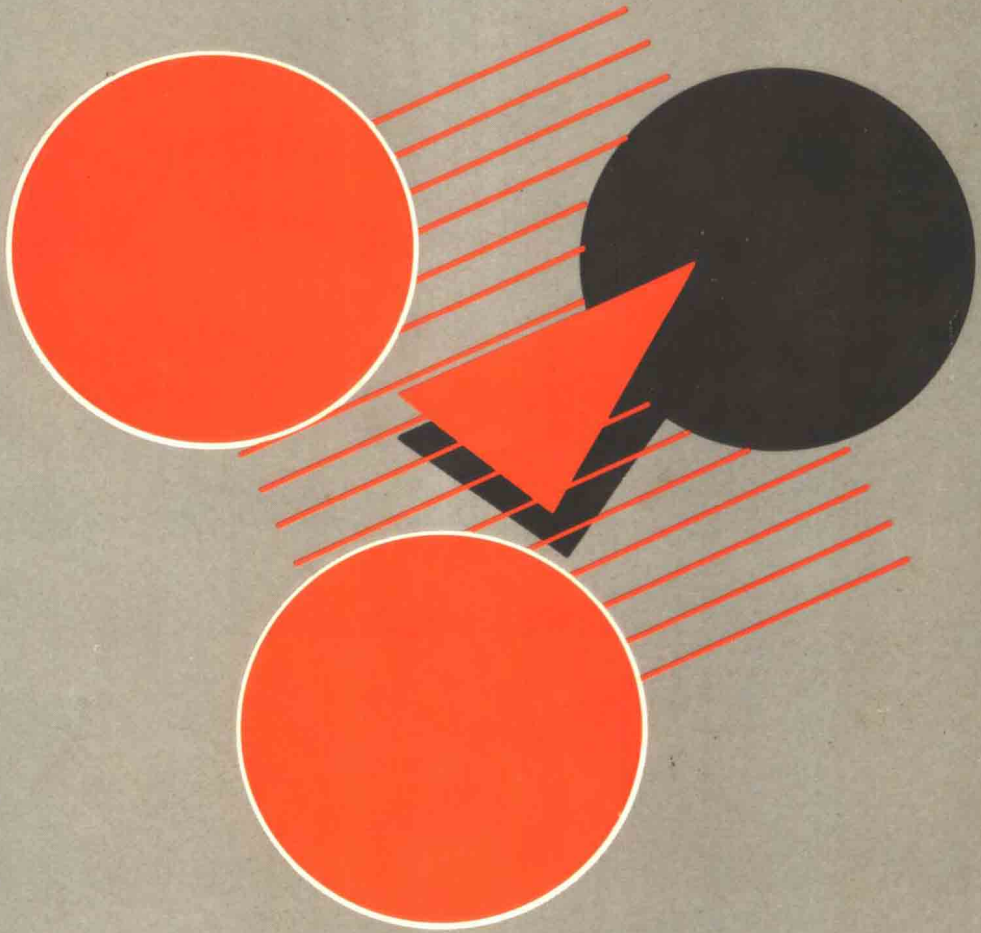


COLLECTIVE BARGAINING

THIRD EDITION



NEIL W. CHAMBERLAIN

JAMES W. KUHN

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COLLECTIVE BARGAINING

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PREFACE

Collective bargaining has developed in recent years in ways quite different from those that were assumed only a decade ago. While it has spread to the public sector and is widely used there, it has actually declined in the private sector. Fewer workers in business firms are now covered by collective bargaining agreements today than at any time in the past generation. There is a continuing, pervasive skepticism about the worth of collective bargaining among both the public and management. It meets with no great opposition where it is already well established; but except for unionists few are convinced that it should be more widely practiced than it is at present. Dissatisfaction continues to be expressed with procedural anachronisms that linger on, and many labor advocates raise concerns over the failure of collective bargaining to win a more commanding place in the relationships of employers and employees.

This third edition of *Collective Bargaining* has been revised to reflect both recent research and the changes in labor institutions and industrial relations. It still considers the history, nature, problems, and potential of collective bargaining, stressing the evolutionary nature of the bargaining process, the mixture of styles, both primitive and sophisticated, that continue to manifest themselves, and the ongoing changes in procedures, and even in conception, of bargaining. These emphases seem as appropriate today as they did when the first edition appeared.

Popular commentators and many labor scholars believe that both unions and managements need to consider new approaches to old needs in a time of spreading industrialization throughout the world and consequent increases in world competition. The needs are compounded by rapidly changing technologies that are increasing service occupations and industries much faster than manufacturing, long the bastion of unions and collective bargaining. Both union and management negotiators have so concentrated upon the daily issues and narrow concerns of their immediate responsibilities that there has been all too little experimentation in new forms of collective bargaining. Only out of the difficulties of plant closures, threatened bankruptcies, and declining markets have both parties realized that cooperation may be more than an ideal—it may be a necessity.

Policy with respect to the appropriate role of government in labor relations is also undergoing change. Attitudes toward public authority and responsibility on the strike and wage fronts have been subjected to critical review. Some labor leaders have become so disenchanted with the federal government's role through the National Labor Relations Board that they have suggested at least a partial repeal of the basic statutes, and the de facto breaking of a national union by the federal administration in 1981 indicated a greatly altered relationship between government and unions. If attitudes and trends are highly inconclusive, this too reflects a continued questioning of whether old problems, now arising in changed contexts, do not present the need for fresh solutions.

We have attempted to incorporate more the attitude of quest than of conclusion in these pages, and more the need for analysis to modify policies than for analysis to explain existing practices.

Finally, we wish to acknowledge our intellectual debt to the innumerable scholars and researchers who have created many of the materials out of which these pages have been spun. Many lively minds have reflected on the issues of collective bargaining, to our benefit. We have enjoyed and profited from discussions and exchanges with our colleagues, not only at the Graduate School of Business, Columbia University, but also in the profession at large. In acknowledgment of this debt, rather than as an assertion of accomplishment, this book can properly be said to be a collaboration of many more than two people.

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SECTION ONE

INTRODUCTION

THE DIVERSITY OF COLLECTIVE BARGAINING

“Collective bargaining” is the term Americans use to describe the activity of employers and representatives of organized employees through which the two parties establish and administer rules and conditions of work as well as hours and wages. Narrowly construed, it refers only to the periodic negotiating of agreements that define specific terms and provisions; more widely defined, it includes all the processes through which employers (or employing organizations) and unions interact.

In the United States, collective bargaining has displayed various forms and reveals even today, in careful examination, several natures. Workers and employers—union leaders and managers—have not developed collective bargaining according to any theoretical model or even a well-structured notion of how it should proceed. They pragmatically adopted one form or another and discovered its particular nature as they responded to their successes and failures of the moment. Experience more than theory has molded collective bargaining, producing an untidy variety that can be neither easily described nor succinctly analyzed. Scholars have not always agreed upon the features that best characterize American unionism and its collective bargaining. Some have argued that the essence of unions is their variety, whereas others have stressed common features within their variety.

Representative of the former point of view is Professor Robert F. Hoxie, of the University of Chicago. Writing before 1917, he found the differences among unions and their collective bargaining to be more significant than their similarities. He described five major types and several lesser types of union-

ism.¹ Professor Selig Perlman, of the University of Wisconsin, represents the second point of view. In his *A Theory of the Labor Movement*, first published in 1929, he defended the thesis that American unionism tended toward a typical kind of collective bargaining. Through it unionists pursued limited goals of winning control of wages and jobs. Convinced that opportunities were scarce, workers organized to protect their job interests, bargaining to establish the rules and conditions that define their "collective ownership over the whole amount of [job] opportunity."² In thus describing unions and collective bargaining, he emphasized their common elements in different settings and played down their differences. The analyses and descriptions of both Hoxie and Perlman, and of those who follow their respective leads, have much validity and can be applied usefully today, more than half a century after they were offered. In American collective bargaining one can find central tendencies and make reasonable generalizations; one would be well advised to note, however, the wide and sometimes amazing diversity within which they occur.

Much of the diversity arises from the fact that collective bargaining is at once old and new, and it has manifested this dual characteristic over a long time span. In every decade over the past century or more, some workers and employees have only begun to practice it, exploring its potential and adapting its forms. Yet others, at least 175 years ago, carried on in a fashion suggestive of modern, well-established union-management relationships. The term itself belongs to the twentieth century, though Beatrice Webb coined it in 1881.³ More than a decade later, in 1902, the Industrial Commission, created by an act of Congress in 1898, noted the slow spread of the term "collective bargaining": "It is not often employed in common speech in the United States, but is gradually coming into use among employers and employees in Great Britain. It evidently describes quite accurately the practice by which employers and employees in conference, from time to time, agree upon the terms under which labor shall be performed."⁴

What are the reasons for the mixture of both old and new use of this process that only slowly gained recognition and a name? They are several; the most important at first was discontinuity in the use of bargaining methods and bargaining organizations through most of the nineteenth century. For many years bargaining was so intermittent and negotiated outcomes were so ephemeral

¹Business unionism; friendly, or uplift unionism; revolutionary unionism, of socialist and quasi-anarchistic kinds; predatory unionism, of holdup and guerilla forms; and dependent, or company unionism. See Robert F. Hoxie, *Trade Unionism in the United States*, New York: D. Appleton & Company, Inc., 1917.

²Selig Perlman, *A Theory of the Labor Movement*, New York: Augustus M. Kelley, 1949, p. 242.

³Beatrice Potter (Mrs. Sidney Webb), *The Cooperative Movement in Great Britain*, London: George Allen & Unwin, Ltd., 1891, p. 217. However, Terence Powderly, who served as General Master Workman in the Knights of Labor, says in his autobiography that Andrew Roy, a student of and participant in coal miners' organizations, wrote as early as 1874 of the "right of the miners to bargain collectively." [Terence V. Powderly, *The Path I Trod*, Harry J. Carman, Henry David, and Paul N. Guthrie (eds.), New York: Columbia University Press, 1940, p. 310.]

⁴*Final Report of the Industrial Commission*, Reports of the Industrial Commission, vol. 19 (1902), p. 834.

that observers—and even participants—hardly recognized the elements of continuity and similarity among their activities. Furthermore, bargaining practices varied considerably from place to place and industry to industry; negotiations also changed as the structures of business enterprise and unions altered with the coming and flowering of industrialization.

Neither workers nor employees at first had any clear notion of what form of collective bargaining might best serve their interests. A unilateral determination and imposition of terms appeared to promise the greatest advantage. Employers favored unilateral bargaining. First, they were used to setting the terms of work and insisted that they continue to do so, except when forced by unions' superior bargaining power to agree to other terms. Second, employers saw bargaining as an intermittent and opportunistic activity, required only when economic conditions favored unions and worked against themselves. If now and then they had to put up with unions' unilateral imposition of terms, they could be assured that times would soon change and they could resume their own imposition.

Both parties were thus able to make the most of whatever short-term advantages came their ways. Their flexible and immediate responses sacrificed opportunities for nurturing much stability in their relationships, but the costs involved seemed slight. Unions appeared and vanished quickly in any case; most business firms were small, usually but enlarged images of a single entrepreneur, and almost as subject as unions to the uncertainties of economic vicissitudes. Business conditions through most of the nineteenth century did not encourage considerations of long-term dealings with a group of employees.

Gradually unions found ways of establishing themselves as continuing organizations, and many employing firms grew large and durable enough to value the benefits of attaching workers to their jobs. Both managers and union leaders came to realize the value of stability, as well as of flexibility, in negotiating wages and conditions of work. Managerial acceptance of unions and collective bargaining has seldom been wholehearted or unreserved, however. As a result, unorganized employers have continued to resist efforts to organize unions, and a pervasive adversarial approach to industrial relations prevails even where unions established themselves long ago. Only in recent years, confronted by previously unknown competitive pressures from abroad, have managers in some firms and industries begun seriously to explore the promise of partnership with unions and cooperation at the workplace: creative problem solving, to their mutual gain.