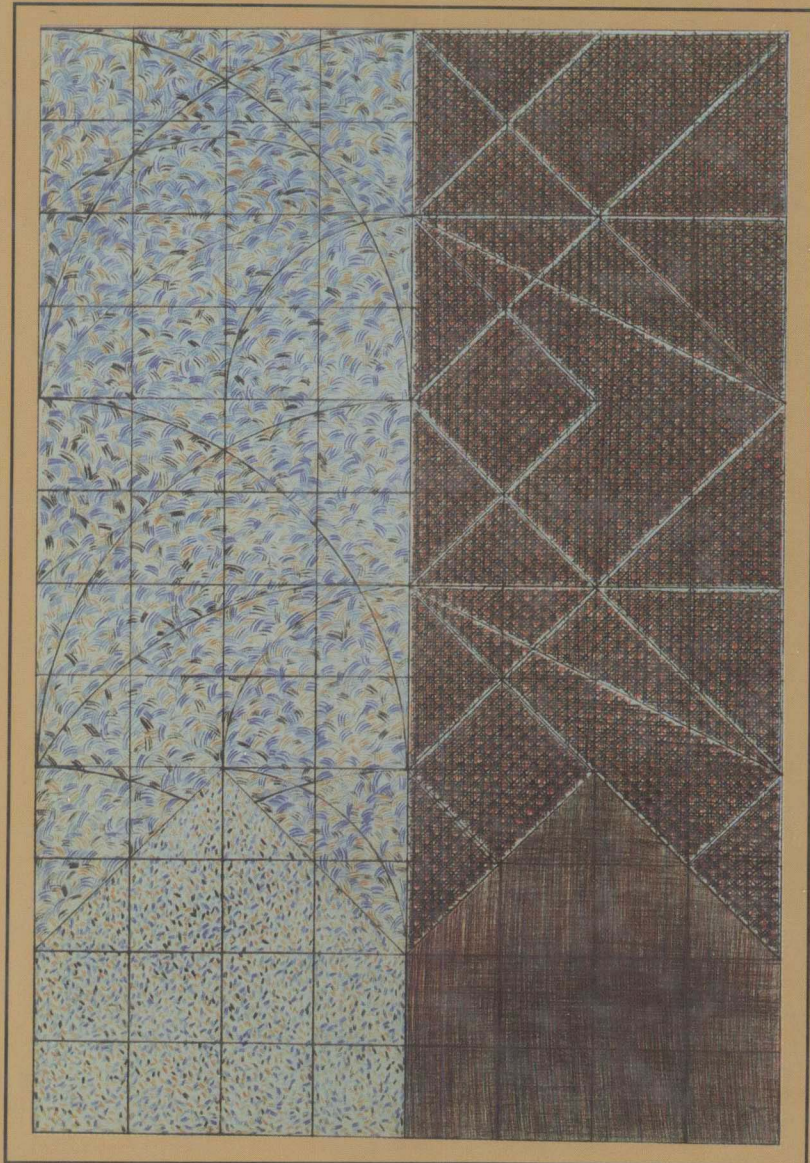


LABOR RELATIONS

SEVENTH EDITION



Arthur A. Cleene Fred W. L...

SEVENTH EDITION

LABOR RELATIONS

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University of Delaware

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P R E F A C E

There are no prerequisites to this book beyond an interest in labor-management relations. We have designed it to serve as an aid to all readers who desire a basic understanding of unionism in its natural habitat. With such a thrust, however, the volume focuses on certain areas, necessarily minimizing the treatment of others.

Labor Relations brings in, for example, sufficient economic material to allow a fundamental appreciation of the union-management process and stops at that point. We have, throughout, tried to implement our belief that all the various topic treatments should be short enough to be interesting while at the same time long enough to cover the subject.

On the other hand, our offering in no way *restricts* itself to what is commonly described as “collective bargaining.” Its focus is on the negotiation and administration of labor agreements, with emphasis on the development and application of the more significant bargaining issues as they now appear between the covers of the contracts. Further, our own teaching experiences have shown us that these topics cannot profitably be studied in isolation. Labor relations, in the sense in which we use the term, can best be 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 reader gains an understanding of the evolving management and labor institutions, and only after the environment surrounding their interactional process has been appreciated, can he or she attempt to understand bargaining itself in any satisfactory way.

The book consequently begins with a broad overview of the general nature of the labor–management relationship as it currently exists in the United States (Part I). It then moves to a survey of the historical, legal, and structural environments that so greatly influence contractual contents and labor relations behavior (Part II). Finally, it presents a close examination of the negotiation, administration, and major contents of the labor agreement itself (Part III). Through description, analysis, discussion questions, and, in the later stages of this volume, selected arbitration cases drawn from our own experiences, we hope to impart understanding of all these aspects of labor relations.

Numerous changes—primarily additions, although each of the first three chapters has been given some streamlining—mark this seventh edition. Even in the three years

since the 1988 publication of our sixth edition, developments in the field have warranted the inclusion of new material on plant closings, the Teamsters and their governmentally-imposed reforms, emerging issues for arbitrators, negotiated health care benefits, and recent developments in labor law (among other new topics). We have also substantially enlarged upon our prior treatment of such subjects as minorities and women in unions, employee stock ownership plans, Quality of Work Life programs, two-tier wage systems, and union political activity. We have updated the discussion of a host of other issues ranging from union membership to union leadership. Nine new and recent arbitration cases—including one on AIDS and one on drug usage—are presented, in addition to three cases retained from the sixth edition. And many new visual aids are included, as are a significantly revised bibliography and an amended mock negotiation problem.

Nonetheless, we have exercised self-restraint in the rewriting. Only changes that can be defended on the grounds of general improvement of *Labor Relations* have been incorporated. We are strong believers in the old Puritan dictum that “nothing should ever be said that doesn’t improve upon silence” and we also share with the late Calvin Coolidge the conviction that “if you don’t say anything, no one will ever call upon you to repeat it.”

Acknowledgments

When a book has reached the stage of a seventh edition, it stands indebted to so many people that individual acknowledgment is futile. As in the case of the prior editions, students, friends from the ranks of both management and labor, and colleagues at other educational institutions have all offered suggestions, many of them highly constructive and consequently implemented by us. Rita Beasley, who cheerfully and competently provided many helpful services on behalf of this volume, does deserve a special citation, however. And so too, do two outstanding Prentice Hall staffers, Executive Editor Alison Reeves and Senior Editor Barbara Marttine.

Arthur A. Sloane
Fred Witney

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C H A P T E R

1

ORGANIZED LABOR AND THE MANAGEMENT COMMUNITY

An Overview

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 managers, employers in this country have accepted unionism through the years approximately as well as nature tolerates a vacuum.

Symbolic of management sentiments in the mid-nineteenth century, for example, were 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? . . . 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, George F. Baer, president of the Philadelphia and Reading Railroad, relied on God rather than ridicule in setting forth views that 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 . . .²

Sinclair Lewis used 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 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. Major changes have affected the employment relationship and contributed to the lessening of overt antiunionism. The findings of industrial sociology and applied psychology have led to an employee-centered management approach that 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. 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 in the organizational hierarchy, and increasingly aware that profitability is not the only test of 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 mid-1930s.

In this new setting, progress in union-management relations has undeniably been made. Violence in labor disputes has all but disappeared. The incidence of strikes has been almost steadily decreasing, and strikes now consume a minuscule portion of total working time—in the neighborhood of one tenth of 1 percent 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 developments, however, unions are still far from welcome in the eyes of the employer community. If the attacks are more muted and less belligerent than they were, they nonetheless exist on a wide scale. A quarter-century ago, one observer summed up what he saw as the modal situation at that time in words that are wholly appropriate even now:

Even if the manager does not view the union as a gang, he often still feels that (unions) 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 changing technology and the resulting employment decline, as well as to changing market demands affecting manufacturing, organized labor has, it is true, lost some of its membership in recent years, both in absolute and in relative terms. And despite some claims that the fast-growing white collar sector will soon become more hospitable to collective bargaining, it is equally true that union penetration in this area thus far has fallen considerably short of its potential. But it is no less a matter of record that almost six times as many workers are union members today as was the case in 1932, and it is quite apparent that the 17 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 (beyond the extremely general reasons suggested by the preceding paragraphs), do employers so steadfastly continue to oppose the concept of unionism? 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, 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 American Federation of Labor–Congress of Industrial Organizations), or because of bookkeeping practices that exclude workers currently on strike (or those on layoff from work) from the list of present members.

The figure of 17 million workers which was offered above as constituting the present extent of union organization is commonly accepted as an appropriate one, however. This total includes, according to the U.S. Bureau of Labor Statistics' best current estimates, some 10.7 million union members in private industry and 6.3 million government workers.⁵ It excludes the approximately 1.5 million Canadians who belong to internationals with headquarters in the United States.⁶

In 1990, in terms of relative labor force penetration, the 17 million in the unionized work force represented about 16.8 percent of all U.S. workers, a statistic that was down appreciably from the 24.7 percent of the nation's labor force that unions had represented only two decades earlier. In speaking for the 17 million, unions accounted for just over one fifth of the employees in nonagricultural establishments (where union organizing has historically been concentrated). They also represented somewhat less than one third of "organizable" American industrial employees (our nonprofessional and nonsupervisory employees, although some union representation from both the professional and supervisory sectors does exist).⁷

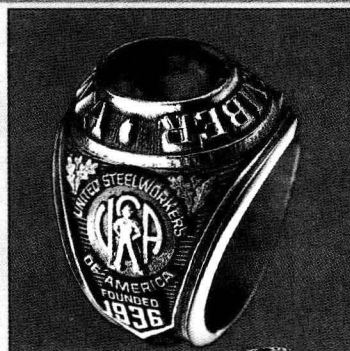
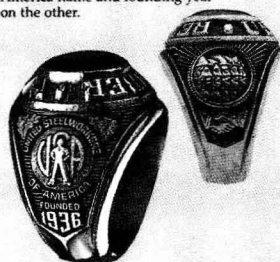
More specifically, about 35 percent of the nation's blue collar workers, those whose job duties are primarily manual in nature, is now represented by unions, and in some blue collar sectors—notably transportation, municipal utilities, and much of manufacturing—the nonunionist is definitely a rarity. The heavy majority of manual workers in such "smokestack" industries as automobiles and steel, for example, carry union cards (and, generally speaking, take considerable pride in their unions: The United Steelworkers of America, for example, operate a rather lucrative side business in selling the USWA rings depicted in Exhibit I-1, and other blue collar unions can point to comparable membership loyalty). The same can be said for their counterparts in rubber, aerospace, agricultural implements, the needle trades, paper, and brewing. Organization also covers a substantial, if somewhat lesser, percentage of the blue collar employees in the printing, oil, chemical, electrical, electronic, pharmaceutical, and shoe industries, and significant numbers of workers in construction, mining, and communications.

States and cities with a high percentage of their workers in these industries show, not surprisingly, a high proportion of unionized employees. Indeed, five states alone—New York, California, Pennsylvania, Illinois, and Ohio—account for almost half of all union members in this country (while employing just over one third of the U.S. nonagricultural work force). There are, in fact, more union members in New York alone than there are in eleven southern states, including Texas, combined. And Washington, Michigan, and Massachusetts also have ratios of union membership to nonagricultural employment that place them well above the national average. Several major cities, too, that are heavily dependent on the industries cited—Pittsburgh, Detroit, and Seattle, among others—currently have

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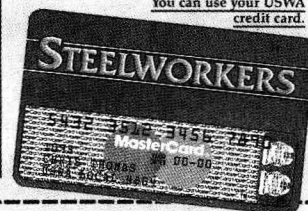
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Source: *Steellabor*, August 1987, back cover.

at least 90 percent of their manufacturing-plant workers covered by union contract. States and cities without large representation from these industries tend to show considerably lower figures: In both North Carolina and South Carolina, less than 7 percent of the nonagricultural labor force belongs to a union, for example, and anyone who wagers that a random work group in Charlotte or Charleston (or Jacksonville or New Orleans, for that matter) is a nonunion one is very likely going to win.⁸

<i>Union</i>	<i>Members</i>
Teamsters	1,600,000
Food and Commercial Workers	1,300,000
Automobile Workers	1,000,000
State, County and Municipal Employees	1,000,000
Service Employees	850,000
Electrical Workers*	800,000
American Federation of Government Employees	695,000
Steelworkers	650,000
Machinists	620,000
Carpenters	610,000

*International Brotherhood of Electrical Workers.

Source: Authors' estimates based on data published by the U.S. Department of Labor.

Union strength, then, is highly concentrated in areas that are strategic to our economy. If organized labor has thus far been notably unsuccessful in its attempt to organize such white collar (and fast-growing) sectors as trade, services, and finance, and such remaining pockets of nonunionism in manufacturing as the textile industry, unions *have* been cordially greeted by the workers in much of large-scale industry. Indeed, the labor movement today bargains with many of the most influential managements in the country, those that regularly take the lead in price and wage movements. From trucking, whose importance to the nation is such that the American Trucking Associations can boast in its motto "If you got it, a truck brought it," to the focal points of any advanced industrialized nation in durable goods production, unions are important. They have power, accordingly, where the possession of power is particularly significant.

Titles do not always accurately portray the kind of worker represented by a union. Teachers in Oklahoma City belong to the Laborers Union, for example, and taxicab drivers in Chicago are members of the Seafarers' International Union, while the United Automobile Workers currently represents secretaries at Cornell University and lawyers in Detroit among several hundred other white collar UAW constituencies. But official names are at least generally indicative, and a reading of the names of the ten largest 1990 internationals as offered in the preceding table offers further evidence of the importance of blue collarites to labor. Of these ten largest (which collectively today account for almost 55 percent of all union members), only four even appear from their names to be outside of labor's main blue collar mold, and in all four cases this is somewhat misleading. The United Food and Commercial Workers represents mainly manual workers. Many State, County and Municipal Employee members perform such definitely blue collar assignments as stock-handling and pothole patching. There are more janitors and elevator operators in the Service Employees than there are anything else. And much the same can be said of the American Federation of Government Employees, although its significant blue collar contingent tends to be rather highly skilled.

WHITE COLLAR EMPLOYEES

If the labor movement is predominantly a blue collar one, however, this is no longer true of the U.S. labor force itself. In 1956, the number of white collar workers exceeded that of blue collar workers in this country for the first time in our nation's history. And the gap has been steadily widening ever since. The service sectors—including trade, finance, and government—have continued to expand, while the blue collar sectors—particularly manufacturing, mining, and transportation—have actually, in the face of improved technologies and changing consumer demands, shown employment declines.

A recent report of the AFL-CIO itself was both accurate and, from labor's viewpoint, gloomy:

... the growth of the work force has occurred, and will continue to occur, principally in those sectors of the economy that have not traditionally been highly organized. Manufacturing and construction, for example, currently account for 50 percent of the AFL-CIO's membership, but these sectors have declined relative to others and currently employ only 22 percent of the civilian work force. In contrast, the service sector ... has had, and will continue to have, the largest growth. During the 1970s, about 90 percent of all new jobs were added in service organizations. By 1990, service industries will employ almost three-quarters of the labor force. Yet, less than 10 percent of the service sector is organized, and only 20 percent of the AFL-CIO membership is in unions representing workers primarily in the service industries.⁹

Less than 16 percent of workers in U.S. industry are now employed in manufacturing, as compared with some 23 percent two decades ago, while that graphic symbol of the nation's service sector, the McDonald's hamburger empire, has now expanded to the point where it employs more than five times as many workers as does USX (formerly United States Steel). In fact, employment in the iron and steel industry, which peaked at 952,000 in 1957, had fallen to 653,000 twenty-five years later,¹⁰ whereas jobs in automobiles, chemicals, apparel, and many other older industries, while often taking longer to peak (and in many cases not actually doing so until the late 1970s) had demonstrated similar decline by the late 1980s. Whether or not smokestack America was actually in its sunset years at the time of this writing, most experts *believed* that it was and that all the grim employment trends would only continue.

More than any other factor, this changing complexion of the labor force has given organized labor cause for concern. Its inability to recruit white collar workers on any significant scale has been primarily responsible for its slippage from representing just under 25 percent of the labor force to its above-noted position of representing closer to 17 percent. Unless it can do far better than it has to date in organizing the nation's millions of clerical, sales, professional-technical, and other employees, it will by simple mathematical logic see the percentage drop even more, perhaps to the 13 or 14 percent level.

This is not to say, of course, that unions do not exert a major collective bargaining influence on behalf of some groups of white collar workers. Such white collar types as musicians and actors have for years been willing joiners of labor organizations. In recent years, two unions in particular have shown significant gains in this