

POINT OF VIEW

Trends and Issues in Labor Relations in the Transportation Sector

JOHN T. DUNLOP



John T. Dunlop, former Secretary of Labor in the Ford Administration, 1975-1976, and currently Lamont University Professor at Harvard University, addresses the conference session on Critical Issues in Labor-Management Relations in Transportation held during the 1985 TRB Annual Meeting.

The following article is part of the TRNews Point of View series, in which opinions on various topics within the transportation field are presented by contributing authors. It is emphasized that the opinions expressed in these articles do not necessarily represent the views of the Transportation Research Board or its Editorial Board.

It is hoped that publication of each point of view will stimulate reader comment. Response by readers is encouraged in the form of Letters to the

Editor, which will be published in subsequent issues of TRNews.

Contributions by readers to this Point of View series are also welcome. All articles received will be reviewed by the Editorial Board for suitability for publication.

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The following article was presented by Dr. John T. Dunlop of Harvard University as a paper at the conference session on Critical Issues in Labor-Management Relations in Transportation sponsored by TRB's Employee-Management Relations Committee during the 1985 Annual Meeting. Dr. Dunlop is a preeminent commentator and scholar on the collective bargaining process in the United States and its effects on labor market operations and work force structure. He served on the Presidential Railroad Commission in 1960-1962, as Director of the Cost of Living Council in 1973-1974, and as Secretary of Labor under President Ford in 1975-1976. There has scarcely been a major labor relations issue in the last 25 years in which Dr. Dunlop has not been involved. Dr. Dunlop is currently Lamont University Professor at Harvard University.

Dr. Dunlop's remarks here focus on the impact of deregulation on labor-management relations in transportation; he discusses the destabilizing effects of the rapid withdrawal of the federal role, the emphasis by deregulators on product market concerns, and the lack of attention being given to related labor issues.

The TRB Committee on Employee-Management Relations believes that Dr. Dunlop's paper makes a significant contribution to much needed dialogue within the transportation community on labor-management perspectives.

*Keith Prouty, Chairman
TRB Committee on
Employee-Management Relations*

TRB's Employee-Management Relations Committee is to be commended for sponsoring this session on trends and issues in transportation labor relations; I look forward to the experience and wisdom of both the discussants and participants. Indeed, in my view, many of the

tioner of such continuing, systematic, fact-based discourse among responsible leaders, I am pleased to see this occasion.¹

My central theme here relates primarily to the impact of market competition on industrial relations and the con-

league, John R. Meyer. In 1959 Meyer et al. (1) concluded:

The clear orientation of the previous policy recommendations is toward a substantial reduction in government regulation of transportation and heavy reliance on the forces of market competition to insure services and rates in the interest of the public. Indeed, for those sectors of transportation into which entry is quite easy, a category which includes virtually every carrier outside of the railroads and pipelines, the previous recommendations suggest virtually complete reliance on competitive forces.

Similar studies in particular segments of transportation reached similar conclusions. Most notably in 1962 Richard E. Caves (2), another colleague, who concentrated on air transport, concluded:

We have seen that the major standing policies of the Civil Aeronautics Board do not coincide with the economist's usual criteria of efficiency. . . . the air transport industry has characteristics of market structure that would bring market performance of reasonable quality without any economic regulation.

Such pioneering, detailed studies, their counterparts relating to trucking, natural gas transmission, telecommunications, and so forth, and more general studies of economic regulation (3) were to establish the intellectual case for greater competition and less regulation. Those studies and their methodology were utilized when the political process turned to economic deregulation, particularly of transportation, in the last half of the 1970s (4).

For the purposes of the present discussion, it should be stressed that these studies had little or no concern with the associated labor markets or collective bargaining. The regulatory agencies did not determine wage rates and benefits, and so it was understandable that these industrial organization specialists, unfamiliar with labor matters, concentrated on product markets and paid no attention to the related labor issues.

During the same time period, 1950-1970, labor relations specialists were concerned with describing industrial relations systems (5) in transportation or

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currently intense labor relations problems of the transportation sector, and its separate industry branches, are as acute as they are evident because there has been too little dialogue and frank discussion, outside of the negotiation of particular collective agreements, among management, labor, and government agencies in the separate industry branches—or in the transportation sector as a whole.

The one word that best characterizes transportation labor relations is *fragmented*, and an extreme form pervades

sequences of deregulation in the airline and trucking industries. But the issue of competition pervades other branches of transportation as well, including maritime and railroads.

THE CASE FOR DEREGULATION

The intellectual case for deregulation of transportation was based almost entirely on concern with prices and charges for transportation services, the efficiency of these markets, and the relative

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the airlines. There the separate system groups frustrate stronger national organizations of labor in many crafts; the crafts are isolated and often engage in intense rivalry to capture or to extinction; the carriers are divided along many lines; and government labor policy on air transportation can only be described in recent years as nihilistic and devoid of constructive leadership. A forum for common, factual, and candid private dialogue in the larger transportation sector or its separate industry branches has been lacking. As an advocate and practi-

use of resources in different modes of transportation, such as railroads and trucking.

One of the early advocates of deregulation among economists was my col-

¹For a discussion of labor-management-government committees, and the processes of consensus building, see J.T. Dunlop, *Dispute Resolution, Negotiation and Consensus Building*, Auburn House Publishing Company, Dover, Mass., 1984, Chapters 1, 14-17.



Keith Prouty (standing) presided at the conference session on Critical Issues in Labor-Management Relations in Transportation. Panel members included: seated, left to right, William Lindner, Transport Workers Union of America; Louis Olsen, Metropolitan Transit Commission (Minneapolis-St. Paul); Norman Weintraub, Teamsters Union; Gregory Lawler, Subcommittee on Commerce, Transportation and Tourism of the House Committee on Energy and Commerce; and Jerry Glass, Airline Industrial Relations Conference.

preoccupied with efforts to resolve serious disputes over manning in the cockpit in airlines (6) or work rules on the railroads (7).

In the intellectual world, the case was established for deregulation of product markets—fares, rates, entry, quality of service, and so forth—but there was no consideration of its consequences or impact, in the short run or over a longer term, on labor markets, collective bargaining, wage and benefit levels, or unemployment. This isolation was to serve poorly the course of events.

CONSEQUENCES FOR INDUSTRIAL RELATIONS

The political movement that produced legislative and administrative agency deregulation in airlines and trucking and changes in other branches of transportation developed rather quickly and achieved significant change in a relatively short time frame. I would be quite interested in a careful account of

the forces driving this relatively rapid change. It is also unclear to me why in the political arena, as in the intellectual world previously described, so little attention was paid to the consequences for industrial relations, wages, and employment.

Some of the explanation no doubt can be derived from the fact that administrative changes led the way without legislation, and the administrators of the ICC and CAB, with whom I was acquainted, seem not to have been

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interested in collective bargaining or labor relations; they likewise were primarily concerned with rates, entry,

and product market competition, not perceiving the impacts on the labor market. It is also true, I believe, that the initial drafts of airline deregulation legislation would have limited competition largely to existing carriers and new entrants would have been delayed. That phrasing was later eliminated in the enthusiasm for deregulation.

But some of the explanation must lie with a lack of clarity among labor and management as to the consequences of deregulation, the effects of the rapid rate of its introduction, or a failure to communicate politically little more than an unease and a sense of insecurity. It is true that some managements were divided on the issues and came to advocate deregulation. But it is hard to recall the introduction of so fundamental a range of changes to which labor and management in the sector gave so little detailed joint study and discussion, or at least that is my impression. The issues were not widely perceived as labor-management or industrial relations concerns, but the speed of change in product

markets is always vital to associated adjustments in labor markets.

THE TRANSITIONAL PROCESS

The processes and the speed by which changes in product markets brought about by deregulation or new competitive forces affect labor markets and industrial relations need to be understood. Some changes are short term and others are much more long term or eventual. Only when other industries and households have fully adapted to transportation prices and service changes,

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when capital flows into the deregulated transportation branches have reached a steady state, when the several modes of transportation have reached an equilibrium among trucking, railroads, airlines, maritime, barges, pipelines, and so forth, when the flow of trained manpower has reached a steady state, and when relative wages and prices have fully accommodated—will the long-term consequences of deregulation be entirely specified. This is a long, long time measured in analytics or in history. Thus changes can be expected from deregulation for many years.

Lower labor costs for new “entrepreneurial carriers”—commuters and new entrants in airlines—arise from several considerations (8,9): nonunion carriers may have less stringent rules, greater job flexibility, greater productivity, and lower wages and benefits; inexperienced labor and new hires will not have built up seniority premiums. New entrant carriers can separate or unbundle services—baggage, meals, and reservations—and price more readily than established carriers. Secondary airports may be used and the capital costs of used aircraft are lower. These and other cost advantages of new entrants may not remain forever, as these airlines grow and get older and many become organized. But initially these cost advantages are substantial. Although these entrepreneurial carriers only enplaned about 10 percent of all domestic passengers in 1981, they placed very considerable pressure on the established carriers. As Meyer (8) concludes: “The new entrepreneurs have already profoundly altered the structure of the domestic airline industry.”

While the long term is difficult to discern, I would think that a reasonable prognosis in the domestic airline industry would be fewer major trunk airlines with a smaller proportion of all passengers, fewer employees, and wages and benefits generally 20 to 25 percent below their previous levels. A number of specialized new carriers and commuter airlines may be expected to emerge. The international market is a

separate world with different competitors. Much of the same pattern of development may be expected in the freight trucking industry with even more intense competition from companies with their own fleets and from owner operators.

Whatever may be the eventual shape of these deregulated industries, and collective bargaining will have to adapt if it is to survive, the most serious industrial relations problems are in the shorter term or transitional process, particularly given the economic setting in

guided to a greater extent by a greater labor-management contribution. The employees in these sectors, as well as management, were not well prepared for what was coming. They had no appreciation of the magnitude of changes that were incipient. Each change was often presented as temporary or the last one, only to provoke enormous hostility as further retrenchment was required. Labor organizations have been slow to change, rooted as they are in individuals and their social interactions at the work place and in a sector. Such an enormous

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which deregulation was commenced. A great number of the problems in the adjustment to deregulation were exacerbated by the deep recession of 1980-1982 and the steep rise in fuel prices in 1978-1979. Bankruptcy and threats of insolvency have been a feature of this economic environment. In a different economic climate the processes of deregulation may have worked more gradually and with less intense disruption to industrial relations. Thus the speed of deregulation in the economic climate of 1978-1982 has made the process very difficult to absorb. The industrial relations strife in airlines, particularly, is unprecedented.

It is unfortunate, in my view, that the course of deregulation in airlines and trucking could not have been

structural change as deregulation required extensive discourse and an effective communications program.

I do not believe, as some do, that deregulation will destroy the industrial relations systems in transportation industries. There may be doubt as to the survival of the master-freight agreement, the Class I railroad agreements, and the complex of related main national airline carrier agreements. After a shaky interim period, they are likely to continue, since at their core they reflect the fundamentals of technology and product markets, as well as national economic and security interests. The national systems and their rules, however, will apply to a smaller fraction of total transportation at relatively lower levels of wages and benefits; specialized

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agreements will apply to other special markets including local areas that will govern a larger share of total transportation.

MANAGEMENT SKILLS

One of the most fundamental changes arising from deregulation that affects

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is likely to be more difficult to achieve in a fully market-oriented industry. These readjustments may be difficult and will take time.

Experience suggests to me that relatively few managers are likely to be successful in both types of markets. Deregulation is likely to mean a wholesale change and reorganization of the management. Such changes tend to be disruptive of established labor-management relations, at least until new patterns and relationships can emerge and until mutual understanding of the new market environment is achieved by both organizations.

PRODUCT MARKET AND LABOR MARKET RELATIONSHIP

The relationship between product market regulation and labor market behavior is well illustrated in the trucking industry. D. Daryl Wyckoff, also a colleague, in a study of truck drivers (10), found that compliance with ICC price regulations was closely associated with compliance with labor standards—safety rules, weight limits, speed limits, use of drugs, hours limitations, and other working conditions specified in government regulations and collective agreements.

Thus it is not only wages and fringe benefits that may be eroded by deregulated and competitive product markets, but also conditions of work relating to hours of work, weight limits, and safety conditions. It is often forgotten that from its outset, collective bargaining has been a form of regulation of the labor market, as Sidney and Beatrice Webb (11) explicitly described long ago. The absence of collective bargaining, leaving government regulation of hours, working conditions, and safety unaided, is likely to produce quite different degrees of compliance in various branches of transportation.

labor relations is the necessity for quite a different type of management. Managing in a deregulated set of markets requires different skills, policies, and organization from those required in a regulated environment. A much greater emphasis needs to be placed on market-

STATUTORY CONTEXT FOR COLLECTIVE BARGAINING IN TRANSPORTATION

The intense and fragmented conflict in the airline industry particularly has raised a variety of questions concerning

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ing and rapid responses to shifts in demand and to the initiatives of competitors. Route structures and their variability, the type of equipment, and the management of assets are likewise likely to be changed under deregulation. The quest of employees and their labor organizations for stability and security

the meaning of the applicable labor law. What can be done unilaterally by management and when, and what requires joint agreement? What constitutes a full course of good-faith bargaining? What role does the National Mediation Board have? When may a strike or lockout be invoked? What matters are within the

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adjudication of a system board and arbitration, and what are within the province of a court? What is a minor matter and what is major? These difficult questions are currently hotly contested legal issues and it would be inappropriate to express a view, particularly since I am already in enough trouble with lawyers. But a little background may be helpful.

From the earliest days of collective bargaining in this country in industry generally, collective agreements had fixed duration; the distinction was made between issues of interest and issues of rights or interpretation, although, until recently, in a number of industries impartial umpires continued to have both mandates. In England, on the other hand, agreements had no fixed duration, and no distinction between issues of rights and interests (12); each side was free to propose changes on brief notice at any time as a consequence of the dominant role of foreign trade and its uncertainty, as in the cotton trades.

It was only in the railroad industry in the United States that agreements were initially written without explicit duration; subsequent agreements specified a period of moratorium on notice of change in rules to be given in accordance with the provisions of the Railway Labor Act. Under this statute the right to strike or lock out was delayed by mediation, the proffer of arbitration, a possible emergency board, its recommendations, and 30 days. This apparatus was carried over to the airline industry.

We are now faced with the question in several cases of whether an explicit contract provision, as in a snapback, is subject to the same interpretation as a normal notice to change wages and other rules.

I candidly do not believe that the interpretations of expiration and notices of change of rules under the Railway Labor Act, which are so out of step with the other collective bargaining procedures in this country, are now conducive to constructive collective bargaining. The courts have a large and uncertain role. Emergency boards, which

can enhance the role of negotiations and mediation, have by policy been largely eliminated in airlines. Yet I so deeply respect the tradition under which the statute was developed by the parties that I would not advocate any unilateral or political change unless the parties agree to it. Perhaps separate airline procedures should be developed as well.

BANKRUPTCY PROCEEDINGS

The chairman insists that I comment on bankruptcy proceedings and collective bargaining, again a topic outside of my competence. It is my impression from reading conflicting legal views and from discussions with colleagues that the Bankruptcy Amendments and Federal Judges Act of 1984 is likely to make a substantive difference in most cases from the state of the law under which Continental Airlines blatantly disregarded its collective agreement. It is doubtful that this maneuver could be repeated, in part because the process in practice may now be stretched out over a substantial period.

Bankruptcy court approval is required before a debtor can reject a collective agreement, and the court is only to approve rejection if the union has rejected the debtor's contract modifications "without good cause" and the balance of equities "clearly favors" rejection of the union contract. But a great deal of discretion is left to the courts, and in collective bargaining matters there is no telling what lawyers and judges may do.

UNINTENDED CONSEQUENCES

Some of the most important effects of regulation, and deregulation, result from

unintended consequences. Policies that appear straightforward often create results that were unanticipated (13). Thus, in industrial relations, the labor movement never foresaw that the Wagner Act would lead to the destruction of the fundamental constitutional principle of exclusive jurisdiction, as the government came to determine bargaining units as production or craft units, and that the Act would lead inevitably to government regulation of the internal affairs of unions. The government has an interest in the internal affairs of organizations that it certifies and with which it requires managers to bargain.

Thus deregulation is likely to have quite unexpected and unintended consequences in the future that may even overshadow the designed purposes. For instance, it has been observed with some surprise that trucking deregulation is propelling some grocery firms into becoming common carriers or trucking contractors (14). It is most difficult to foresee the consequences of deregulation, including impacts on industrial relations, when the ripple of effects spreads so widely and into unlikely fields.

NATIONAL SECURITY CONSIDERATIONS

In the formalization of transportation industrial relations systems, it is well to remember that the role of the federal government, in wartime or out of national security considerations, was a decisive influence. The compensation rules of the railroads, although precedents were developed by individual railroads and under early collective agreements, were nationalized in World War I, and thereafter, in a period of government control and administration by the Direc-

"The security interests of the country do clearly require an integrated national transportation system in each of the major modes."

tor General of Railroads. The airline industry, from the development of aircraft and their manning to airports and air traffic controllers, as well as various subsidies, reflected significant national interests, which constituted a significant influence on airline industrial relations. The highway system that was developed in the 1960s was advocated in part by national security concerns. These considerations are always argued in the maritime branch of transportation.

The security interests of the country do clearly require an integrated national transportation system in each of the major modes. Peacetime market considerations alone will never completely prevail in the development of transportation systems and their industrial relations.

SUMMARY

A discussion of the consequences of deregulation for industrial relations in the transportation industries will be more insightful and rewarding, in my view, if we bear in mind the following observations:

1. The consequences of deregulation in both economic and industrial relations terms need to consider separately short-term transitional stages of adaptation and longer-term or ultimate steady-state effects. The full adaptations take a very long time, and premature judgments are to be avoided. The short-term adjustment stages and process are, of course, an appropriate concern.

2. The consequences of deregulation of government intervention in a product

each other, and at other times government policies in a sector have undermined and made unstable the substantive results of collective bargaining.

4. The industrial relations consequences of deregulation constitute a problem in the analysis of the dynamics of an industrial relations system. Change an element of an established system by a significant extent—technology, or competitive conditions arising from international trade, or government regulation—and then trace through the dynamics of adjustments in a congruent system. A number of longer-term consequences are suggested.

5. Wartime and national security have had a major impact on the development and formalization of industrial relations in transportation industries. This influence is unlikely to disappear.

6. Regulation or deregulation of product markets in transportation is only one element of a very wide range of public policies that affect the performance of transportation sectors and their industrial relations. Regulation or deregulation does not constitute a substitute for a transportation policy.

7. All reflection on the consequences of deregulation from models of economics and industrial relations or from the intuition of practitioners needs to be discounted by the probability that the unintended consequences of government regulation (or deregulation) will eventually be the most significant.

I return to the theme developed at the outset. These circumstances compel a continuing forum on industrial relations for each segment and for the transportation sector as a whole.

"Deregulation does not alone constitute a viable or comprehensive public policy for transportation . . ."

COMPREHENSIVE PUBLIC POLICY

Deregulation does not alone constitute a viable or comprehensive public policy for transportation, although a great deal of current rhetoric might so suggest. Public policies on the maintenance of highways and bridges (15), excise taxes on fuel, energy policy, emission standards, naval ship policies and shipbuilding subsidies, tariffs and trade policy on automobiles and trucks, mass transportation subsidies, the tax code, and a score of other matters materially influence the size, shape, and characteristics of the several transportation industries and in turn influence their industrial relations. Governmental influence is not concentrated at one point or in one module in transportation; instead it is widely striated throughout the transportation system.

market need to be analyzed in a setting of a related cluster of product and factor markets. Deregulation not only alters competitive conditions in a product market for transportation services, but has consequences in upstream and downstream product markets and in a variety of related factor markets. In transportation there are likely to be major consequences in markets for equipment—trucks, airplanes, rolling stock, in markets for specialized services and the extent of self-service, and in associated labor markets. The impacts are complex and ripple widely from the center of impact.

3. Collective bargaining is itself to be understood as constituting a system of regulation with an interest not merely in labor markets but in product markets as well. At times collective bargaining and government regulation have reinforced

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Videotape Available on Strategic Highway Research Program

A newly released videotape that describes the motivation and scope of the Strategic Highway Research Program (SHRP) is now available from the Transportation Research Board. This program, which is now being planned and set in motion by the American Association of State Highway and Transportation Officials, grew out of a study conducted by TRB that led to *TRB Special Report 202: America's Highways: Accelerating the Search for Innovation*. SHRP focuses on six areas:

- Asphalt
- Long-Term Pavement Performance
- Maintenance Cost-Effectiveness
- Protection of Concrete Bridge Components
- Cement and Concrete in Highway Pavements and Structures
- Chemical Control of Snow and Ice on Highways

The need for SHRP and each of the six program areas are discussed and illustrated.

The \$30-million-per-year program will begin full-scale operations in approximately 2 years and will have substantial effects on the materials and the



methods used in the nation's highway program.

The just-released videotape is a brief (15-minute), nontechnical, highly visual overview of the program, ideal for communicating the origins and scope of SHRP to general audiences. Transportation managers, public officials, equipment and materials suppliers, trade associations, engineers, contractors, researchers, and consultants will find this introduction a valuable way to obtain information on the Strategic Highway Research Program.

To make arrangements to view the SHRP videotape in ½" VHS format, contact Jewelene Gaskins, Transportation Research Board, 2101 Constitution Avenue, N.W., Washington, D.C. 20418; telephone 202-334-2958.