and practices of all those described in this volume.

Telecommunications began deregulation and divestiture more recently, in 1984, and so their full effects and even the direction of their effects are not yet as clear as in the case of airlines. The effects of deregulation on collective bargaining in the telephone industry need to be distinguished from the effects of divestiture. Only long distance telephone service has been substantially deregulated: Local service continues to be regulated by the states. AT&T's monopoly over long-distance service has ended, and the down-scaled company and its unions now face competition for the first time in their history. The parties' adjustment has not been easy; serious strikes occurred in both the 1983 and 1986 bargaining rounds. By contrast, the regional operating companies and their unions continue to be shielded from the full effects of competition. Divestiture has, however, allowed each operating company to pursue its own collective bargaining strategy, with some seeking cooperative relations and others taking a more aggressive stance toward their unions. The upshot of these changes is likely to be much more diversity in the terms of labor contracts covering workers in the telecommunications industry, although it is likely to be several years before this prediction can be verified by experience.

The legal environment of collective bargaining in the public sector is in marked contrast with the legal environment in the private sector. With the exception of the federal sector statutory regulation of public sector bargaining rests with the states. A majority of states passed statutes governing collective bargaining by state and local employees in the 1960s and early 1970s,

and as Delaney and Feuille explain in their chapter on police, there is little uniformity in those statutes across states. The duty to bargain, the scope of bargaining, the right to strike, strike penalties, and the methods prescribed for resolving impasses all take different forms in different states. Some states encourage public sector bargaining; other states discourage or even prohibit it. Nevertheless, many of the statutes have been in place for more than a decade, so that our understanding of the effects on bargaining of alternative policy approaches is well advanced. A salient issue in the case of police is the effect of an interest arbitration statute on bargaining outcomes. Delaney and Feuille show that police salaries are higher in states with arbitration statutes than in states without. Clearly, this kind of evidence has implications not only for the policy decisions made in the public sector but also for those made in the private sector.

## The Parties

Over the last two decades union membership contracted in manufacturing, mining, and transportation. One result of this contraction was the disappearance of many unions, mostly through merger with other, stronger unions. Union mergers affected bargaining in such industries as textiles and apparels, nonferrous metals, graphic arts, meatpacking, and the railroads (Janus 1978; Chaison 1980). Curiously, this trend did not surface in most of the industries included in this volume. Merger was not a strategy pursued by the UAW, URW, or CWA, or in education by the NEA and AFT.

At the same time that unionism was contracting in some sectors, it was expanding in others, notably in the public sector, retail trade, services, and education. The NEA, for example, grew to 1.9 million members and became the largest union in the United States. The AFT, the NEA's rival, reached 600,000 members. The United Food and Commercial Workers International Union—created, in the late 1970s and early 1980s, out of a series of mergers of unions in retail and wholesale trade, meatcutting, meatpacking, and insurance—became the largest AFL-CIO affiliate. The Service Employees' International Union, which organized clerical and service workers in both the public and private sectors, also experienced significant growth. The American Federation of State, County and Municipal Employees is another union that added significant numbers of new members. As a result the labor movement is no longer dominated by blue-collar workers; today union membership is much more heterogeneous, consisting of large numbers of government employees, clerks, service employees, and professionals (Gifford 1982; Kokkelenberg and Sockell 1985; *New York Times* 1985b).

Three of the chapters in this book examine occupations or sectors in which, until the 1960s, collective bargaining was either nonexistent or rela-

tively unimportant but, now, is a major means of determining the terms and conditions of employment. For example, police officers are the one group of workers examined in this volume who are employed entirely in the public sector. Twenty-five years ago government employees were less highly unionized than employees in most other sectors of the economy; there was little statutory support for public employee collective bargaining; and most public employers were reluctant to engage in a process they viewed as tantamount to ceding their sovereignty. But in the 1980s the public sector, federal as well as state and local, is one of the most highly unionized "industries." About 55 percent of all police officers are unionized, making them one of the most highly unionized of the public sector occupations. Collective bargaining is widespread, albeit, as Delaney and Feuille make clear, not universal. As the chapter on police indicates, public sector collective bargaining is characterized by several unique problems of bargaining structure, legal framework, issues subject to negotiation, and dispute resolution.

University professors represent a group for whom collective bargaining is still in the relatively early stages of development. As Bacharach, Schmidle, and Bauer note, the legal environment has not been entirely supportive of bargaining in private universities and colleges; and potential faculty unionists often still evince skepticism about whether the traditional adversarial model of bargaining is suitable for them and, if not, whether unions are suitable means for faculty to pursue less confrontational forms of workplace governance.

Professional athletes are a group for whom collective bargaining is now widespread and of major importance. Again, the nontraditional nature of bargaining in this industry is apparent in Dworkin's chapter. For example, collective bargaining sets minimum salaries, but salaries above the minimum remain subject to individual player negotiation. Also particular to this industry is the restriction on the interteam mobility of athletes, which has been probably the most controversial and persistent issue in collective bargaining in professional sports.

On the employer side of the table corporate mergers, takeovers, and the reorganization of numerous U.S. companies have had a profound effect on bargaining relationships. The restructuring of corporations has implications for the coverage of collective bargaining agreements and for the obligation of the employer to bargain, because in the eyes of the law a change in the identity of the employer can alter or even eliminate a bargaining relationship. In this volume the airlines serve as an example of the serious adjustments in bargaining that are necessary when reorganization is widespread.

The companies' double-breasted strategy, for example, produced larger corporations operating both union and nonunion carriers under different names (such as the Texas Air Corporation, which operates a nonunion subsidiary, New York Air, and a unionized subsidiary, Continental). Cappelli

points out, as well, that the competitive rigors of the market have led to serious financial difficulties for a number of airlines, some of which have responded by seeking purchasers or mergers. Frank Lorenzo, president of the Texas Air Corporation, has been particularly active in all phases of airline reorganization, engaging in double breasting, buyouts, and mergers. He has also been identified by the unions in the industry as an opponent of unionization and collective bargaining. When Texas Air tried to take over TWA, the unions went so far as to offer to negotiate concessions to an alternative buyer, Carl Icahn, in an effort to avoid a Lorenzo takeover.

### **The Structure of Bargaining**

Bargaining structures closely reflect the make-up of the bargaining parties and, in turn, have much to do with the balance of power the parties bring to the bargaining table. The term *bargaining structure* refers to the size and scope of the units that engage in bargaining. Some bargaining structures encompass only a single department or a single plant, while others encompass two or more plants, or even an entire industry. Employers can bargain singly or collectively (for example, through a multi-employer association); and unions can bargain singly or in a coalition with other unions. Bargaining structure also refers to pattern setting and pattern following—that is, whether and to what extent a key agreement influences the terms of other agreements. Fundamentally, therefore, structural considerations in bargaining raise questions of power. Who has the power to make decisions in bargaining? If bargaining is at the plant level, one can surmise that a considerable amount of decision-making power will be in the hands of local company and union representatives. If bargaining is at the company or industry level, the balance of power is likely to shift to top union leaders and corporate officers (Weber 1967). Although the concept seems, at first blush, to be straightforward, on closer analysis bargaining structure can be quite subtle.

The sources of this subtlety are several. For example, although the National Labor Relations Board technically delineates the size and scope of bargaining units, the so-called appropriate bargaining units specified by the board for purposes of determining union representation questions are frequently not the basis on which negotiations or grievance administration occur. Even when appropriate bargaining units are plantwide or based on occupational groups within a plant, negotiations may be conducted on a companywide or even an industrywide basis. Basic steel is a good example of an industry that traditionally engaged in industrywide bargaining despite the fact that its appropriate bargaining units were technically plantwide in scope (Stieber 1980).

A second source of subtlety in bargaining structure is that different issues

are often resolved at different levels of decision making. In many industries issues such as wages and fringe benefits may be negotiated at the company level, while others such as work rules are negotiated at the plant level. One of the best examples of how bargaining structure can exist on these multiple levels is the way grievances are handled in most bargaining relationships. Grievances are usually addressed initially at the department level and, if unsettled there, usually move to the plant and then to the company level. Accordingly, simple statements about the level at which collective bargaining occurs cannot be made in many cases. Unless the issue under discussion is identified, the level at which it will be decided cannot be known.

A third source of subtlety in bargaining structure arises from the patterns that are set and followed in much of bargaining. Employees' desire to achieve settlements that match what other comparable workers receive and employers' desire to pay no more than their competitors do are among the most powerful motivations in collective bargaining negotiations. Those factors, and other forces as well, induce the bargaining parties to look closely at other bargaining settlements in choosing their goals for the next round of negotiations. Sometimes these patterns are ill-defined because the parties take note of large numbers of settlements and their rough assessment of a common trend serves as a starting point for their negotiations. In other cases the patterns are well defined and obvious, as in the case of a company or industry that considers itself to be in tandem with another company or industry (Dunlop 1957; Ross 1948; Bourdon 1979).

The 1980s have brought significant changes in bargaining structures, both in the formal level at which negotiations and contract administration occur and in the traditional patterns that have been followed. Examples of both types of changes abound. The breakup of traditional industrywide negotiations in steel is one of the best examples of a major change in the formal structure of negotiations (*New York Times* 1986a; *Washington Post* 1986). The meatpacking industry is a good example of an industry in which traditional patterns have dissolved, with different companies achieving divergent settlements depending on their aggressiveness in negotiations and on their financial health.

Almost all of the industries studied in this volume have seen bargaining structure changes in response to changes in the technological, economic, and legal environments of the 1980s. Telecommunications, automobiles, tires, and airlines have all seen shifts in formal negotiating structures or traditional patterns, or both.

The bargaining structure in the telecommunications industry was not particularly stable even before the breakup of AT&T. As Hendricks explains, the union had sought nationwide bargaining for many years but had achieved it, at least in a formal sense, only in 1974. The spinoff of the Bell System's regional operating companies has left the new bargaining structure

in doubt, but it seems clear that formal nationwide bargaining across the operating companies is over for the time being. The regional operating companies seem unanimous in their opposition to nationwide bargaining; and since the formal bargaining units were never altered to reflect the emergence of a de facto nationwide negotiating structure in the 1970s, it seems likely that the companies will be able to maintain that opposition. Whether a tight tandem relationship or pattern will emerge among the regional operating companies cannot be predicted at this point with any confidence.

In the automobile industry the changes in bargaining structure have been of great importance, but they have had little effect on either the formal bargaining units or on the level at which the parties actually face each other in negotiations. Rather, the changes have largely been reflected in the breakdown of traditional pattern relationships within the industry and in the accompanying new heterogeneity of contract terms across the companies and among the plants within companies. In the early 1980s the major elements of the compensation and benefits packages contained in General Motors, Ford, and Chrysler contracts at the national level were no longer indistinguishable. Differences in their compensation packages reflected differences in their financial positions and in the nature of their production processes. Similarly, traditional pattern relationships among the major auto producers and the numerous small supplier companies have been under strain. As Katz has documented, in 1982 and in later negotiations between the UAW and the parts supply companies, their settlements have substantially broken from the assembly company patterns. The breakdown in auto industry patterns has had major implications for several other industries as well, including steel, nonferrous metals, tires, and agricultural machinery—all of which have traditionally closely scrutinized the settlements in autos. In fact, the automobile settlements had traditionally established the key pattern for a significant portion of all manufacturing industries. Thus, auto settlements no longer serve as the pacesetters they once did.

In the tire industry, although the formal structure of national bargaining on a company-by-company basis remains, other aspects of the bargaining structure have changed. In particular, as Karper points out, the ten-year experiment of the major tire producers with mutual strike insurance ended with the 1976 negotiations. For many years negotiated settlements in this industry followed the automobile pattern closely. Once bargaining uniformity within the automobile industry broke down, it was impossible to find an auto pattern to follow. Bargaining in the tire industry also broke step under pressures caused by growing nonunion competition, growing factionalism within the URW, and the tire companies' new-found means of threatening the union economically with plant closings and layoffs.

The bargaining structures in the airline industry also broke down, in the 1980s, as previously local carriers and other new entrants joined the trunk

markets. The Deregulation Act of 1978 also brought about changes in the industry's bargaining structure by another means. The act, as Cappelli points out, outlawed the Mutual Assistance Pact (MAP) the trunk carriers had used as strike insurance. This has reduced employer solidarity in the face of labor conflict, but it has also served to offset, at least to some degree, the diminution of bargaining power the airline employees suffered because of increased competition in the deregulated market. The elimination of the MAP has been the one feature of the new environment that has been favorable to the airline unions but, as Cappelli makes clear, it has not served to protect them from the rigors of the competitive market.

Police bargaining is a good example of a strictly local, or craft, structure of bargaining. Police officers almost never bargain with other municipal employees as one group, nor do the jurisdictions for which they work join forces with others in a multi-employer structure. By contrast, bargaining in professional sports is on an industrywide, multi-employer basis: All the owners in each sport band together for bargaining purposes, usually delegating the authority to make agreements to professional negotiators, and all sign contracts that apply uniformly to the teams and players in the league.

It is apparent that the dominant trend in bargaining structures in the 1970s and 1980s was toward more decentralized bargaining and a breakdown of previously robust patterns. One result of this trend was less standardization in labor contracts both within and across industries. Another result was a downward shift in decision-making power, from top industry and union leaders toward the regional and local representatives of the parties. In the 1980s, as in the years before World War II, the plant and the workplace became important arenas for the determination of critical bargaining issues.

## The Bargaining Process

### *Bargaining Issues*

Wages, fringe benefits, and work rules are always on the agenda in collective bargaining. The particular approaches the parties take to addressing these and other issues differ over time, however, depending on developments in the technological, economic, and legal environments within which bargaining occurs. The 1980s gave birth to a number of innovative contract provisions and agreements, especially but not exclusively those designed to promote greater cooperation between labor and management. Garnering much attention in the popular press, those experiments have included employee representation on company boards, greater use of joint union-management committees, greater reliance on profit or productivity sharing as a form of compensation, and the adoption of more flexible work rules, such as reduc-

ing the number of job classifications that may exist under a collective bargaining agreement (see, for example, Kochan and Barocci 1985, 15–28). Some groups of professional employees who are relatively new to collective bargaining, such as college faculty members, provided models for cooperative and consultative ventures. Among the industries examined in this volume automobiles and professional sports were perhaps the most innovative in the contract language they employed to address both the traditional bargaining issues and the more novel ones.

In automobiles one highly publicized development was the appointment of the president of the UAW to the board of directors of the Chrysler Corporation, a quid pro quo for the economic concessions that Chrysler so desperately needed in 1979 to secure government loan guarantees that were to keep the company from bankruptcy. All of the major auto companies now have some form of quality-of-working-life or employee participation scheme as well, and all of those schemes have been designed to reshape, at least in part, the old adversarial relationship between the union and the companies.

The automobile industry has also instituted pay systems that base compensation much more directly on company performance than was the case in the past. To some extent profit sharing has been the price unions have demanded for short-term wage concessions, but in other respects it has partially replaced other elements of the compensation package that based wages on formulas largely unconnected to company performance (for example, cost-of-living adjustments).

In addition, as Katz explains, the Saturn agreement between the UAW and General Motors represented a remarkable experiment in joint planning for the future. Reached in mid-1985 the agreement specified bargaining and other workplace arrangements for a plant that was still some five years away from production. Although some experts in labor law had doubts about the legality of the Saturn agreement (because at the time the agreement was signed, Saturn had no employees who might have chosen or rejected union representation under the National Labor Relations Act's certification procedures), other labor relations experts hailed the agreement—with its flexible work rules, broad job categories, and commitment to employee participation—as a fundamental improvement that augured well for collective bargaining as an institution.

It should be emphasized that the agricultural machinery industry, organized by the same union as autos and closely associated for many years with the auto pattern of settlements, has adopted virtually none of these innovative approaches. While the collective bargaining process in the auto industry has been in upheaval, the parties in agricultural machinery have dealt with their most critical issues in basically the same fashion they did 30 years before. Seeber notes that the result has been a high level of conflict in this industry.



Collective bargaining agreements in professional sports contain a cornucopia of unusual contract provisions that deal with the special employment circumstances of professional athletes. Dworkin explains in detail the kinds of provisions that have been negotiated in baseball, basketball, football, and hockey to deal with the issue of player mobility among teams. Reserve clauses, salary arbitration, option years, offer sheets, compensation caps, and several other innovative approaches have all been tried, but the issue still remains in the forefront of sports negotiations. Players in the major sports are not easily replaced because the fans identify with their favorite stars, making each player a unique commodity with some degree of monopoly power. Nevertheless, these contract provisions are not necessarily novel, since the same issue also arises in other segments of the entertainment industry.

Similarly, police collective bargaining agreements often contain unique language that reflects the unusual nature of the work police officers do. Some of the provisions that Delaney and Feuille have labeled as "law enforcement" provisions deal with topics, such as the use of firearms or restrictions on the location of an officer's residence, that are unheard of in most other labor contracts. As in professional sports these provisions are only new in the sense that collective bargaining is relatively new in the police industry.

In the 1980s unions and employers throughout American industry negotiated many innovative terms to address employment security issues. As industries faced recession, foreign competition, and deregulation, even employees high on seniority lists who had considered themselves immune to layoff faced the prospect of unemployment, and sometimes permanent displacement. With employers demanding a variety of economic concessions at the bargaining table, unions have often made some form of job protection the *quid pro quo* for their agreement on cost-saving provisions. Airlines, automobiles, telecommunications, and agricultural machinery have all reached agreement on job security innovations.

About half of the trunk airlines have granted some type of job security concessions, usually in exchange for union concessions that have lowered current labor costs. As Cappelli notes, the carriers most likely to grant job security concessions are those that do not believe those guarantees will prove costly, that is, those carriers that view themselves as having good growth prospects.

The automobile contracts contain a variety of new approaches to the issue of job security. Katz discusses the employment guarantees for workers with 15 or more years' seniority contained in the 1982 Ford and General Motors contracts. These provisions emphasize guaranteed income streams for senior workers. Much more comprehensive employment guarantees were included in those contracts on an experimental basis for a small number of plants. The companies also made concessions in their plant-closing and outsourcing practices.

As Hendricks explains, the telecommunications unions began to negotiate protection against anticipated employment changes before divestiture and deregulation actually came about. In their case the protections largely revolved around wages, benefits, and seniority for employees transferred within what was once the integrated AT&T system.

Seeber notes that job security concerns in the agricultural machinery industry have also given rise to a variety of solutions. For example, the UAW obtained agreement on the "domestic content" of the output at International Harvester, on group incentives that allow for some wage flexibility, and on early warnings of plant closings.

Perhaps the most widely publicized set of changes in bargaining issues during the late 1970s and, especially, the first half of the 1980s came in the form of concessionary bargaining. There is nothing new in the phenomenon of employers' coming to the bargaining table with their own strong demands, or of unions' conceding some of their terms and conditions of employment when the firm or the industry faces dire economic circumstances. The long post-World War II prosperity, however, had made such episodes the exception rather than the rule. Labor experts as well as workers had come to expect that the initiative in negotiations would be taken by unions and that the terms and conditions of unionized employees would steadily improve. The question of wage and benefit improvements was not if but how fast they would occur. The 1979 Chrysler agreement ushered in an era in which the "if" question came to the fore as large numbers of unions accepted wage reductions and work rule changes, initially to save financially strapped employers but later also to enable other employers to compete with those that had already won concessions. The steel and trucking industries witnessed substantial concessions by unions in the 1980s. Among the industries studied here, agricultural machinery, automobiles, and airlines all engaged in concessionary bargaining along these lines.

In the agricultural machinery industry concessions have almost exclusively taken the form of pay cuts. The UAW has been reluctant to grant concessions on work rules and has been willing, at least in the negotiations up to 1986, to engage in vigorous strike action to make that policy stick.

But the automobile industry provides an interesting contrast because here the UAW has been willing to agree to much more radical and innovative concessions, including substantial changes in work rules. Why the UAW has been willing to grant broad-ranging concessions in autos and not in agricultural machinery remains something of a mystery, although it is probably the result of differences in the personalities and dispositions of the UAW's auto and agricultural machinery leaders, the characteristics of the rank and file, the strategies of the employers, and the history and traditions of bargaining in the two industries. Certainly there have been wage and benefit concessions in automobiles, including the demise of the annual improvement factor, the

shift of some COLA payments into health or pension funds, and the negotiation of contingent compensation schemes, such as bonuses and profit sharing. As Katz points out, however, work rule changes appeared not only in the experimental Saturn agreement, but also in many of the existing auto plants. Most of the work rule changes were negotiated in local UAW contracts, and in 1982 and 1984 the Ford and General Motors national agreements specifically authorized those local work rule negotiations.

Economic concessions may have been more widespread and substantial in the airline industry than in any other. One of the principal forms of concessions agreed to by the airline unions has been the adoption of two-tier wage plans in which new employees are paid on a scale lower than that of the existing employees. Some of the two-tier agreements allow new employees eventually to catch up to the more senior employees, while others do not. Those agreements have raised a host of strategic and legal questions, not the least of which is whether unions negotiating such agreements violate their duty of fair representation to new employees (*Harvard Law Review* 1985).

In the past union negotiators were always prepared to grant concessions, but only when employers could persuade them that exceptionally threatening circumstances required that they be made. Unions feared that once they granted concessions, even to an enterprise on the verge of dissolution, they would not be able to hold the line with healthier firms. Any concessions, it was thought, could conceivably cause a union's wage structure to come tumbling down like a house of cards. In effect, during hard times unions preferred to maintain wages and benefits and allow employers to reduce labor costs by means of employment cutbacks. But in the 1980s many unions seemed willing to reverse that preference. In the last decade unions accepted significant wage concessions in exchange for employment security provisions and employment guarantees. And if union wage structures have not collapsed, they have seriously eroded, especially in manufacturing. Whether wage concessions have on balance served to reduce employment losses is, however, a question that remains unanswered.

## Labor-Management Conflict

Strike activity declined precipitously in the United States in the 1980s. To illustrate, in a typical year in the 1970s there were between 200 and 300 strikes involving 1,000 or more workers (in 1974 there were 424 such strikes), but in 1984 there were only 62 such strikes and in 1985 only 54 (U.S. Department of Labor 1986). (It might be noted that the government stopped collecting data on strikes involving fewer than 1,000 workers in 1981.) Did American collective bargaining enter an era of industrial peace?

It has been said in international relations that peace is not merely the

absence of war. Similarly, in labor relations peace is not merely the absence of strikes. True industrial peace is characterized by a climate of accommodation (if not cooperation), by each party's recognition of the legitimacy of the other party in the relationship, and by a willingness to compromise on divisive issues. By this definition, many strike-free industries were not truly in a state of peace in the 1980s. Rather, the decline of strike activity is probably attributable to the realization by many unions that the strike weapon had lost much of its effectiveness in those years of economic decline, high unemployment, technological change, and conservative public policies. Historically, strike activity usually declined during recessions, and so the dramatic drop in strikes in the early 1980s might have been simply a cyclical response. When unemployment is high, union bargaining power is undercut because, among other reasons, employers have a ready supply of workers to replace strikers (see, for example, Kaufman 1981).

Also contributing to the decline, however, was the fact that many employers appeared more willing to continue to operate during a strike than they were before. Many of those that did continue operations during strikes permanently replaced some or all striking employees and succeeded in breaking the union. Others simply deployed supervisors and nonstriking employees in an attempt to wring more favorable settlements from the striking unions (Perry, Dramer, and Schneider 1982). The Reagan administration had set the tone for this development in 1981 when it replaced the striking air traffic controllers and decertified their union (Northrup 1984). The significance of that action was not lost on a large number of employers in both the public and the private sectors. Moreover, President Reagan's appointment of new members to the National Labor Relations Board, members who seemed less sympathetic to unions, also appears to have made employers more willing to deal aggressively with unions in strike situations. In airlines, for example, the employers began to operate during strikes in the 1980s.

Telecommunications is a good example of an industry in which modern technology allows production to continue relatively unhindered, at least during the early stages of a strike. Telephone companies have long sought to maintain service during strikes, and the advancing automation of telephone services has steadily increased their capacity to do so successfully. Although telephone installation and maintenance may have to be postponed during a strike, basic telephone service is now so completely automated and computerized that the great bulk of telephone services can be provided without the consumer noticing any change. Supervisory employees, for example, can be shifted to essential maintenance work to keep the system operating. These expediencies do put pressure on the employer, however, and that pressure increases as time goes on with backlogs of unattended administrative functions and service orders and with growing fatigue among the supervisory employees, who have to spend long shifts doing tasks that have become

unfamiliar. Nonetheless, the companies' capacity to continue to provide basic services weakens the bargaining power of telecommunications employees in strike situations. Still, as Hendricks points out, increased competition among providers of long distance telephone service may have increased the vulnerability of AT&T to strikes. Competition raises the possibility that a strike may mean lost customers. Moreover, the breakup of the Bell System also means that the regional operating companies cannot draw on management and supervisory personnel from all over the country to assist them during a regional or local strike.

In contrast to telecommunications, the airlines' recent attempts to operate during strikes have often been expressly designed to rid the companies of their burden of dealing with the union. For example, the recession in the industry in the early 1980s and the ready supply of qualified pilots allowed Continental to replace nearly all of its unionized pilots. Even if their replacement did not succeed, in the end, in removing the pilots' union, the replacement of higher paid senior pilots with junior pilots substantially reduced Continental's operating expenses.

## The Future of Collective Bargaining

The decade of the 1980s was a time of ferment for the institution of collective bargaining. Unions and employers had to respond to changes in the technological, economic, and legal environments that were unprecedented in the post-World War II period. Recession and economic stagnation, foreign and nonunion competition, deregulation and divestiture—all served to shift the initiative in collective bargaining from unions to employers. One result of this shift was a greater willingness of unions to grant concession on wages, benefits, and work rules. Somewhat overshadowed by concession bargaining was an equally significant development—the increased willingness of many employers and unions to enter into innovative arrangements in which issues formerly outside the scope of bargaining became the focus of their concern. If agreements that sought to improve the quality of working life, to promote union and employee participation in business decision making, to base pay on profits and other measures of employee and firm performance, to enhance the employment security of union members, and to experiment with other forms of workplace reform did not become the norm, they certainly became more commonplace in the 1980s. Those developments had the effect of broadening the scope of bargaining beyond the parties' traditionally narrow focus on wages, hours, and conditions of employment. In effect, many unions traded short-term economic concessions for an expanded role in the enterprise. Paradoxically, these trade-offs, the ostensible result of unions' weakness in the 1980s, might serve to strengthen their position in the long run.

The loss of members in traditional union strongholds caused the labor movement to undertake an intense self-appraisal. In 1982, for example, the AFL-CIO established the Committee on the Evolution of Work, consisting of top international union and AFL-CIO leaders, to assess the condition of workers and their unions and to make recommendations for the "renewal and regeneration" of the American labor movement. Among several noteworthy recommendations in the committee's 1985 report was a proposal to create new categories of union membership for workers not employed in organized bargaining units. Noting that the number of *former* union members in the labor force was greater than the number of *current* union members (27 million versus 20 million), the committee believed that a new category of membership might serve to bring those former members back into the union fold, even if circumstances prevented unions from representing them directly in collective bargaining (AFL-CIO 1985).

By the end of 1986 some 30 international unions had established, or were planning to establish, the category of "associate member." One of the first benefits offered to associate members was a consumer credit card that carried an interest rate significantly below the rate on other cards issued by the nation's banks. At the same time the AFL-CIO was laying plans to offer both associate and full members an array of financial and consumer services, such as discounts on consumer goods; inexpensive life, auto, and homeowner insurance; and money market and mutual funds designed especially for union members. All of those services, it should be noted, were to be financed or subsidized by the union movement itself, and not by employers through collective bargaining (*New York Times* 1986b and 1987; and discussions with AFL-CIO leaders in Washington, D.C., in November 1986). This historic shift in organizing strategy could mean that in the future labor will emphasize its collective *purchasing* power even more than its collective *bargaining* power. But it was the hope of the AFL-CIO that members attracted to the movement because of the new services would eventually recognize the advantages of collective bargaining as a method of improving their welfare.

As the 1980s drew to a close, the wave of corporate mergers, acquisitions, bankruptcies, and reorganizations continued without abatement in industries such as autos, steel, agricultural machinery, oil refining, and trucking. Those events disrupted many stable bargaining relationships. Many corporations continued to shut down their older, unionized facilities and open new, nonunion plants; move their production facilities overseas; form new, nonunion subsidiaries; or subcontract part of their work to nonunion or foreign producers. The effect of these corporate actions on collective bargaining is well documented in this volume's industry studies. Corporate reorganizations and relocations were clearly another factor that caused a shift in the balance of power in labor relations from unions to employers, and there is no sign that a reversal in this trend will occur in the near future.

periodic and prolonged recessions or economic stagnation and decline, collective bargaining (and its capacity to initiate workplace reforms) will suffer.

The future of collective bargaining will also depend on the direction of public policy. In the 1980s deregulation shook the roots of collective bargaining in several key industries. But now that deregulation has largely been completed, it is not likely to continue to have a critical influence on bargaining relationships. Collective bargaining was clearly weakened in deregulated industries, such as telecommunications, airlines, and trucking, but it did survive. And having survived, it is not likely to grow any weaker in those industries.

More important than regulatory policies to the future of collective bargaining in American industry will be the direction taken by the National Labor Relations Board and the courts. Having failed to achieve congressional approval of labor law reform in the 1970s, the union movement then saw itself as the victim of a long series of adverse decisions by those agencies in the 1980s. Whether those decisions were right or wrong, and whether they had the effect, as labor asserts, of weakening unions and collective bargaining, are questions that can be debated. It must be a significant sign, however, that labor's frustration with contemporary public policies grew to such heights that several important union leaders seemed prepared to see the Taft-Hartley Act scrapped and to return the "law of the jungle" (*New York Times* 1985c, quoting Lane Kirkland, president of the AFL-CIO). The future vitality of the union movement and collective bargaining, then, may very well depend on whether the public policy apparatus continues to be dominated by a conservative, pro-business ideology or turns in the direction of a liberal, more pro-union one. Any such turn will itself depend, of course, on the outcomes of future presidential and congressional elections and, ultimately, on public opinion.

Managerial attitudes and philosophies will also help determine the future of collective bargaining. Management ideologies have taken marked swings throughout the twentieth century. In the early part of the century, management opposition to unions was the norm, but by the 1950s the sociologist Daniel Bell was writing about "the end of ideology," which in industrial relations presumably meant managerial acceptance of unions and collective bargaining (Bell 1961). It was common—though perhaps only fashionable—for industry leaders in the 1950s to laud the value of collective bargaining in a free society. If a consensus among managers on the virtues of free collective bargaining ever did exist (and scholars still debate this point), it certainly fell apart in the 1960s and 1970s. In fact, in the 1980s it was difficult to find a manager who had a good word to say about unions or collective bargaining. Managerial attitudes tended in recent years to range from grudging acceptance of unions to aggressive opposition. At the extreme some managers, albeit a minority, were willing to violate the law (for example, by firing union

sympathizers) to avoid unionization. If the dominant management values continue to be strongly anti-union, the prospects for a revitalization of collective bargaining do not appear to be promising (Kochan, Katz, and McKersie 1986).

Finally, the future of collective bargaining most certainly depends on the future vitality of the union movement itself, and particularly on the effectiveness and energy of union leaders. If the labor movement is able to generate fresh ideas and charismatic leaders, as it managed to do in the 1930s, all other obstacles to the regeneration of collective bargaining may fade in importance. A sign that renewed energies may be coursing through the labor movement was the AFL-CIO's adoption in 1985 of a new organizing strategy, discussed above. It might be contended that there is equally a need for labor to develop a new collective bargaining strategy. During most of the post-World War II period, union leaders like the UAW's Walter Reuther could be counted upon to generate new and creative ideas in collective bargaining. But by the 1980s many union leaders seemed to be suffering from a near exhaustion of ideas. The labor force of the future will consist not only of highly educated, skilled, white-collar workers but also of millions of less educated, less skilled workers, many of whom will be minorities and immigrants (see, for example, Kerr and Staudohar 1986, 36-72). Labor's challenge, therefore, will be to develop a bargaining strategy that will appeal to this variegated constituency.

The shape of an effective bargaining strategy can now be only dimly perceived. An indisputable premise is that an effective bargaining strategy must entail labor's energetic representation of its members' interests. Beyond that general statement lie murky waters. It is not likely that labor will abandon its traditional focus on bread-and-butter issues, although it may never again be as inflexible on those issues as it was before the concessionary era. It is also a fair guess that we shall witness the continued diffusion of workplace innovations throughout the unionized sector. But today's innovations will be old hat tomorrow. To revitalize collective bargaining the union movement will need to come up with even more creative strategies to suit the needs and desires of the workers in the next century.

All told, it is not surprising that scholars and practitioners alike have begun to debate whether collective bargaining in American industry had reached a historic turning point: Was collective bargaining permanently changed by the developments of the 1980s? Or did it merely experience a temporary detour from its historic path? Derber has called the former viewpoint the "new-stage theory" and the latter the "rerun theory" (Derber 1983; see also Cullen 1985). Clearly, collective bargaining was not as stable in the 1980s as it had been in the 1950s, nor was it as turbulent as it had been in the 1930s. There were, as this book amply illustrates, significant changes in the 1980s, and many of the changes will certainly have a lasting impact on the



practice of collective bargaining. But on the other hand, nothing occurred in the 1980s that changed the fundamental character of collective bargaining in most American industries. The key features of the institution, which are aptly described by the systems framework used throughout this volume, remained unaltered by the developments of the last decade. In truth, in every era collective bargaining has been characterized by both stability and change. The institution was never as static as some believe it was. Similarly, since its inception in the nineteenth century collective bargaining has always had certain unchanging features. In the 1980s collective bargaining in American industry was, indeed, in a period of transition to a "new stage." But, we maintain, collective bargaining has always been a dynamic institution: It has always been in a state of transition from the knowable past to the uncertain future.

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