

COLLECTIVE BARGAINING AND LABOR RELATIONS

THIRD
EDITION



E. Edward Herman • Joshua L. Schwarz • Alfred Kuhn

third edition

Collective Bargaining and Labor Relations

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Prentice Hall, Englewood Cliffs, New Jersey 07632

Library of Congress Cataloging-in-Publication Data

Herman, E. Edward

Collective bargaining and labor relations / E. Edward Herman,
Joshua L. Schwarz, Alfred Kuhn. — 3rd ed.

p. cm.

Rev. ed. of: *Collective bargaining & labor relations*, 2nd ed.
c1987.

Includes bibliographical references and index.

ISBN 0-13-143066-1

I. Collective bargaining—United States. 2. Industrial relations—
United States. I. Schwarz, Joshua L. II. Kuhn, Alfred, 1914.
III. Herman, E. Edward. Collective bargaining & labor
relations. IV. Title.

HD6508.H43 1991

331.89'0973—dc20

91-20442

CIP

Editorial production and

interior design: *bookworks*

Acquisition editor: Alison Reeves

Editorial assistant: Lourdes Brun

Managing editor: Fran Russello

Cover design: Marianne Frasco

Copy editor: Patricia Johnson

Marketing Manager: Sandy Steiner

Prepress buyer: Trudy Piscioti

Manufacturing buyer: Robert Anderson

Cover photograph: © 1992 The Museum of Modern Art, New York.



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A Simon & Schuster Company

Englewood Cliffs, New Jersey 07632

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reproduced, in any form or by any means,
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Printed in the United States of America

10 9 8 7 6 5 4 3 2 1

ISBN 0-13-143066-1

Prentice-Hall International (UK) Limited, *London*

Prentice-Hall of Australia Pty. Limited, *Sydney*

Prentice-Hall Canada Inc., *Toronto*

Prentice-Hall Hispanoamericana, S.A., *Mexico*

Prentice-Hall of India Private Limited, *New Delhi*

Prentice-Hall of Japan, Inc., *Tokyo*

Simon & Schuster Asia Pte. Ltd., *Singapore*

Editora Prentice-Hall do Brasil, Ltda., *Rio de Janeiro*

Preface

The third edition of *Collective Bargaining and Labor Relations* has been significantly updated and revised. The book reflects the major changes that have taken place in the labor relations arena in recent years. At the same time, it retains much of the rich institutional detail that puts current developments into perspective. We have also written a number of totally new chapters and sections.

The field of collective bargaining and labor relations is dynamic and thus in a constant state of motion. Since our first edition, substantial changes have occurred in the industrial relations climate in the United States and abroad. Major new economic development, new technology, increased foreign and domestic competition, political changes such as the liberation of Eastern Europe, changing workforce demographics and altered interpretations in the application of labor laws have all had and will continue to have effects on the U.S. labor scene. In this edition we have attempted to capture the effect of these and other changes. All of the statistical material has been updated along with our comprehensive bibliography of collective bargaining literature. We also incorporate the findings of recent research on subjects covered by this text.

PRODUCT DIFFERENTIATION

In view of the variety of texts on labor relations and collective bargaining it is necessary to explain what makes this book different. Our book provides in-depth coverage of a number of areas that are either omitted or underemphasized in other texts; specifically, the reader is directed to the following chapters: "The Role of Collective Bargaining in Our Society," "Some Effects of the Law on

Representation Election Outcomes, Bargaining Power and Attitudes toward Bargaining," "Bargaining Structure," "Preparation for Bargaining," "Contract Costing," "Effects of Collective Bargaining on Compensation and Firm Performance," "Management and Union Security," and "The Future of Labor-Management Relations and Collective Bargaining." The text also includes a bargaining simulation, and recent arbitration cases addressing current issues.

The opening chapter places the study of collective bargaining in a broader perspective. It addresses the question "why study unions and collective bargaining?" In addition, we review the industrial relations system in terms of its connections to the social, economic, and technological context within which it operates. Finally, the variety of different labor management relationships characterizing diverse current developments are illustrated by a discussion of the Saturn Division of General Motors and the United Automobile Workers and of the *New York Daily News* and its unions.

The chapter on the law and its effects examines how the law influences labor and management and their relationship. The chapter addresses the following questions: How does the law affect union organizing? Does the law increase or decrease the bargaining power of labor and management? What is the impact of the current legal framework on labor-management relations? By addressing these questions, the book provides students with an analytical framework for evaluating the effects of the law on labor relations and collective bargaining.

The bargaining structure chapter differentiates among various units such as the informal work group, election district, negotiations unit and unit of direct impact. One section is devoted to recent developments in bargaining unit determination in the hospital industry. Other sections examine craft and multi-employer units and review coordinated and pattern bargaining.

The Chapter "Preparation for Bargaining" provides detailed coverage of various aspects of preparation for negotiations and it addresses the following topics: formulation of proposals, bargaining manuals, tactics and strategy, sources of data and bargaining procedures.

"Contract Costing," is a subject usually neglected in collective bargaining courses and until the recent past absent from most texts. In our view the understanding of contract costing is a major challenge for both unions and management. The computer revolution and the increasing number of sophisticated, quantitatively trained specialists occupying managerial positions is conducive to shifting many industrial relations decisions away from labor relations personnel to actuaries, accountants, economists and finance experts, most of whom lack background in labor relations. To prevent such a shift in responsibilities, labor relations staffs will require better understanding of finance and costing. To be effective at the bargaining table, union negotiators will also have to possess the quantitative expertise mandated by the advent of the computer. The purpose of the costing chapter is to familiarize the reader with various aspects of costing.

The three chapters on the bargaining process (9-11) attempt to provide the reader with an understanding of the practical aspects of negotiations and impasse resolution as well as with the theoretical rigor of the bargaining models of

Kuhn and of Walton and McKersie. In our view it is not possible to comprehend the collective bargaining process and the various social interactions that it embodies without an examination of both the practical and theoretical dimensions of this process. Additionally, these chapters review such current intervention practices as mutual gains or win/win bargaining and grievance mediation.

Our chapter on the "Effects of Collective Bargaining on Compensation and Firm Performance" goes beyond the traditional coverage of how unions influence wages and benefits. In this chapter, we review recent literature on the effects of unions and labor/management relations on productivity, profitability and stock prices.

The subject of union and management security, a topic which is both important and controversial, is discussed in some depth in Chapter 13. This chapter reviews the arguments and discusses the importance of institutional security to both labor and management. Finally, we examine the need for objective criteria to analyze the issue of institutional security.

The last chapter of the text seeks to provide a perspective on "The Future of Labor-Management Relations and Collective Bargaining." Here we place U.S. industrial relations into an international perspective. In attempting to draw inferences about the future, we discuss trends in public opinion and ways in which unions have been responding to declining membership, including their efforts at long range strategic planning. We also review research on the impact of management's industrial relations policies on performance of firms.

The bargaining simulation included in a latter part of the book is a helpful supplement to bargaining courses. The simulation has been successfully tested on students with and without background in labor relations as well as on managers from large corporations, some of whom have had significant amounts of negotiation experience. The response from the various groups has been excellent; the participants have highly endorsed the simulation as a teaching tool. The simulation, as contrasted with most other simulations on the market, is structured so that it is never out-of-date. The work sheets accompanying it permit the instructor and students to utilize the latest published data for simulation purposes.

In our view, negotiations do not end when a settlement is reached and an agreement is signed. Collective bargaining is a continuous process consisting of contract negotiations, administration and interpretation. In the last section of the book we have included recent arbitration cases which illustrate such current work place issues as drug testing, alcoholism, discipline and subcontracting. The arbitration awards for these cases are included in the Instructor's Manual.

So far we have presented the subjects that we have included that are not always covered or only briefly discussed in other texts. This raises the question—what was the trade-off? The answer is we no longer include chapters on employment discrimination law, on employee benefits and on application of the bargaining theory model. The most significant content of these chapters was added to other chapters of our text. We also left out most of the wage theory material. Here we concur with Dunlop that "an industrial relations system is not a

subsidiary part of an economic system, but is rather a separate and distinctive subsystem of society.”* Our book primarily examines labor relations subjects, labor law, collective bargaining and a few relatively pragmatic aspects of wages.

Every author has to make hard choices of what to include. We feel that the advantages of intensive coverage of the areas presented here outweigh those of an encyclopedic volume with briefer coverage of more numerous topics. Most chapters of this text are self-contained, giving instructors the flexibility to use chapters in any sequence which best meets their needs. This volume is designed for both undergraduate and Masters students in industrial relations, collective bargaining and labor-management relations courses. Many of these chapters should also be useful for labor relations practitioners. The text is designed to be complete without supplements, although some teachers may want to provide their own selection of readings.

ORGANIZATION

The first chapter as indicated earlier serves as an introduction to both the field of collective bargaining and labor relations and to this text. The chapter begins with a discussion of the reasons for studying this field than it proceeds to an examination of industrial relations systems.

Chapter 2 discusses the development and growth of the labor movement. The chapter reviews the emergence of the first unions, examines different types of unions, and discusses the Knights of Labor, the development of the American Federation of Labor, left-wing unionism, the IWW, and the separation and the reunification of the AFL-CIO. Trends in union membership growth and decline are examined along with reasons for those trends. Finally, the prospects for the future are evaluated.

The third chapter provides the legal context within which unions and management operate. An examination of the evolution of this framework begins with the period of opposition to unions including the Conspiracy Doctrine, the injunction, and the Sherman and Clayton Anti-Trust Acts. Next the period of support of unions which includes the passage of the Norris-LaGuardia and Wagner Acts is reviewed. This is followed by the period of control during which the Taft-Hartley and Landrum-Griffin Acts, and the Health Care Amendments were enacted. This chapter also provides a review, a critique, and attempts at reform of the current law.

Chapter 4 evaluates the effects of the law on outcomes of representation elections, bargaining power and the attitudes of the parties toward bargaining. It examines the current legal status of primary strikes, lockouts, secondary boycotts, and picketing. The chapter also assesses the effects of the law on union organizing. Lastly, it addresses the question of whether the law fosters “mature” bargaining.

Chapter 5 discusses the organizational structure of unions and employers.

*John T. Dunlop, *Industrial Relations Systems* New York: Holt, 1958, p. 5.

It looks at the local, national, and international unions and at the structure of the AFL-CIO. It also examines democracy in unions and problems associated with it. The chapter also reviews the organizational structure of employers. It evaluates the environmental constraints within which employers operate as well as the internal dimensions of organizations including different forms and styles of management. The chapter also discusses complex structures such as multinational firms and employer associations. Finally, the chapter evaluates how structural factors affect and are affected by collective bargaining.

The bargaining unit and the structure of collective bargaining are the subject of Chapter 6. Formal and informal bargaining units are defined and evaluated. Bargaining units prevalent in various industries are examined. The chapter reviews the influence of employers, unions and the NLRB on the dimensions of bargaining units. The pros and cons of different bargaining structures are discussed from the perspective of each of the stakeholders.

Chapter 7 addresses the subject of preparation for bargaining. It also provides an introduction to various aspects of labor negotiations which is the major theme of the following five chapters. The chapter covers the following topics, some of which were discussed earlier, the composition, size and selection of teams of union and management negotiators, the preparation and value of bargaining and economic data, the role of bargaining books, the formulation of union and management proposals and demands, tactical preparations for bargaining, and development of negotiating procedures.

Every provision for the contract can have cost implications. Part of the preparation process is to decide on costing approaches and methodology that can be utilized during bargaining. Chapter 8 examines issues related to costing of labor contracts including different components of the compensation package. One section analyzes and critically reviews various methods that can be applied for costing of wage and benefit proposals. Concepts such as elasticity of demand, present value, and discounted cash flow formulae are discussed and their implications for costing examined. Finally, the role of the computer for negotiations is evaluated. We have included two appendixes to Chapter 8 for those interested in more detailed coverage of contract costing.

Chapter 9 provides a foundation for understanding of the negotiations process. The chapter covers the following topics: bargaining procedures, different stages of negotiations, strategy and tactics of negotiations, legal constraints on some tactics, and mutual gains bargaining or win-win negotiations, the latest approach to negotiations.

Chapter 10 provides a theoretical framework, thus complementing the practical aspects of negotiations presented in Chapter 9. A review of bargaining theory is presented, followed by an extensive review of two major theoretical works: the Walton and McKersie Behavioral Theory of Labor Negotiations and Alfred Kuhn's model on transactions and power. The Kuhn model is applied to the negotiations process. It examines and evaluates the impact of strike threats on the thinking and behavior of negotiators at the bargaining table.

Chapter 11 discusses the level and implications of strike activity in the United States. The trends in the magnitude of strikes are examined along with

the presence of strike substitutes and supplements. Recognizing that a potential for a bargaining impasse exists in every negotiation, the chapter incorporates a section on various methods of impasse resolution.

The focus of chapter 12 is on the effect of unions on pay levels, pay form, pay structure and pay systems. One section examines the impact of bargaining outcomes on the behavior of employees and employers. The chapter also evaluates the effects of unions and terms of labor agreements on productivity and on other measures of firm performance.

Chapter 13 addresses the nature, status and various dimensions of union and management security. It explores the problems, rationale, and allocation of managerial prerogatives. It discusses the topics of interest and ability in the making of managerial decisions. One section evaluates the concept of secure versus insecure management and its effect on collective bargaining. Finally, background factors and patterns and trends in management security are reviewed. The second part of this chapter addresses the subject of union security. It poses the question of how much and what kinds of security are necessary for the union to function effectively. The relationships among union function, union responsibilities, union security and the state of labor relations are analyzed. The chapter presents and evaluates various forms of union security. It also includes the latest court decisions regarding the obligations of bargaining unit members to pay union dues.

Chapter 14 evaluates the nature and meaning of plant government, it examines the judicial process in plant government, and the steps and functions of the grievance procedure. Substantial attention is devoted to the operation and implementation of the grievance procedure and of the arbitration process. The chapter also reviews grievance procedures in nonunion settings as well as the linkage between grievance procedures and the performance of firms.

The unique nature of collective bargaining in the public sector is the subject of Chapter 15. This chapter reviews the growth of collective bargaining in the public sector and factors responsible for such growth. It covers federal, state and local legislation governing public employees. It also evaluates the structure and operation of administrative agencies, unfair labor practices, determination of bargaining units, elections, and certification procedures. Other subjects addressed by this chapter are: the process and scope of bargaining in the public sector, major unions in the public sector, the sovereignty doctrine, union security, the right to strike, and the future of collective bargaining in the public sector.

The final chapter addresses the future of labor-management relations and collective bargaining. First, the chapter provides an international labor relations perspective by reviewing patterns of union membership in various industrialized democracies around the world. The chapter also evaluates trends in public opinion about organized labor. Other topics addressed by this chapter are: trends in union membership, new forms of union membership, potential revisions of labor law, experiments in labor-management cooperation, implications of various employer's policies toward labor relations, and strategic planning by unions.

The text contains a revised collective bargaining simulation which is based on an actual case. The simulation contains background information on: the company, the union, financial data, present contract terms, instructions for negotiations, work sheets, role profiles, and evaluation questionnaires. Simulation participants are provided with references to external data sources that can be of assistance in their negotiations. Simulation instructions are available to adopters of this book.

The book also includes actual arbitration cases covering labor contract interpretation issues as well as such topics as drug testing, alcoholism, discipline and subcontracting.

Acknowledgments

We would like to express our appreciation to those who have assisted us in making this volume possible. We gratefully acknowledge the help of graduate research assistants who contributed to the current or earlier editions of this book. We especially wish to thank the following students: Wendy Dyer, Lorraine Kawecki, Eileen Kelly, Judi Peddersen, and Cheryl M. Way.

We are indebted to all those students who used earlier versions of this text and provided us with valuable comments for its revision. We would like to express our thanks to our publishers, particularly Alison Reeves, Executive Editor and Assistant Vice-President. We are grateful to Lisa S. Garboski of bookworks Editorial Production Services and to her staff, for their capable assistance, cooperation and work in preparing this volume for publication.

We would particularly like to express our thanks to Ronald L. Seeber for his contributions as a coauthor of the second edition.

Contributions from colleagues and friends are also acknowledged: Howard M. Leftwich, Jerome T. Barrett, Louis J. Manchise, Emil C. Farkas, Theodore K. High, Edward P. Goggin, Noah Meltz and Dane Partridge. Our thanks are extended to Douglas M. Yeager for co-authoring a very early version of the collective simulation included here. We also acknowledge and thank Philip R. Dankert, Collection Development Librarian at Cornell University, for his excellent contribution in preparing a glossary, and an extensive labor relations and collective bargaining bibliography. Laura M. Carchia, the very capable industrial relations librarian at M.I.T. deserves our thanks for helping us find material for this edition. We acknowledge with thanks all the assistance that we have received from our office staff at the University of Cincinnati and at Miami Univer-

sity. We are also indebted to those who helped type the manuscript including Anne Dickey, Debbie Allen, Sandy Richardson, Kristina Adams, and Dianne Taylor and especially Virginia Farquhar.

Thanks are also due to all of our teachers and professors who stimulated us to think about the important issues discussed in this text. Perhaps the greatest debt of gratitude is owed to our families who nurtured us throughout this project.

ACKNOWLEDGMENTS AND THANKS FROM E. EDWARD HERMAN

During my sabbatical from the University of Cincinnati, I had the privilege of being granted an appointment as visiting scholar at the Massachusetts Institute of Technology, (1990–91), and at Harvard University (1991). These appointments provided me with a unique opportunity to interact with colleagues and to attend various graduate classes, workshops and seminars both at M.I.T. and at Harvard. Some of the thoughts contained in these pages are the result of those interactions. Because of time constraints many of the ideas generated by my Cambridge sabbatical will have to wait for the next edition. My very special thanks go to Thomas A. Kochan and Robert B. McKersie of M.I.T. for their stimulating classes and for their friendship. I would also like to thank David Kuechli of Harvard for all of his help. I wish to acknowledge my appreciation to John T. Dunlop, Raymond A. Friedman, Charles C. Heckscher, and David Kuechli of Harvard for permitting me to visit some of their thought provoking classes, I have found them to be very motivated and talented teachers. I would also like to express my appreciation to the following M.I.T. and Harvard faculty for letting me regularly attend and fully participate in their excellent graduate classes and workshops, some of which I found to be outstanding: Roger Fisher, Heather A. Hazard, Sandra A. Lambert, Connie Ozawa, Mary P. Rowe, James K. Sebenius, Lawrence E. Susskind, and Michael Wheeler. Thanks to all of the above faculty my sabbatical in Cambridge turned out to be an invaluable learning experience and undoubtedly the results of my year at M.I.T. and Harvard will be reflected in future editions of this book as well as in papers and in articles. Last but not least my thanks to the Charles Phelps Taft Memorial Fund for the grant that helped defray a small part of my sabbatical expenses.

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