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CONCESSION BARGAINING IN THE PUBLIC SECTOR:  
A LESSER FORCE

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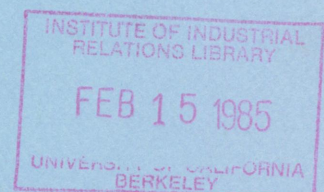
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## ABSTRACT

A wave of union concessions to management has attracted substantial interest in the private sector. However, little attention has been paid to this phenomenon in public employment. Various reasons can be cited which could encourage or discourage the same kinds of concessions in government. The empirical evidence suggests that while concession bargaining has occurred in government, it has been less extensive than in the private sector and has been concentrated in a few states. Where it has occurred, the background has been similar to the private sector, namely economic distress and threatened or actual mass layoffs. But public-sector concession bargaining does not appear to mark a fundamental change in collective bargaining.



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A wave of concession bargaining in the private sector has attracted considerable interest among labor-management practitioners and academics. Wage freezes and cuts have been negotiated in such industries as autos, steel, airlines, meatpacking, trucking, construction, and retail foodstores. These developments have sparked debate over whether the U.S. system of industrial relations has reached a turning point. Some observers have argued that a new order has in fact developed; others have been more skeptical.\_1/

The interpretations of private-sector developments have been partially conditioned by the long-term downward trend in private unionization. An erosion of the union membership base had been apparent long before the concession movement began with the Chrysler negotiations in 1979. As a proportion of the workforce, union membership has been declining since the mid-1950s. Hence, the post-1979 acceleration of this erosion, combined with the wage concessions, was bound to convince some commentators that a critical juncture had been reached.

Curiously, there has been little inquiry into the state of collective bargaining in the public sector during the era of concessions.\_2/ In 1980, about 45 percent of employees who were represented by labor organizations worked for government. The proportion of employees in government represented by labor organizations was 43 percent, just about double the private rate.\_3/ Thus, the neglect in the concession-bargaining literature of the public sector is most surprising.

## 1. Why the Public Sector Might be Different.

Has concession bargaining characterized the public sector to the same degree as in private employment? There are various reasons to suppose that differences between the two sectors might be uncovered in an empirical study of this question. Included among these reasons are the diverse trends of public and private unionization, a difference in management approaches to unions in the two sectors (and a related dichotomy of public/private union wage differentials and trends, the more insulated and less competitive nature of public employment, and differences in the legal climate in the public and private sectors.

### i. Representation Trends.

In sharp contrast with the private sector, unionization in government rose in the 1960s and 1970s. Even in the post-1979 period -- when private-sector union representation declined markedly in response to the recession -- some public-sector oriented unions reported membership increases. The American Federation of State, County, and Municipal Employees (AFSCME) and the Service Employees International Union (SEIU) both claimed considerable gains during the period 1979-83.\_4\_/

A paucity of data prevents accurate tabulation of unionization rates in the public and private sectors since 1980. As late as 1980, however, public-sector unionization continued to rise.\_5\_/ Moreover, it is possible to point to anecdotal evidence of membership gains in the public sector while private-sector unions were losing substantial numbers of

Table 1

## Annual Rate of Change of Employment

	1979-83	1979-95 <sup>1/</sup>
Private nonfarm	+ .1%	+1.6%
Federal	- .2	+ .4
State and local	- .3	+ .5
Industrial Sector <sup>2/</sup>	-2.5%	+ .9%

<sup>1/</sup>Moderate-growth projection

<sup>2/</sup>Manufacturing, mining, construction, transportation and utilities.

Source: U.S. President, Economic Report of the President 1984 (Washington: GPO, 1984), p.263; Valerie A. Personick, "The Job Outlook Through 1995: Industry Output and Employment Projections," Monthly Labor Review. vol. 106 (November 1983), p.26.

members to layoffs and plant closings. For example, unions gained representation rights for 37,000 workers at the University of California in 1983.

Employment trends are revealing. During 1979-83, there was a slight decline in public employment and a slight increase in private. However, the union membership base in the private sector is not evenly spread out across all industries. Manufacturing, mining, construction, transportation and utilities -- denoted the "industrial sector" on Table 1 -- exhibited an ANNUAL rate of decline of 2.5 percent during 1979-83. It is this sector which has been the traditional private union heartland. Thus, even had private unions held on to their membership base during 1979-83 (which they didn't), they would have suffered a loss of representation compared with the government sector.

In summary, public-sector unions suffered less in the economic slump after 1979 than their private counterparts. And they were riding the crest of a wave which saw a substantial expansion of government unionization. These circumstances could be expected to contribute to a lower rate of concession bargaining in government than in the private sector.

### ii. Management Approaches and Wage Trends.

Management resistance to unionization in the private sector during the 1970s took the form of efforts to block the spread of union representation gains. Various authors have documented the heightened intensity of the campaign of nonunion private employers to avoid unionization and of



partially-unionized employers to avoid the spread of union representation to their nonunion facilities.\_6\_/ In the political arena, this struggle emerged as the congressional battle which killed the Labor Law Reform bill in 1978, a proposed law which would have made union organizing easier in private employment. But in contrast with their success in resisting organization, private employers were not very successful in holding back union wage increases.

The climate in the public sector was quite different. Changes in state and federal law tended to accommodate increased unionization in government, not block it. Public employers were not anxious to be organized, but they did not demonstrate the intensity of resistance to organizing found in private employment.

It is not easy to discharge individual workers in public employment, for union activities (or anything else). Government employers are more subject to public scrutiny than their private counterparts. And they cannot easily move to nonunion jurisdictions. (The government of Detroit cannot relocate to South Carolina or Hong Kong!) Finally, government employment is already characterized by the formal personnel procedures (structured pay systems, grievance mechanisms, "just cause" for discipline, etc.) which unions often bring to private employers. Thus, the impact of unionization in government posed less of a threat to public managers who already functioned under "unionesque" constraints.

In the public sector, resistance to unionization by management has tended to mean resistance at the BARGAINING TABLE to union demands, rather

than resistance to union ORGANIZATION. And the record of management in resisting demands successfully has been notable, particularly when weighed against the fears of the early 1970s that management would wilt in the face of union militancy.\_7\_/ Efforts to measure union/nonunion wage differentials in government have generally indicated a smaller union effect than in private employment. More importantly, the trend has been different.

As is now well known, in the private sector, union/nonunion wage differentials widened notably in the 1970s. This widening helped account for the growth of private employer resistance to organization during that period.\_8\_/ But in the public sector -- as I have shown elsewhere -- unionization was not associated with widening wage differentials. Public management "held the line" in the face of wage demands.\_9\_/ Wages in unionized jurisdictions did not (on average) rise relative to those of nonunion jurisdictions.

Some of the post-1979 private-sector wage concessions represented a "correction" of a widening union/nonunion wage differential during the pre-concession era. But in the public sector, there was less pressure for such a correction; the union wage effect was typically smaller than in private employment and the union/nonunion differential had not widened. These facts suggest that concession bargaining in government would be less extensive than in the private sector.

iii. Less Competition.

Government is a more insulated source of employment than private industry. Competition is sometimes virtually nonexistent. For example, only government can provide a drivers' license. Private substitutes do exist for some services provided by government. But often the public service is heavily subsidized as compared with the private substitute (e.g., public vs. private schools) or the private and public services are only partial substitutes (e.g., private cars vs. public transit).

In the private sector, the force of the post-1979 economic decline combined with factors such as de-regulation, imports, and nonunion competition to produce wage concessions. Since these competitive influences were less influential in public employment, there was less pressure for concessions in government.

#### iv. The Legal Climate.

Most of the private sector is covered by the National Labor Relations Act. Hence, decisions of the National Labor Relations Board (NLRB) and the courts interpreting that statute influence industrial relations in many industries simultaneously. The advent of the Reagan administration brought changes in NLRB interpretations of law relative to those of the previous Carter Board. For example, where the Carter Board was willing to read certain implicit limitations on plant relocation into union-management contracts, the Reagan Board was unwilling to do so. Where the Carter Board had seen a duty to bargain over subcontracting, the Reagan Board did not.\_10\_/

It is doubtful that the change in NLRB attitudes had much effect on the round of private concessions after 1979. Most of the concessions were made before the influence of the Reagan appointees was felt. However, the OUTLOOK for private-sector unions will be influenced by the tenor of Board decisions. This outlook could, in turn, influence future bargaining demands.

Except for federal employees, the legal climate for public-sector collective bargaining is determined at the state level by legislatures, administrative agencies, and court systems. This diversity means that a single election cannot change the national outlook for state-and-local bargaining. In any given year, some states may move to the "right" and others to the "left". The diversity paradoxically provides overall stability. Thus, there is less reason to expect concession bargaining in the public sector to be as extensive as in the private.

## II. Why the Public and Private Sectors Might be Similar.

Although unionization is now higher in the public sector than in private employment, collective bargaining in government has been modeled on private practices. Bargaining statutes are generally re-writes of the Wagner/Taft-Hartley framework of the private sector, with modifications dealing with the right to strike, dispute-settling mechanisms, union security, and other issues. Many public employees are represented by unions (such as the Service Employees) which originated in the private sector. Public management has also borrowed private-sector expertise when

initially faced with bargaining.

Since public-sector bargaining had its roots in the private sector, it would be surprising if there were no parallels between the sectors with regard to wage concessions. Several factors can be cited which could induce concession bargaining in government. These are shifting public attitudes, the outlook for slow employment growth in government, budget problems in certain jurisdictions, and the contracting-out movement.

i. Public Attitudes.

The strike of the Professional Air Traffic Controllers Organization (PATCO) is often cited as a key dispute which changed the climate for collective bargaining and contributed to concessions.<sup>11</sup> There are certain parallels between the PATCO dispute and later concession disputes in the private sector such as Continental Airlines, Phelps-Dodge, and Greyhound. In these disputes, the employer operated with (or threatened to operate with) nonunion personnel in the face of a strike. However, there are also key differences.

In the PATCO dispute, the union was striking against the federal government, an illegal action. No such consideration was involved in the private disputes in which the employer took a hard line. Moreover, the PATCO dispute did not arise from an employer demand for concessions; the employer's final offer in the PATCO case involved pay increases above those to be paid to other federal employees.

There is much of interest that could be said about the PATCO dispute.\_12\_/ However, the dispute's significance for concessions comes from what it demonstrated about public attitudes. Polls taken after the strike erupted indicated strong popular support for the action of the President in replacing the strikers.\_13\_/ The bottom line for political leaders -- including those charged with bargaining -- is public opinion and votes. PATCO inadvertently demonstrated that the public would support a hard management line in government bargaining with unions.

In fact, there were signs well before PATCO of the climate of public opinion. In San Francisco -- always viewed as a union town -- a police strike in the mid-1970s led to a voter backlash.\_14\_/ After PATCO, however, state and local officials had additional reasons to believe that public support would be forthcoming in the event of disputes. Los Angeles city voters, for example, placed limits on pensions of police officers and fire fighters in 1982. That same year, Los Angeles county voters approved tough curbs against public-sector strikers.\_15\_/

In short, PATCO made it easier for public management to demand wage concessions -- or simply impose them -- at all levels of government. It also foreshadowed a later hard line of federal managers in enterprises such as the Tennessee Valley Authority (TVA) and the U.S. Postal Service.\_16\_/

## ii. The Longer-Term Outlook.

Government is not expected to be a growth industry over the next



decade. As Table 1 shows, projections by the U.S. Bureau of Labor Statistics (BLS) suggest that private employment will expand relative to public through 1995. Even the industrial sector, where private unions are heavily based, is expected to expand relative to government employment.

The brighter private outlook suggests that the union concessions which occurred in that sector were largely the result of short-term economic distress. In contrast, public-sector unions had to consider not only the short-run distress, but also the likelihood that job security could be an issue over a longer horizon. This factor could have contributed to a greater willingness to consider wage concessions, especially in return for job guarantees.

### iii. Budgetary Problems.

The large federal budget deficits which developed in the 1980s are not typical of the experience of state and local government. Taken as a whole, state and local governments showed surpluses during 1979-83. In real terms, these surpluses declined in 1980 and 1982, the two troughs of the economic slump which began in 1979. Much of the latter decrease was due to the drop in federal grants in aid, however.\_17\_/

Although as a group, state and local governments showed a surplus, individual jurisdictions found themselves in difficulty. In California, for example, declining revenues nearly forced the state to meet its payroll with registered warrants (IOUs to be paid at a later date) in 1982. A pay freeze was applied in the state of Washington that same year

by the legislature for budgetary reasons. As late as 1983, the mayor of Chicago indicated that budgetary stringencies would not permit payment of "prevailing wages" to city skilled tradesman.

Some of the state and local budgetary problems arose from a combination of recession and a tax-payer revolt. In 1978, California voters enacted Proposition 13, a property-tax limitation which forced the state to "bail out" localities which had previously depended on property assessments. For a time, the bail out was financed by a combination of employment reductions and freezes, a one-year wage freeze, and increased revenue from economic expansion. But eventually the state's surplus was exhausted by the bail outs and the post-1979 slump in economic activity, thus contributing to the near miss on payrolls.

The tax-payer revolt in California spread to other jurisdictions. In some cases, referenda similar to Proposition 13 were offered to voters. Massachusetts voters, for example, passed Proposition "2-1/2" in 1980, thus putting many localities in financial distress. Even where tax-limitation referenda were unsuccessful, they nevertheless constrained politicians seeking added revenues. A combination of recession-reduced revenues, and public opposition to increased taxes, thus could be expected to enhance the climate for union wage concessions in the public sector.

#### iv. Contracting Out.

Although government employment is relatively insulated from competition, it is possible to use private contractors to perform work

### III. Wage Concessions in Government: The Record.

Unfortunately, available data on collective-bargaining settlements in government are limited. The U.S. Bureau of Labor Statistics (BLS) has published summary statistics for state and local settlements since 1979, but these are restricted to agreements covering 5,000 or more workers. Table 2 compares these results with a similar survey for private-sector workers.

#### i. Wage Freezes and Cuts under Major Agreements.

It is difficult to define a "concession" for statistical purposes since bargaining is typically a give-and-take process. In any case, the BLS does not provide a breakdown -- by any definition -- of concession and non-concession settlements. As a proxy, Table 2 presents data on the percentage of workers covered by agreements providing for first-year wage decreases or wage freezes. As can be seen on the table, NO public-sector wage decreases were recorded by BLS, although wage-decreasing contracts began to appear in private contracts in 1981. In 1982-83, when the bulk of wage freeze or cut contracts occurred in both sectors, the proportion of workers covered by such agreements in the private sector was substantially higher than that in government.

#### ii. A Broader Sample.

Table 2 suggests that union wage concessions were less common in government than in the private sector. However, because the BLS survey is

Table 2

**Results of Major Collective Bargaining Settlements  
in Private and Public Sectors, 1979-83**

Year	Percent of Workers with First-year Wage Decreases		Percent of Workers with First-year Wage Freeze or Decreases		Percent of Workers with First-year Wage and Benefit Freeze or Decrease	
	Private <sup>a</sup> /	Public <sup>b</sup> /	Private <sup>a</sup> /	Public <sup>b</sup> /	Private <sup>b</sup> /	Public <sup>b</sup> /
1979	0%	0%	4%	4%	5%	0%
1980	0	0	*	10	0	3
1981	5	0	8	9	6	2
1982	2	0	44	12	15	10
1983	15	0	37	21	24	2

\* Less than 0.5%

<sup>a</sup>/ Agreements covering 1,000 or more workers.

<sup>b</sup>/ Agreements covering 5,000 or more workers.

Note: Public Sector refers to state and local settlements only.

Source: Current Wage Developments, various issues.

Table 3

Characteristics of Wage Freeze and Cut  
Contract Sample  
(percent of contracts)

Year	1980	1981	1982	1983			
	4%	5%	47%	44%			
State	Oregon	Michigan	Pennsylvania	Ohio			
	23%	16%	11%	10%			
Union <sup>a/</sup>	AFSCME	NEA	IAFF	ATU	FOP	AFT	ANA
	23%	16%	11%	9%	5%	3%	3%
Contract Duration (Months)	Less than 12	12	13-23	24	25-35	36	Over 36
	4%	45%	5%	30%	4%	12%	1%
Type of Service	Education	Police	Fire	Transit	Health	Other	
	21%	13%	11%	11%	7%	38%	
Number of Workers Represented	Less than 100	100-499	500-999	1000-4999	Over 5000		
	Contracts	21%	34%	12%	21%	13%	
	Workers	*	4%	3%	19%	74%	

\* Less than 0.5%

<sup>a/</sup> AFSME = American Federation of State, County and Municipal Employees  
 NEA = National Education Association  
 IAFF = International Association of Fire Fighters  
 ATU = Amalgamated Transit Union  
 FOP = Fraternal Order of Police  
 AFT = American Federation of Teachers  
 ANA = American Nurses Association

Source: Author's contract file. See text.

Although concession settlements were scattered throughout the country, four states -- Oregon, Michigan, Pennsylvania, and Ohio -- accounted for 60 percent of those in the sample. While there will naturally be few settlements reported in states with low public unionization rates, the concentration in these four states is substantially more than could be accounted for by the pattern of unionization. In 1979, about 26 percent of state and local agreements were found in the four states.\_20\_/

Sixty percent of the wage freeze and cut contracts involved affiliates of AFSCME, the National Education Association (NEA), the International Association of Fire Fighters (IAFF), and the Amalgamated Transit Union (ATU). This proportion does not appear out of line with the general pattern of representation of these four unions in state and local government. Only about 13 percent of the agreements covered 5,000 or more workers -- the size cutoff for the BLS survey -- but almost three fourths of the workers involved were represented in those bargaining units. The types of services involved covered the range of government activities. However, education contracts were the largest single group.

#### iv. Concession-Prone Jurisdictions.

The concentration of wage freezes and cuts in four states suggests that it would be useful to examine those jurisdictions in detail. Is there a common theme that can be found in each of the states? Table 4 provides some background data on the four. Since the bulk of the Pennsylvania contracts were in the city of Philadelphia, additional information is provided on that city.



Table 4

## Earnings and Unionization in Selected Jurisdictions

Jurisdiction	Public-Sector Unionization Rate, <sup>a/</sup> Oct. 1979	Overall Unionization Rate, <sup>b/</sup> 1980	Monthly Earnings per Full-Time State and Local Employee Oct. 1979	Private Monthly Earnings, <sup>c/</sup> First Quarter 1979	Ratio: Public-to-Private Monthly Earnings, 1979 <sup>d/</sup>	General Public Expenditure per Capita, <sup>e/</sup> 1980	Per Capita Public Debt, <sup>f/</sup> 1980
Oregon	58.5%	26.1%	\$1,293	\$959	1.35	\$1,899	\$2,669
Michigan	56.8	37.3	1,525	1,236	1.23	1,880	1,201
Pennsylvania	60.4	34.6	1,265	1,023	1.24	1,469	1,718
Philadelphia	n.a.	n.a.	1,577	1,077	1.46	957	1,087
Ohio	40.1	31.3	1,195	1,093	1.09	1,431	971
U.S.	38.0%	25.2%	\$1,227	\$1,001	1.23	\$1,622 <sup>f/</sup>	\$1,482 <sup>g/</sup>

<sup>a/</sup>Percent of state and local employees in bargaining units.<sup>b/</sup>Union membership as percent of nonagricultural employment<sup>c/</sup>Private quarterly earnings per employee excluding interstate railroads divided by three.<sup>d/</sup>Ratio: Column (3) divided by Column (4).<sup>e/</sup>State and local governments.<sup>f/</sup>All-city average was \$514.<sup>g/</sup>All-city average was \$610.

Source: Column (1): U.S. Bureau of the Census, Labor-Management Relations in State and Local Government: 1979 (Washington: GPO, 1980), Table 4; Column (2): Courtney D. Gifford, Directory of U.S. Labor Organization 1982-83 Edition (Washington: Bureau of National Affairs, Inc., 1982), p.68; Column (3): Public Employment 1979, City Employment 1979; Column (4): County Business Patterns 1979; Columns (b) and (7): U.S. Bureau of the Census, Statistical Abstract of the United States, 1981 (Washington: GPO, 1981), p.288.

All four states (and undoubtedly Philadelphia) had public unionization rates above the national average for state and local employees. But Ohio was not far above the overall mean. All had above-average unionization rates for their total (public and private) workforces, although Oregon was only marginally above the average. Three states paid above-average salaries to their public workers, but Ohio was below the average and Oregon and Pennsylvania were only marginally above it. Only one state (and the city of Philadelphia) had an above-average ratio of public to private pay.\_21\_/\_

Oregon and Michigan show up as "high-service" states measured by per capita government expenditures. So does Philadelphia when measured against other cities. Pennsylvania and Oregon had above-average public debts per capita. Compared with other cities, so did Philadelphia.

Table 5 examines wage trends during the decade 1969-79, i.e., the period prior to the concession era. All the jurisdictions exhibited public wage increases somewhat faster than those experienced in their private sectors. However, in Oregon and Ohio the discrepancy was negligible. Compared with earnings in manufacturing (where many private-sector union workers are concentrated), all jurisdictions except Philadelphia fell below the private rate of wage increase.

In short, while it might be tempting to attribute concession bargaining in government to earlier profligate spending and borrowing, and excessive prior wage increases, the data do NOT support such a conclusion. Such factors may have played a role in some jurisdictions, but they do not

Table 5

## Annual Change in Earnings, 1969-79

Jurisdiction	State and Local Employee Earnings <sup>a/</sup> (1)	Private Sector Earnings <sup>b/</sup> (2)	Manufacturing Average Hourly Earnings <sup>c/</sup> (3)
Oregon	6.9%	6.8%	8.2%
Michigan	7.4	7.0	8.2
Pennsylvania	7.0	7.1	8.2
Philadelphia	8.8	7.1	7.6 <sup>d/</sup>
Ohio	6.9	6.8	8.0
U.S.	7.0%	6.7%	7.7%

<sup>a/</sup> October monthly earnings of full-time employees.

<sup>b/</sup> First quarter earnings excluding interstate railroads.

<sup>c/</sup> Production workers

<sup>d/</sup> Figure refers to SMSA

Source: Column (1): Public Employment and City Employment, various issues; Column (2): County Business Patterns, various issues; Column (3): Employment and Earnings, various issues.

provide a common theme. Philadelphia is the closest to the profligate image. It appears on the tables as a belated case of the New York City disease of the mid-1970s, with spending, borrowing, and wage adjustments out of line with national norms.\_22\_/

The one common theme that appears to unite the four jurisdictions is general economic distress. Table 6 shows that during the slump of 1979-83, the four states (and Philadelphia) experienced employment declines at ANNUAL rates ranging from 1.5 to 3.3 percent. In contrast, at the national level, employment was virtually unchanged during this period. All four states experienced slower-than-average rates of personal income increase.\_23\_/ And all four states (but not Philadelphia) exhibited a larger percentage-point jump in unemployment rates than the national average.

In summary, the concession-oriented jurisdictions suffered more severely than others from a recession-induced erosion of their tax bases. The governor of Ohio found it necessary to ask for large tax increases in 1980 to keep the state solvent; by 1983 his successor reported a deficit of over \$500 million and asked for still more tax hikes. Michigan went through rounds of tax hikes (leading to an unsuccessful tax-limitation referendum), bond rating deteriorations, and budget cuts. Oregon was declared in a state of "economic emergency" by its governor in 1982. Pennsylvania also went through significant cuts in the state budget. Philadelphia -- despite a declining population base -- managed to keep its finances in surplus during the late 1970s. But a deficit developed in fiscal 1980 (accompanied by threatened layoffs and requests for tax

Table 6

## Economic Conditions in Four States and U.S., 1979-83

Jurisdiction )	Annual Rate of Change in Payroll Employment 1979-83	Annual Rate of Change in Personnel Income 1979-83	Trough to Peak Increase in Unemployment Rate 1979-83 <sup>a</sup> /
Oregon	-2.3%	6.7%	4.7% (1982)
Michigan	-3.3	5.1	7.7 (1982)
Pennsylvania	-1.5	7.8	4.9 (1983)
Philadelphia	-1.5	<sup>b</sup> /	1.7 (1982)
Ohio	-2.3	6.4	6.6 (1982)
Total U.S.	0%	8.9%	3.8% (1982)

<sup>a</sup>/Figure in parentheses shows calendar year of peak unemployment rate.  
Trough unemployment occurred in 1980 in Philadelphia and 1979 in all other jurisdictions shown.

<sup>b</sup>/For 1979-82, the figure for Philadelphia County was 8.4% compared with 9.8% for the total U.S.

Source: Employment and Earnings, Survey of Current Business, various issues.

increases) and again in 1982 and 1983.\_24\_/

#### IV. Was There a Turning Point?

The debate over private-sector concession bargaining has largely been over its long-term significance. Is it a temporary aberration induced by economic distress? Or will bargaining and employer-union relationships be carried out on a permanently different basis?

##### i. Contract Duration and Escalation.

There is little evidence from public-sector concession bargaining that a permanent shift has occurred. In the private sector, one topic of interest has been the fate of long-duration (multiyear) contracts, especially those with escalator clauses. This topic is of less importance in the public sector since contracts there tend to have shorter durations (under 2 years as an average) and -- partly as a result of shorter durations -- escalation is less commonly used.\_25\_/

Table 3 shows a spread of durations in the wage freeze and cut contracts ranging from under 1 year to over 3 years. The mean duration was about 20 months for the entire sample. Where interruptions in existing contracts occurred, the result was sometimes a very short contract, e.g., a wage freeze after 4 months of a 12-month contract is equivalent to an 8-month contract. Deleting the interruptions from the sample raises the mean duration by about 1 month.



Thus, the mean contract duration from the sample of wage freeze and cut agreements is (perhaps) a little below the average that might be expected for state and local contracts. But there is no evidence of permanent abandonment of multiyear agreements. During a period of economic uncertainty, both parties may prefer to shorten durations and negotiate annually. With steady economic growth, the incentives to negotiate longer agreements will re-occur.

Only 6 percent of the sample's contracts contained an active escalator clause. Most of these contract placed some limit on the escalator's operation as part of the concession. This was a common practice in the private sector as well. In a few cases, the escalator was "frozen" but retained in the agreement. Three percent of the contracts eliminated the escalator.

It should be noted that inflation was declining during the concession period and that some escalator elimination or limitation would probably have occurred in any case. Among the major public settlements surveyed by BLS, only one (covering 12,000 workers) included an escalator in 1983, down from 16 settlements (265,000 workers) in 1979.<sup>26</sup> Since escalators were less important to public-sector unions even before the concession era (because of the prevalence of shorter-duration contracts), there may well have been less resistance to escalator elimination demands by management than occurred in private employment.

#### ii. Gain Sharing.

Some private-sector concession agreements have contained elements of gain sharing (such as profit sharing) in which a portion of worker compensation is made contingent on the economic health of the employer. Gain sharing would be an important development in wage setting since it could add substantially to wage flexibility. Economists have argued that such a development would have important macroeconomic effects, leading to a more stable and less inflationary economy.\_27\_/

In the public sector, of course, the profit-sharing alternative is generally not available since employers typically earn no "profits".\_28\_/ However, several contracts included agreements to condition future wage increases on the availability of revenues. Five percent of the agreements in the sample had such language. Thus, a public-sector equivalent of gain sharing was in evidence but did not affect most workers.

The standard mode of adjustment to reduced labor demand in the public sector -- as in the private -- remained the layoff. In some cases, when offered a explicit choice between wage concessions and layoffs, unions chose layoffs. More frequently, the choice was not explicitly offered; rather past practices of reductions in force were carried out. Wage concessions were the exception, not the rule.

### iii. Unusual Wage Adjustments.

Some private-sector concessions contained unusual wage adjustment features apart from gain sharing. For example, in the aerospace industry, use of lump-sum bonuses rather than basic wage increases became common.

Bonuses do not compound in multiyear contracts and do not raise the base for subsequent negotiations. A few examples of such bonuses appeared in the public-sector sample.

In some industries (notably airlines) "two-tier" pay plans have been established as part of a concession settlement. Under these plans, new workers are brought in at lower wage rates than existing workers, sometimes with no possibility of catching up to the previous wage schedule. These plans began to appear in significant numbers in 1983-84 in the private sector.\_29\_/ No two-tier plans were found in the state-and-local contract sample, although at the federal level, management demands for a two-tier system became an issue in the 1984 postal negotiations.

Two-tier arrangements have obvious drawbacks from the viewpoint of internal wage equity. They will be attractive to employers only if the current wage is substantially above "market" levels and the union is strong enough to resist pay cuts for current workers. Since union/nonunion pay differentials have generally been lower in the public sector compared with the private, the two-tier option is unlikely to become a major trend in government labor relations.

#### iv. Bankruptcy.

Changes in federal bankruptcy law led to unusual developments in some distressed private industries. Employers used (or threatened to use) the bankruptcy code to sever existing union contracts and unilaterally imposed

less costly terms and conditions. Most prominent among such cases was the bankruptcy of Continental Airlines in 1983 and the replacement of its striking workforce with nonunion personnel.

After much debate, Congress amended the bankruptcy code in 1984 to lessen employer discretion in cancelling union agreements. However, interest in the use of bankruptcy had by that time spread to the public sector. A school district in San Jose, California, filed for bankruptcy in June 1983, and ceased to meet the terms of its labor contracts. A year later, the district reached a negotiated settlement with its unions providing for back pay and future increases in wages tied to various contingencies. As a result, the bankruptcy petition was withdrawn.\_30\_/ No other similar cases have been reported.

Bankruptcy as a labor relations tactic is a means of interrupting an existing contract. Once a contract has expired, bankruptcy provides no advantage to the employer. Since public-sector contracts tend to have shorter durations than private, the attractiveness of bankruptcy to the typical public employer is reduced. Moreover -- as with private employers -- filing for bankruptcy could have the side effect of disrupting relations with suppliers and creditors. Thus, it is not likely to become a commonly-used management strategy in government.

#### v. Stalling for Time.

Generally, government employees do not have the right to strike, and as a result the use of prolonged impasse procedures is more common than in

private employment. Thus, a public entity in financial difficulty has the option of stalling for time. Even if a settlement is later made retroactively, the entity has received an interest-free loan. It is impossible<sup>1</sup> to know whether the time from prior contract expiration to new settlement increased in the public sector during the concession era; no data are available on this topic. However, in Massachusetts a panel headed by former Secretary of Labor John T. Dunlop was sufficiently concerned about such delays to recommend compulsory arbitration in such situations.\_31\_/\_

While stalling for time may have been a feature of management strategy during the concession era, it is a practice which will automatically recede as economic conditions improve. Thus, it cannot be considered a permanent alteration in public-sector industrial relations.

#### V. Conclusions.

Concession bargaining occurred in the public sector for the same reasons that it did in private employment: economic distress and threatened layoffs. However, in public employment the phenomenon was less widespread and concentrated in areas of the country where the post-1979 economic slump cut into the tax base. While observers of the private bargaining scene have hotly debated whether concessions heralded a permanent shift in the institution of union-management relations, the public sector has been largely neglected in the debate. However, it does not appear that fundamental changes have occurred in the public sector.

## FOOTNOTES

1. For a variety of viewpoints, see Audrey Freedman, "A Fundamental Change in Wage Bargaining," *CHALLENGE*, vol. 25 (July/August 1982), pp. 14-17; Daniel J.B. Mitchell, "Recent Union Contract Concessions," *BROOKINGS PAPERS ON ECONOMIC ACTIVITY* (1:1982), pp. 165-201; interview with John T. Dunlop, "Working Toward Consensus," *CHALLENGE*, vol. 25 (July/August 1982), pp. 26-34; Peter Cappelli, "Union Gains Under Concession Bargaining," *PROCEEDINGS of the Industrial Relations Research Association*, December 28-30, 1983, pp. 297-305; D. Quinn Mills, "When Employees Make Concessions," *HARVARD BUSINESS REVIEW*, vol. 61 (May-June 1983), pp. 103-113; Richard Belous, "Wage Restraints in the 1980s: A Turning Point in U.S. Labor Markets?," Congressional Research Service, Library of Congress, Report 84-33E, February 24, 1984.
2. For an exception, see David Lewin, "Public Sector Concession Bargaining: Lessons for the Private Sector," *PROCEEDINGS of the Industrial Relations Research Association*, December 28-30, 1982, pp. 383-393. Other papers on concession bargaining -- but in the private sector -- appear in the same volume.
3. U.S. Bureau of Labor Statistics, *EARNINGS AND OTHER CHARACTERISTICS OF ORGANIZED WORKERS, MAY 1980*, bulletin 2105 (Washington: GPO, 1981), p. 28.
4. This statement is based on membership reports filed with the AFL-CIO. There are well-known problems of relying on claimed membership, but other sources are not available for individual unions. See Gary N. Chaison, "A Note on the Limitations of Union Membership Data," *INDUSTRIAL RELATIONS*, vol. 23 (Winter 1984), pp. 113-118.
5. The number of employees in state and local bargaining units rose by 135,000 between October 1979 and October 1980, pushing the union-representation rate up from 38.0 to 38.4 percent. Source: U.S. Bureau of the Census, *LABOR-MANAGEMENT RELATIONS IN STATE AND LOCAL GOVERNMENTS: 1979*, Special Studies No. 100 (Washington: GPO, 1980), p. 31; U.S. Bureau of the Census, *LABOR-MANAGEMENT RELATIONS IN STATE AND LOCAL GOVERNMENTS: 1980*, Special Studies No. 102 (Washington: GPO, 1981), p. 23.
6. For a survey, see Richard B. Freeman and James L. Medoff, *WHAT DO UNIONS DO?* (New York: Basic Books, 1984), pp. 221-245.
7. Harry H. Wellington and Ralph K. Winter, Jr., *THE UNIONS AND THE CITIES* (Washington: Brookings Institution, 1971).
8. The Bureau of Labor Statistics' Employment Cost Index has been available on a union/nonunion basis for the private sector since 1976. Until 1983, union wage rates increases faster than nonunion in each year surveyed. For evidence that the widening pre-dated the mid-1970s, see Daniel J.B. Mitchell, *UNIONS, WAGES, AND INFLATION* (Washington: Brookings Institution, 1980), pp. 39-53. Freeman and Medoff, *OP. CIT.*, p. 239, find evidence that the widening wage differential contributed importantly to private employer resistance to unionization.

9. Daniel J.B. Mitchell, "Unions and Wages in the Public Sector: A Review of Recent Evidence," JOURNAL OF COLLECTIVE NEGOTIATIONS IN THE PUBLIC SECTOR, vol. 12 (4:1983), pp. 337-353, especially pp. 338-340.
10. See the NLRB's decisions in MILWAUKEE SPRING (268 NLRB No. 87, Case 30-CA-7067, January 23, 1984) and OTIS ELEVATOR (269 NLRB No. 162, Case 22-CA-8507, April 6, 1984).
11. See, for example, Harry Bernstein, "Union Says Postal Service Followed Reagan's Lead in Bargaining Stance," LOS ANGELES TIMES, July 30, 1984, Part 4, pp. 1,4.
12. For discussion of the PATCO dispute, see David S. Dickinson, "The Unmaking of a Union," JOURNAL OF COLLECTIVE NEGOTIATIONS IN THE PUBLIC SECTOR, vol. 12 (4:1983), pp. 259-270; Herbert R. Northrup, "The Rise and Demise of PATCO," INDUSTRIAL AND LABOR RELATIONS REVIEW, vol. 37 (January 1984), pp. 167-184.
13. "Harris Poll Finds Most Oppose the Air Strike," NEW YORK TIMES, April 21, 1981, p. A18; "Most in Poll Oppose Public Worker Strikes," NEW YORK TIMES, August 16, 1981, p. 39.
14. See Harry C. Katz, "Municipal Pay Determination: The Case of San Francisco," INDUSTRIAL RELATIONS, vol. 18 (Winter 1979), pp. 44-58.
15. Proposition A was declared unconstitutional in subsequent litigation.
16. At TVA in 1981, management successfully pushed for a conversion to advisory (rather than binding) arbitration of interest disputes, merit rather than longevity in progression, and revisions in the prevailing-wage surveys used to set pay during negotiations. See "Major Concessions by TVA Unions Defuse Threat to Cancel Contract," GOVERNMENT EMPLOYEE RELATIONS REPORT, September 14, 1981, pp. 929:9-929:10.
17. Source: U.S. President, ECONOMIC REPORT OF THE PRESIDENT 1984 (Washington: GPO, 1984), pp. 250, 310.
18. American Federation of State, County and Municipal Employees, PASSING THE BUCKS: THE CONTRACTING OUT OF PUBLIC SERVICES (Washington: AFSCME, 1984). In one reported case, fire fighters agreed to workrule and overtime concessions to avoid the contracting out of their services. See "Willimantic, Conn., Fire Personnel Take Cuts to Beat Out Private Firm," GOVERNMENT EMPLOYEE RELATIONS REPORT, April 18, 1983, p. 863.
19. In some cases, full information was not available from these sources. Telephone calls were made to the parties to obtain the missing data. In general, contracts have been dated in the year in which the reference source appeared.

20. U.S Bureau of the Census, LABOR-MANAGEMENT RELATIONS IN STATE AND LOCAL GOVERNMENTS: 1979, OP. CIT., Table 5.
21. The data for government pay on Table 4 are adjusted to full-time equivalency. However, the data for private pay [column (4)] are not so adjusted. Nor is any adjustment made for occupational composition. Hence, the fact that the ratios on the table in column (5) are greater than unity should not be taken to indicate overpayment of public workers.
22. On the New York City situation, see Edward M. Gramlich, "The New York City Fiscal Crisis: What Happened and What Is to Be Done?," AMERICAN ECONOMIC REVIEW, vol. 66 (May 1976), pp. 415-429.
23. In real terms (as measured by the Consumer Price Index), personal income in the four jurisdictions fell during the period covered by Table 5.
24. Information in the text was drawn from various newspaper accounts. Budget information on Philadelphia was taken from MOODY'S MUNICIPAL AND GOVERNMENT MANUAL, vol. 2 (New York: Moody's Investor's Services, 1984), p. 3391.
25. Data on public-sector contract duration during the period covered are not available on a comprehensive basis. The BLS surveys of major settlements indicate mean durations of about two years for 1979-82. (No duration data were published for 1983). However, the BLS surveys -- as previously noted -- include only contracts covering 5,000 or more workers. The contract file assembled by the author (covering only wage freezes and cuts) indicates that larger contracts have longer mean durations than smaller contracts. If the contract file is confined only to settlements involving 5,000 or more workers, the mean contract duration is 22 months, i.e., close to the BLS average for all such contracts. Three surveys of public-sector contracts in California have been taken. These indicate mean durations in the range of 21-22 months. See B.V.H. Schneider, ed., A STATISTICAL ANALYSIS OF AGREEMENTS IN CALIFORNIA LOCAL GOVERNMENT (Berkeley: Institute of Industrial Relations, University of California-Berkeley, 1979), p. 24; California Department of Industrial Relations, PROVISIONS OF COUNTY AND CITY NEGOTIATED LABOR AGREEMENTS IN CALIFORNIA, 1980 (San Francisco: Division of Labor Statistics and Research, 1981), p.2; California Department of Industrial Relations, PROVISIONS OF COUNTY AND CITY NEGOTIATED LABOR AGREEMENTS IN CALIFORNIA, 1982 (San Francisco: Division of Labor Statistics and Research, 1983), p. 6.
26. "State and Local Collective Bargaining Settlements, 1983," CURRENT WAGE DEVELOPMENTS, vol. 36 (March 1984), p. 41. In the transit sector -- where many public escalators existed -- management reportedly pushed for their limitation or elimination. Massachusetts enacted statutory restrictions on transit escalators. See Richard U. Miller and James L. Stern, "A New Era in Transit Bargaining," PROCEEDINGS of the Industrial Relations Research Association, December 28-30, 1983, pp. 278-283.



27. Martin L. Weitzman, "Some Macroeconomic Implications of Alternative Compensation Systems," *ECONOMIC JOURNAL*, vol. 93 (December 1983), pp. 763-783; Daniel J.B. Mitchell, "Gain-Sharing: An Anti-Inflation Reform," *CHALLENGE*, vol. 25 (July/August 1982), pp. 18-25.
28. Many "profit-sharing" plans in the private sector are really deferred compensation (retirement) arrangements with no automatic relation to profits. In this sense, profits are not needed for profit sharing and there are, indeed, similar schemes in the public sector for providing tax-sheltered retirement funds. The text, however, uses "profit sharing" in the literal sense, i.e., a formula linking an element of compensation to profits.
29. Two-tier arrangements were reported in 4.4 percent of non-construction contracts tracked by the Bureau of National Affairs, Inc. in 1983 and 8 percent of such contracts during the first half of 1984. See "Two-Tier Wage Contracts Advancing in Popularity," *DAILY LABOR REPORT*, July 11, 1984, pp. B4-B6.
30. "San Jose Schools Seek Dismissal of Bankruptcy Case Under Pacts," *GOVERNMENT EMPLOYEE RELATIONS REPORT*, June 4, 1984, p. 1081.
31. "Closure Urged for Year-Old Mass. Uniformed Worker Contract Disputes," *GOVERNMENT EMPLOYEE RELATIONS REPORT*, June 4, 1984, pp. 1069-1072.