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# THE UNORGANIZED: A RISING FORCE?

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**HAMILTON, ONTARIO**

Research and Working Paper Series No. 201  
April, 1983

Paper presented to the 31st annual McGill Industrial Relations Conference,  
Montreal, April 6, 1983.

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*D. J. ADAMS*  
*UNORG. RISING POWER*

Until recently the unorganized, employees not covered by collective agreements, have been largely ignored by those interested in industrial relations.<sup>1</sup> The center of attention has been unions and collective bargaining. When the unorganized were considered it was typically to speculate about whether or not they would unionize. During the past few decades however, the unorganized have become an independent factor of considerable importance in the Canadian Industrial Relations System. They have been granted an expanding body of rights based in law and it is likely that the expansion has not stopped. Indeed the growing rights of the unorganized may be just gaining momentum.

My paper is divided into two sections. In the first section I'll discuss the development of the individual rights of the unorganized and in the second I'll review more recent developments in which unorganized employees have been granted legally sanctioned collective rights.

Before the advent of collective bargaining, terms and conditions of employment were decided by employers and employees individually (Glasbeek, Harrison). The legal instrument regulating the employment relationship was the individual contract of employment, an instrument which had been developed by judges in the context of common law. The general duties imposed upon employers and employees under the common law tradition were not very onerous. Workers had a duty to obey reasonable and lawful instructions, a duty of good faith and fidelity and a duty to exercise skill and care in carrying out assigned tasks. Employers were legally required to provide employees with the compensation to which they had agreed.

Over and above the general rights and duties the parties could agree to any additional legal conditions. The employer and the employee could agree to a written contract or they could simply agree to conditions orally. The law of Master and Servant held that if there was no written agreement then the

contract could be implied from the conduct of the parties (Glasbeek, Christie)

Should either party wish to end a contractual relationship it was obliged to provide the other with reasonable advanced notice. Each party was relieved of that obligation if the other failed to live up to contractual terms. For example, if an employee refused to carry out a reasonable instruction the employer could legally dismiss the person instantly with no notice whatsoever. In turn, the employee could sue the employer in court for wrongful dismissal if he believed that the employer had acted without sufficient cause.

This classic system favored employers who often imposed harsh conditions which, in turn, led to labor unrest. Some workers reacted by forming trade unions to look after their interests, but employers opposed collective bargaining and it grew only slowly. Social reformers demanded action and governments began to fashion protective labour legislation (Lorentsen, Malles).

By the end of World War II most western nations had put in place unemployment insurance, pension and health and safety laws. Since then there has been a substantial spread in both the substantive and procedural rights of the unorganized. Today unorganized employees have rights to minimum wages, maximum hours, paid vacations and holidays as well as rights to leave of absence for various reasons, most notably pregnancy. They have the right not to be discriminated against for an expanding list of reasons including sexual harassment (Tarnopolsky). Many have recently been granted a statutory right to refuse to do unsafe work (Manga, et.al.).

In more recent years the unorganized also have acquired procedural instruments which increase their clout vs. a vs. the employer. Historically, employers of the unorganized could dismiss employees for any reason or no reason and, provided that notice was given, the employees had no recourse. No

matter how long, hard, diligently, and loyally employees had toiled for their employers if they were discharged the courts would not award the job back. The culture of the market system placed freedom of contract high on its list of values. Under feudalism employees could be compelled to work for specific employers but liberal theory held that everyone should be free to change jobs at will. Common law judges ruled that if employees were to have the right to choose employers then employers should have the right to choose employees (Christie, p. 385-386).

The problem with this doctrine of mutuality is that in practice it favors the strong and punishes the weak. Executives, professionals and other labour market stars do well enough but those with skills less in demand are at a definite disadvantage when dealing with the employer. Most people have to work somewhere to get a living and because they may be dismissed for any or no reason their position in respect of the employer is one of dependence and subservience (Blades). During the authoritarian era of the past the unequal power and status suggested by the terms Master and Servant were taken for granted but today the concepts of domination and servility are considered odious. Contemporary values suggest that Employers and Employees should be thought of as equally competent actors entering into a relationship which is mutually beneficial to both. However, because bargaining power is unequal the reality is not one of equally competent parties to the employment contract. Indeed, in a recent essay David Beatty has argued, with considerable passion, that the idea of mutuality is really "a transparent veneer shielding a hierarchical and imposed system of social control" (Beatty, p. 333).

During the past few decades, however, the relative power of employers and employees has begun to shift in the direction of the latter. Since World War II western nations generally have accepted responsibility for the level of

employment. As part of that responsibility policies have developed which reduce the capacity of the employer to discharge employees at will and, as a result, strengthen the bargaining power of the unorganized.

Judges interpreting common law still will not order employers to take back dismissed employees but executives and professionals (as well as some others) have been more frequently taking employers to court and suing for wrongful dismissal (Harris, Christie, Axmith). The basic principle of notice applied by Canadian courts is to provide employees with income sufficient for them to find other jobs at the same level and pay. In applying the principle courts consider several factors including length of service and the state of the labour market. For reasons that are not entirely clear, judges have become more receptive to employee appeals in recent years. Judgments awarding 12 months pay are common and the outside limit at present appears to be about two years (Christie, p. 350; Harris). Courts usually will not award punitive damages but in the past few years they have begun to make awards for mental distress.

Because of the greater willingness of professionals and managers to go to court employers must be concerned not only with the consequences of discharges but also with the probable outcome of changing any term or condition of employment. Under common law the individual contract of employment may not be lawfully changed without the employees' consent. If employees do not agree to proposed changes they may consider themselves to be "constructively" discharged and, therefore, entitled to pay in lieu of notice (Christie, Harris). Among the management actions which may be construed as constructive dismissal are demotion, a unilateral change in responsibilities, forced transfer (under some circumstance) and harrassment of the employee designed to force a resignation.

In a recent case, for exaple, an employee was promoted to office manager after 35 years with the company. He did not make a successful transition. Several complaints were filed against him by both employees and customers. Eventually, he was asked to resign and when he refused another employee was appointed to take his place. When he was made a "consultant" at a reduced salary, he declared himself to be constructively dismissed, sued the company for wrongful dismissal and was awarded 15 months salary (Levitt).

In response to increasing employee assertiveness (at least in part) large corporations have begun to develop and refine the art of outplacement, also known as dehirng or relocation counselling. Unwanted executives and professionals are not simply dismissed. Instead the company assists them to find another acceptable position. The threat of a wrongful dismissal suit provides the redundant executive with some leverage with which to negotiate a favorable deal. These developments have compelled companies to explore more carefully options other than dismissal to reduce excess staff. For example, early retirement plans seem to have become more prevalent (Walker). In recent articles consultants also have begun to advise companies to thoroughly canvass internal solutions to management performance problems before jumping to the termination solution (Kneeland).

Common law does not provide much protection to manual or clerical employees. According to the theory of common law judges, blue-collar and clerical workers shouldn't have as difficult a time finding other suitable jobs as do professionals and managers. Thus, going to court is not advantageous to most blue and white collar workers but statutory developments have strengthened their hands also (Christie, p. 348).<sup>2</sup>

For several years statutory notice provisions have existed in most Canadian jurisdictions. They are typically calibrated on the basis of years of service. In Ontario, for example, individuals with one year of service are

entitled to one week notice. At the top of the scale those with 10 years service or more must be given eight weeks notice or pay in lieu thereof. Stricter provisions are required for mass layoffs and more recently severance pay requirements have been imposed upon companies planning to shut down whole plants (Ontario Employment Standards Act). In short, financial penalties for dismissing employees have been growing. An important rationale for much of this legislation is that it should serve as a disincentive to redundancy (MacNeil, p. 30).

Despite the common law principle of mutuality it has long been accepted for arbitrators, under collective bargaining, to reinstate employees dismissed in controvention of the collective agreement. Typically, North American collective agreements contain clauses which prohibit discharge for reasons other than "just" or "reasonable" cause. In general, for a discharge to be upheld by an arbitrator the employee must engage in willful misconduct (Palmer, Brown and Beatty). This practice has provided workers under collective bargaining with a considerable advantage over the unorganized.<sup>3</sup> Unionized workers know that, if they do their jobs properly, they need not fear being dismissed arbitrarily or capriciously.

Slowly the right to be reinstated has been applied to the unorganized. In most Canadian jurisdictions there are now rights to be reinstated under certain circumstances. In Ontario, for example, an employee may be reinstated if dismissed for filing a complaint with the employment standards administration or with the Human Rights Commission; for refusing, with reasonable cause, to do unsafe work; or for joining a union or advocating unionization and collective bargaining (Rovet, Christie, Tarnopolsky, Manga, et.al., Carter).

A more general right, similar to that under collective bargaining, is also being extended to the unorganized in some jurisdictions. In the early



1970's Nova Scotia introduced a provision in its employment standards legislation whereby employees with 10 years service or more could be discharged only for just cause. A similar provision was introduced in the Federal jurisdiction in 1978 but it applies to all of those with tenure of one year or more. Unjust dismissal legislation was introduced in Quebec for employees with five years service with an employer in 1980 (England).

Under the Federal statute an adjudicator must decide whether or not a discharge is unjust. If it is, the adjudicator may award a cash settlement or reinstatement. He also may require the employer to "do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequence of the dismissal" (England, p. 26). When the statute first went into effect many thought that cash settlements would be the norm. Experience with similar legislation in Great Britain suggested that employers would strongly oppose reinstatement and under those circumstances most unjustly dismissed employees would not seek to be reinstated. (Lewis, Muthuchidambaram). However, that has not been the experience. Just over 50% of the cases settled by adjudicators in favor of employees have resulted in reinstatement ("Unjust Dismissal Statistics"). A substantial majority of those wrongfully dismissed who sought reinstatement were, in fact, reinstated (England). Although the reasons for the more prevalent use of reinstatement in Canada as compared to Britain have not been carefully investigated the long experience with reinstatement under collective bargaining in North America no doubt is a contributing factor. Until recently British labour relations were characterized by "voluntarism" and reinstatement as a legal right was not available (Levy). The new legal right, which runs against the current of tradition, apparently has not yet taken hold.

The intention of the new Canadian Federal law is to provide unorganized employees with the same protection as that enjoyed by workers under collective bargaining (Munro, Muthuchidambaram). The reinstatement experience reviewed above would seem to be consistent with that objective. However, other aspects of Federal policy indicate that there still is a considerable gap between the rights of the unorganized and the organized.

Under the Federal legislation there is a mandatory conciliation procedure. During the first two years of operation approximately 50% of complaints were settled at conciliation. No Canada wide data are available on how those cases were settled. However, England reviewed the Alberta experience between September 1978 and March 1980 and found fifteen cases where employers were considered to have unjustly dismissed their employees. Of those 15 cases "one employee was reinstated, two settled for letters of reference, and the remainder accepted cash settlements falling within the range of \$300 to \$1,200 (with two exceptions, one above and one below)" (England, p. 20). England suggests that the government inspector conciliators may not be forcefully seeking to ensure the use of the primary remedy of reinstatement.

Another qualification in regard to the apparent "success" of the new law has to do with experience after reinstatement. Under collective bargaining it has been found that employees generally are reintegrated into the enterprise. Unorganized employees, however, do not have the protection accorded by a grievance procedure and a union shop floor network. Therefore, an intransigent employer might engage in harassment tactics such as "changing job duties, status, employment benefits or other conditions, and generally making life unpleasant" (England, p. 16). In common law such practices would be considered constructive dismissal but under the Federal statute there is no provision for reinstatement if the employee quits, even if he claims that he

was discharged because he was being harrassed. To date no research has been reported regarding experience after reinstatement.

A third qualification is the fact that employees in the Federal jurisdiction do not have the right to procede to adjudication on their own. Instead ministerial approval to procede must be sought. The purpose of this policy is to prevent frivolous cases and thereby to save taxpayers' dollars. During the first two years 19% of requests to procede to adjudication were denied (England).

Quite clearly unorganized employees still do not have rights and powers equivalent to those of workers in strong unions. Court and unjust dismissal procedures are less accessible and the results less certain than is arbitration under collective bargaining (Weiler). However, as a result of these recent developments it is becoming more difficult for employers of the unorganized to treat their employees arbitrarily and capriciously. The average employer and the average employee may still be very unequal but the various measures reviewed above have the general effect of increasing the bargaining power of individual employees. In short, the pendulum of power is shifting in the direction of the individual employee and there is no reason to expect a change in that trend in the foreseeable future.

#### Collective Rights

Public employment policy which developed during the course of the industrial revolution implicitly assumed that all issues of importance between an employer and an employee could be resolved in the context of the individual contract of employment. That assumption was probably never true and it certainly is not true today. An individual employee might conceivably negotiate the provision of steel tipped boots and hardhats but individuals cannot bargain over company safety policy. Individuals might be able to negotiate access to training opportunities but they cannot separately

participate in the making of enterprise training policy. An individual might be able to work out a deal regarding the terms of a new job created by the introduction of technology but he cannot effectively negotiate the total impact of technological change. If employees are to be involved in the development and administration of such policy issues then a collective decision making process is necessary.

Our primary answer to this necessity has been collective bargaining but that solution has been only partially successful. Less than 50% of the Canadian labour force participates in collective bargaining.<sup>4</sup> Until recently, the majority of employees had no legally sanctioned vehicle whereby they could participate in collective decision making. Employer initiated committees of various sorts have appeared throughout the twentieth century. Typically, however, these committees (often referred to disparagingly by trade unionists as company unions) have existed at the pleasure of the employer and could be disbanded or ignored by employers when it was convenient for them to do so. In recent years, however, new government initiatives in selected areas have provided unorganized employees with collective as distinguished from individual rights. The introduction of legally required health and safety committees is the most familiar and salient example to date. Several provinces now require the establishment of joint labour-management committees in both organized and unorganized workplaces. Typically they have a mandate and a responsibility to monitor safety legislation and to develop and administer enterprise health and safety policy. Powers granted to the committees vary from province to province.

Probably the most powerful and influential committees were those that operated under the NDP government in Saskatchewan during the 1970's (Clarke, Manga, et. al.). The Saskatchewan approach was designed to minimize the role of the government while placing prime responsibility on the committees to

regulate safety and health in the workplace. The committees were provided with power to establish and monitor workplace rules within the context of general provincial regulations. The role of the government would be to "serve as a referee and as a policeman" (Manga, et.al., p. 204). Research on the performance of the committees during the 1970's suggests that management and labour were able, in the great majority of cases, to find mutually acceptable solutions to specific safety and health problems. One major assessment of the program concluded that committee effectiveness was due in large part to the attitudes of government administrators. The committees functioned as well as they did because labour and management knew that government administrators were committed to making them the prime compliance mechanisms. The authors of the report went on to suggest that a change in government policy "might significantly undermine the stature of the committees" (Manga, et.al., p. 225). In 1982 there was a change in government and the deputy minister who was the dominant force behind government policy was replaced.<sup>5</sup> It will be interesting to see if, as a result of his departure, committee effectiveness is significantly reduced. In other provinces which require unionized committees less research on committee performance has been carried out. However, the authors of the major comparative investigation tentatively concluded that committees in other provinces generally had less authority and influence in comparison to those in Saskatchewan with the possible exception of Quebec (Manga, et.al.). A major investigation of committee operations and performance is currently being planned by the Ontario Advisory Council on Occupational Health and Safety.

More recently the universal committee concept has been introduced in the Federal jurisdiction in regard to redundancies. Where an employer plans to terminate the employment of 50 or more employees within a four week period a joint planning committee must be established. In unorganized workplaces the

employees have the right to elect one half of the committee members. The mandate of the committee is to "develop an adjustment program to eliminate the necessity for the termination of employment or to minimize the impact of such termination on the redundant employees and to assist those employees in obtaining other employment" (Bill C-78, Labour Adjustment Benefits Act, section 60.13(1)). However, the committee is only required to deal with "matters as are normally the subject-matter of collective bargaining in relation to termination of employment" (Bill C-78, Labour Adjustment Benefits Act, section 60.13(2)).

This initiative was taken in response to the Carrothers Commission on Redundancies (Report of the Commission of Inquiry into Redundancies and Layoffs). However, the Federal legislation went well beyond Carrothers by providing for a dispute resolution procedure should an impasse occur. When a mass layoff is planned the employer must provide notice 16 weeks prior to the event. If the committee has not reached agreement in six weeks, then the outstanding issues may be submitted to what appears to be a mediation-arbitration process. The arbitrator, appointed through the auspices of the Minister of Labour, is required to "assist the joint planning committee in the development of an adjustment program..." If those efforts are unsuccessful he is to "render a decision" on outstanding issues within four weeks after his appointment (Bill C-78, Labour Adjustment Benefits Act, section 60.14). Arbitrators are somewhat restricted. They may not review the decision of the employer to terminate, nor may they delay the termination. Moreover, they are only to consider issues deemed appropriate by the Minister and normally the subject matter of collective bargaining. Despite the limitations, the new Federal initiative represents a sharp departure with the past. First, by providing an impasse procedure it establishes a bargaining relationship as opposed to the consultation process envisioned by the Carrothers Commission.

In the past employers outside of traditional collective bargaining have almost always retained the right to act unilaterally in the event of an impasse. Even where safety committees are mandatory employers still have a broad capacity initially to act as they see fit in the event of no agreement over contentious issues.

Second, in the past unorganized employees who wanted to bargain collectively over any issue were compelled to initiate action in the face of almost certain employer opposition. The new Federal law not only permits the unorganized to bargain over redundancy, it also requires the employer to take the initiative to form the committee (Bill C-78, Labour Adjustment Benefits Act, section 60.11). The revolutionary nature of this new procedure may be grasped by imagining a change in labour law. At present employers in essentially all North American jurisdictions are forbidden to coerce or intimidate employees in regard to their right to engage in collective bargaining. Employers are, however, permitted, indeed expected, to oppose unionization (Carter). The new Federal procedure in regard to redundancies is tantamount to a change in labour law requiring unorganized employers to take positive steps to establish a union and a collective bargaining process.

It is difficult to say how the new procedure will work. The act was passed only in 1982 and the first case is presently being processed. The Labour Canada initiative in regard to redundancies may signal fundamental changes to come in the Canadian Industrial Relations System or it may be no more than an aberration. Without a crystal ball it is impossible to say which it is. However, there are several reasons to believe that we may be in the midst of an era of real change.

First, I believe that it is likely that health and safety committees, at least those which represent the unorganized, will be introduced in more jurisdictions and will be given greater powers in future in order to ensure

that they work at least as well as those for the organized. Although there has not been a great deal of research on the comparative performance of union vs. non-union committees that which does exist clearly supports the proposition that union committees are much more effective. For example, in Ontario, the overwhelming majority of refusal to work cases occur in unionized settings (Gunderson and Swinton). It is quite likely that, despite safeguards against dismissal for using their rights, most unorganized employees are not willing to provoke the wrath of their employers (Manga, et.al.). Over time I suggest that this situation will become politically embarrassing and legislation will have to be introduced to bring about a balance. Many of the recent initiatives discussed to this point were prompted, in part at least, by embarrassment over the second class industrial citizery of the unorganized.

Labour Canada is presently preparing revisions to Federal occupational health and safety legislation. The final draft of the new bill has not yet been prepared. However, on the basis of discussions which I have had with Federal officials it seems all but certain that committees will in future be mandatory - at present the Minister of Labour may set them up at his discretion - and that they will be granted powers at least as broad as those of the Saskatchewan committees under the NDP.

Second, in the past few years new proposals have been put into the policy arena calling for the expansion of the universal committee concept. The Jean Commission on Adult Education in Quebec recommended the establishment of education and training parity committees which would have to be established in all enterprises with 20 or more employees. The function of the committees would be to develop and administer company training policy. Each committee would consist of 50% management appointed representatives and 50% employee elected representatives in non-union workplaces. In unionized companies the union would appoint members (Adult Education in Quebec: Possible Solutions,



referred to hereafter as Jean Commission). Decisions of the committee "would be made on the basis of a double majority" (Jean Commission, p. 242). Impasses would be settled by resort to arbitration.

The Jean committees would have more power than any committees now in place. They would have more power than do unions under collective bargaining because they would control a budget. The Commission initially proposed that the training and education budget be 2.5% of payroll but after loud business outcries it reduced the figure to 1.5% of payroll (Apprendre: une action volontaire et responsable, p. 25).

The committee recommendation of the Jean Commission has not yet been enacted and it may never be enacted. But it is indicative of the drift of thought and sentiment in Canada (LaTulippe and O'Farrell). Since the publication of the Jean Report the Federal Task Force on Micro-Electronics and Employment (Fulton Task Force) has recommended the establishment of joint technology committees in each undertaking with 50 or more employees (In The Chips). The committees would have the job of considering the likely impact of new technology on employees and developing implementation schemes designed to minimize any negative employment impact. Should an impasse occur the employee side could submit the issues in dispute to arbitration.

The most recent proposal to establish universal committees has been made in regard to pension fund management. At present, negotiated pension plans are typically administered and controlled by management. However, the Canadian Labour Congress has recently proposed that workers should have a legal right "to participate in the administration and trusteeship of pension plans..." and labour spokesmen have begun to demand the establishment of mandatory labour-management pension committees. (Galt, Docquier, Canadian Labour Congress). The proposal is based on the theory that pensions are deferred income rather than a reward for service, a theory that is widely

accepted among pension fund experts. From a deferred income perspective, joint pension fund management seems quite reasonable. Indeed, on reflection, it seems odd that employees or their representatives have not demanded participataion before now.

All of the recommendations and initiatives so far taken have developed within a specific substantive milieu. To the best of my knowledge no consideration has been given to the possibility of legislatively based general purpose committees. However, such committees are quite common in Europe where they are known as works councils (Carby-Hall). Typically they have a mandate to oversee all relevant employment legislation as well as to advise management on certain issues and to co-decide others. During the past decade the councils in Europe have been given enhanced powers of codetermination in regard to precisely the same issues as those discussed here. In short safety, training, technological change and redundancy are issues which several countries have decided should be the subject of universal joint decision making at the enterprise level (Cordova).

If, in Canada, joint committees are established to deal with safety and health, education and training, redundancy, pensions and the introduction of new technology then it is inevitable that, eventually, serious consideration will be given to establishing general purpose councils. Having several committees for several purposes will no doubt be considered inefficient and dysfunctional. The mandates are bound to overlap and should the committees meet separately they are likely to arrive at mutually incompatible decisions. For example, technological change will no doubt require mass terminations in some situations. If so, which committee, technological change or redundancy, is to develop the operative policy? If there are both safety and training committees which one is to develop appropriate policy in regard to the training safety representatives? At present, I am a member of a Task Force of

the Ontario Health and Safety Advisory Council looking into the relationship between literacy and occupational health and safety. Almost certainly we will recommend that, in future, health and safety committees should adopt policies responsive to the needs of those who cannot read and write at the level normally expected of Canadian adults. If mandatory training committees also existed the two committees would have to work together on the issue.

### Discussion

The developments reported here are likely to prompt several questions:

- 1) Why have Canadian governments taken the initiative to strengthen the position of unorganized employees?
- 2) Will the new policies and procedures really improve the conditions of the unorganized?
- 3) What impact is the new legislation likely to have on enterprise efficiency?
- 4) Will the new rights of the unorganized strengthen or weaken organized labour?

In response to the first question, it seems to me that recent initiatives are the result of the failure of past policies to deal effectively with the strong interests of employees in the employment relationship. Collective bargaining between employers and unions freely chosen by workers was to be the North American solution to the demand by employees to participate in employment decisions. However, employer opposition to unions and collective bargaining was so effective that the majority of employees were denied that option (Carter, Bain).

In place of collective decision making non-union employers argued that they could and would "do right willingly" by their employees but that strategy has not been entirely satisfactory. Much of the legislation reviewed here was the result of publicity generated by employers who did not do right willingly.

Even conscientious and concerned employers find it difficult to place employee needs high on the list of priorities when faced with economic reversals and stiff competition. Moreover, "do right willingly" denies employees any voice by right in issues of a collective nature. It is an individualistic and paternalistic policy which is out of step with the general trend in the western world towards a broader and deeper version of industrial democracy.

Will the new initiatives really improve the status of the unorganized? Skeptics may very well conclude that to date there has been more smoke than heat and I would not disagree strenuously. Nevertheless, I would still argue that the changes are far from trivial. Knowledge that wrongfully dismissed employees may resort to procedures that could damage the reputation of the firm as well as be financially detrimental has already lead to non-union employers dealing more carefully and fairly with their employees. In regard to collective decision making, if universal committees with the right to submit impasses to binding arbitration become as widespread as the present proposals suggest employee influence over corporate policy indisputably will be greater than it is at present. It is impossible to predict what governments will do in future. However, now that the principle of universal committees with powers to decide has been established in legislation, governments surely will be less reticent to utilize that option again in future.

I can imagine employers, after reading this essay, contemplating the future with alarm. Won't these new regulations make it impossible for management to manage efficiently? European experience suggests that such fears may be more apparent than real. The Germans have granted more rights and powers to employee committees (works councils) than have other European countries. When the rights and powers of the councils were being expanded in the early 1970's German employers also looked to the future with alarm.

However, the German committees have conducted themselves in a very responsible manner and there is little or no evidence to suggest that enterprise efficiency has been harmed (Adams and Rummel).

Finally what effect will the new rights of the unorganized have on the unions? There are two equally plausible outcomes. On the one hand the unorganized should have less need for the unions and, therefore, union growth may be slowed down and the unions weakened. On the other hand, familiarity with collective bargaining over a few issues may whet the appetite of the unorganized for a comprehensive bargaining relationship. I suspect that the latter effect may overwhelm the former but that is only a hunch. It could go either way.

#### Conclusion

The idea that employees should have a right to participate not only in making decisions which affect them individually, but also in decisions of a collective nature is one which has refused to die despite the series of economic crises of recent times (Cordova). It is an idea whose time, I believe, has arrived. I do not know precisely what our Industrial Relations System will look like 20 or 30 years from now. However, I would not be surprised at all if the term "the unorganized" had become archaic. Should collective employment decision making become as widespread as the current trend suggests that it might, the term will cease to have any real meaning. Everyone will be organized.

Notes

1. I would like to express my thanks to Joe Rose for his thoughtful comments on an earlier draft of the paper.
2. In one case reported by Christie, however, a laundry worker received a settlement of six months pay in lieu of notice.
3. Professor Harry Glasbeek has recently argued, however, that organized employees aren't so much better off than the unorganized. Although employees under collective bargaining may not be dismissed easily, the propensity of arbitrators to permit or substitute lesser disciplinary action provides the employer with "an arsenal of calibrated punishment" which facilitates "whipping the work force into shape" (Glasbeek, p. 75).
4. In recent years it has been reported that nearly 60% of Canadian employees are covered by collective agreements (Anderson and Gunderson, "The Canadian Industrial Relations System"). However, that estimate, which is based on the annual working conditions survey of Labour Canada, is certainly an overestimate. The survey, for example, excludes establishments with fewer than 20 employees most of which are not organized. It also excludes agriculture, fishing and trapping industries which are very poorly organized. More extensive data collected in conjunction with the Corporations and Labour Unions Returns Act indicate that less than 50% of Canadian wage and salary earners are represented by unions.
5. The ex-deputy minister, Robert Sass, accepted a position at the University of Saskatchewan.

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