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LABOR
RELATIONS

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LABOR RELATIONS

To
Louise and Amy
and
Judy, Eileen and Frank

Although it is our hope that this book will aid all readers who desire a deeper understanding of union-management relations, we have specifically designed it for business school students who seek a one-semester introduction to the field. As such, it contains certain areas of focus, and certain ones which must necessarily be minimized in treatment.

On the side of relative omission, the book does not attempt to be both a labor economics and a labor relations text. Rather, it brings in what we believe is sufficient economic material to allow a basic appreciation of the labor relations process and stops at that point.

On the other hand, it in no way *restricts* itself to what is commonly described as "collective bargaining." Although the focus of this volume is on the negotiation and administration of labor agreements, with emphasis on the development and application of the more significant bargaining issues as these now appear between the covers of the contracts, our own teaching experiences have taught us that these topics cannot profitably be studied in isolation. Labor relations, in the sense in which we shall use the term, can best be

Preface

viewed as an interaction between two organizations, management and the labor union; and the parties to this interaction are always subject to various, often complex, environmental influences. Only after the student gains an understanding of the evolving management and labor institutions, and only after he has come to appreciate the environment surrounding their interactional process, can he attempt to understand bargaining itself in any meaningful way.

The direction which this book will take is consequently an obvious one: downward, from a broad overview of the general nature of the labor-management relationship as it currently exists in the United States (Part I), through a survey of the historical, legal, and structural environments which so greatly influence contractual contents and labor relations behavior (Part II), to a close examination of the negotiation, administration, and major contents of the labor contract itself (Part III). Through description, analysis, discussion questions, and, in the later stages of this volume, selected arbitration cases drawn from our own experience, we hope to impart understanding of all these labor relations aspects to the future business practitioner.

This book is no exception to the rule that such a project is inevitably the result of the efforts of many people. Above all, we are indebted to Professor E. Robert Livernash of the Graduate School of Business Administration, Harvard University; Professor Abraham J. Siegel of the Massachusetts Institute of Technology's Sloan School of Management; and Professor E. B. McNatt of the School of Commerce, University of Illinois: Through the encouragement and constructive suggestions of each of these three scholars, *Labor Relations* has undoubtedly been substantially improved. Mr. John F. Pritchard of Prentice-Hall also bears our considerable gratitude for his understanding and cooperation. Nor can Miss Janet Dalton of Indiana University, who painstakingly typed every word of the manuscript as well as its multitudinous changes, be exempted from the list of those receiving credit.

For all these entirely deserved acknowledgments, however, we alone stand responsible for the final product.

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part one

**SETTING
THE STAGE**

Our society has historically placed a high premium on property rights. Because of this, and perhaps also because the American soil has nurtured a breed of highly individualistic and aggressive businessmen, employers in this country have accepted unionism through the years approximately as well as nature tolerates a vacuum.

The evidence for this phenomenon is not in short supply. Symbolic of management sentiments in the mid-nineteenth century were, for example, the comments of the editors of the *New York Journal of Commerce* relating to current demands of the printers in that locality:

Who but a miserable craven-hearted man, would permit himself to be subjected to such rules, extending even to the number of apprentices he may employ, and the manner in which they shall be bound to him, to the kind of work which shall be performed in his own office at particular hours of the day, and to the sex of the persons employed, however separated into different apartments or buildings? For ourselves, we never employed a female as a compositor and have no great

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Organized labor and the management community: an overview

opinion of apprentices, but sooner than be restricted on these points, or any other, by a self-constituted tribunal outside of the office, we would go back to the employment of our boyhood, and dig potatoes, pull flax, and do everything else that a plain, honest farmer may properly do on his own territory. It is marvelous to us how any employer, having the soul of a man within him, can submit to such degradation.¹

Five decades later, President George F. Baer of the Philadelphia and Reading Railroad relied on God, rather than ridicule, in setting forth views which were no less representative of many employers of *his* time. In a 1903 letter, Baer replied to a citizen who had requested him "as a Christian gentleman" to make concessions to the striking workers on his railroad, as follows:

I see you are evidently biased in your religious views in favor of the right of the working man to control a business in which he has no other interest than to secure fair wages for the work he does. I beg of you not to be discouraged. The rights and interests of the laboring man will be protected and cared for, not by the labor agitators, but by the Christian men to whom God in His infinite wisdom has given control of the property interests of the country. Pray earnestly that the right may triumph, always remembering that the Lord God Omnipotent still reigns and that His reign is one of law and order, and not of violence and crime.²

Sinclair Lewis used the medium of fictional satire to make his points, but real-life counterparts of his small-town businessman George F. Babbitt were sufficiently in supply to make *Babbitt* an instant success when it was published in 1922. Babbitt's opinions on the subject of organized labor were quite forthright, if not entirely consistent:

A good labor union is of value because it keeps out radical unions, which would destroy property. No one ought to be forced to belong to a union, however. All labor agitators who try to force men to join a union should be hanged. In fact, just between ourselves, there oughtn't to be any unions allowed at all; and as it's the best way of fighting the unions, every businessman ought to belong to an employer's association and to the Chamber of Commerce. In union there is strength. So any selfish hog who doesn't join the Chamber of Commerce ought to be forced to.³

In our own day, management views on the subject are considerably more sophisticated and far less emotion-laden. Over the past few decades,

¹*New York Journal of Commerce*, February 7, 1851. As quoted in Neil W. Chamberlain, *The Labor Sector* (New York: McGraw-Hill Book Company, 1965), p. 341.

²Herbert Harris, *American Labor* (New Haven: Yale University Press, 1939), pp. 126-27.

³Sinclair Lewis, *Babbitt* (New York: Harcourt, Brace & World, Inc., 1922), p. 44. (Rights for the British Commonwealth excluding Canada have been granted by Jonathan Cape Limited, Publishers, London, England.)

major changes have affected the employment relationship and contributed to the lessening of overt anti-unionism. The findings of the behavioral sciences, particularly industrial sociology and applied psychology, have led to an employee-centered management approach which was unknown to an earlier era. Far greater worker expectations have been fostered by a new social climate derived from the ending of mass immigration, growing levels of education, and the spread of the world's most ambitious communications network. Moreover, the old-time owner-manager, holding a major or exclusive proprietary interest in his business, has now been substantially displaced. He has been succeeded by the hired administrator, oriented toward management as a profession, as much an employee as the people far below him in the company hierarchy, and increasingly aware that profitability is not the only test of his company's performance today (and that *community* responsibilities are also prime considerations). Finally, the right of workers to organize and bargain collectively, free of employer restraint or coercion, has been protected by statute since the early 1930's.

In this new setting, progress in union-management relations has undeniably been made. Considerably more enlightened management policies toward organized labor are in effect today than was the case even twenty years ago. A large measure of contractual stability has been achieved in many situations. Violence in labor disputes has all but disappeared. The incidence of strikes has been steadily decreasing, and strikes now consume a minuscule portion of total working time, less than 0.18 per cent in most recent years. A greater willingness by both parties to resort to facts rather than to power or emotion as a basis for bargaining is in evidence. And, indeed, unions have now been completely accepted by some managers, with outspoken attacks on organized labor, in general, being relatively rare from *any* employer quarter.

For all these sanguine developments, however, the fact remains that unions are still far from welcome in the eyes of the employer community. If the attacks on unionism are more muted and less belligerent than they were in the past, they nonetheless exist on a wide scale. Professor Albert Blum, an eminent observer of present-day management thinking, sums up what is perhaps the current modal situation in words which the authors believe to be wholly appropriate:

. . . Even if the manager does not view the union as a gang, he often still feels that they strike a discordant note in the happy home. Once there, unrest develops. A peer group outside the home becomes more important to the children than the parents; the father's powers are challenged; the child begins to think his goals are not synonymous with those of the parents (he may even want his allowance raised); and, perhaps

worst of all, he wants to have his voice heard in how the home should be run . . .⁴

In the face of this management enmity, on the other hand, unionism has shown absolutely no tendency to retreat. Owing primarily to the inroads of automation and its resulting employment decline as well as to changing market demands affecting the manufacturing sector, organized labor *has*, it is true, failed to expand its membership in the past few years. And, despite some claims by labor relations analysts that the fast-growing white-collar worker sector will soon become more hospitable to collective bargaining, it is equally true that union penetration in this area thus far has been anything but impressive. But it is no less a matter of record that six times as many workers are union members today as was the case in 1932, and it is quite apparent that the 18 million employees who currently constitute the labor movement in this country exhibit no notable signs of disenchantment with it. Whatever one's speculation about the problems awaiting unionism as the nature of our labor force changes (and, as will be shown, the speculation is both optimistic and pessimistic from the union viewpoint), the labor union seems to be very much here to stay.

In this introductory chapter, then, we shall want to examine several questions. Why do workers, apparently in complete disregard of their employers' wishes, join and remain in unions? Why, for that matter, do employers so steadfastly continue to oppose the concept of unionism (beyond the extremely general reasons suggested by the preceding paragraphs)? Assuming that managers have no choice other than to deal with a labor organization, what alternative methods for this collective bargaining are open to them? And what, if any, trends in their concrete dealings with unions have managements exhibited in recent years? Before we discuss these questions, however, we must assess the current status and strategic power of the American labor movement itself.

The State of the Unions Today

Completely reliable statistics relating to union membership in this country have never been available. Some unions in reporting their figures have traditionally exaggerated, to gain respect and influence for the union itself within the total labor movement, to make the union officers look better by showing a rise in enrollments during their term of office,

⁴Albert A. Blum, "Management Paternalism and Collective Bargaining," *Personnel Administration*, XXVI (January-February, 1963), 38.

or merely to hide a loss of membership. Other unions have been known to report *fewer* members than they actually have, for financial reasons (for example, to avoid paying per capita taxes to labor federations to which they may belong, particularly the AFL-CIO), or because of book-keeping practices which exclude workers currently on strike (or those on layoff from work) from the list of present members.

The figure of 18 million workers, offered above as constituting the present extent of union organization, is commonly accepted as an appropriate one, however. This total includes some 16.5 million United States members of national and international unions⁵ and roughly 1.5 million American members of independent local unions (those not affiliated with any national or international).⁶ It excludes the approximately 1.2 million Canadians who belong to internationals with headquarters in the United States.

In 1966, in terms of relative labor force penetration, the 18 million in the unionized work force represented approximately 22 per cent of all civilian members of the labor force in the country and accounted for three out of every ten employees in nonagricultural establishments (where union organizing has historically been concentrated). They also constituted somewhat less than 37 per cent of "organizable" American industrial employees (our nonprofessional and nonsupervisory employees, although some union representation from both the professional and supervisory sectors does exist).⁷

More specifically, just about one-half of the nation's 31 million blue-collar workers (craftsmen, operatives and kindred workers) are now in unions. These include at least 80 per cent of such workers in transportation, mining, construction, and municipal utilities and somewhat over two-thirds of all blue-collar employees in manufacturing. Almost all manual workers in many manufacturing industries—steel, automobile, rubber, aerospace, meat packing, agricultural implements, brewing, paper, the needle trades, and a few others—have now been organized. So, too, has a substantial percentage of the blue-collar employees in the printing, oil, chemical, shoe, electrical, electronic, and pharmaceutical industries.

⁵The terms "national" and "international" will be used interchangeably in this volume as, indeed, they are used in practice.

⁶Unfortunately, no completely satisfactory current figures are available, but the reader is referred to two competent articles by Leo Troy which are only slightly outdated: "Local Independent and National Unions: Competitive Labor Organizations," *Journal of Political Economy* (October, 1960); and "Local Independent Unions and the American Labor Movement," *Industrial and Labor Relations Review* (April, 1961).

⁷Unofficial data furnished by United States Department of Labor, Bureau of Labor Statistics.