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SELF-DETERMINATION vs. STABILITY OF LABOR RELATIONS

THE EFFECT OF *American Potash*

Dallas L. Jones*

SELF-DETERMINATION and stability of labor relations are two basic objectives of our national labor relations policy. Congress assumed, when it passed the Wagner Act, that self-determination — the right of employees to engage, if they so desired, in collective bargaining with representatives of their own choosing — would promote industrial peace. It was soon found, however, that in many instances self-determination might not be compatible with the goal of stable labor relations. One such instance, and one of continuing difficulty, is that of skilled workers within an industrial unit.

In part, this problem resulted from an unforeseen development — the split in the labor movement. At the time the Wagner Act was enacted, the AFL, composed largely of craft unions, represented the labor movement. An important principle of the AFL was that of “exclusive jurisdiction” — the grant to a national union of the sole right to organize workers in a particular trade or craft. The purposes behind this principle were, of course, to prevent “dual unionism” — two unions in one trade — and to prevent jurisdictional conflicts over who would organize the workers and who would do the work. Although the concept of “exclusive jurisdiction” was never completely successful in solving jurisdictional disputes within the AFL before 1935, it had provided a framework for organizational purposes and it had prevented to a large extent “dual unionism.”

It is not surprising, therefore, that Congress did not seriously consider the question of self-determination in terms of *which union* would represent the workers, but, instead, considered the question largely in terms of whether the workers desired *any union* representation. The Wagner Act was thus written to reflect the

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majority attitude toward unionism without great concern for which union might be chosen. Congress did, however, approach this question when it placed upon the National Labor Relations Board the responsibility for designating the appropriate unit for collective bargaining. Realizing that it was necessary to establish which group of workers should be polled as to their desires regarding unionism, Congress directed the Board in section 9 (b), to "decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." Although there would have been problems connected with self-determination in an appropriate unit in any event, these problems were intensified by the division in the labor movement.

With the emergence of industrial unions under the CIO, the principle of "exclusive jurisdiction" was no longer effective. The industrial unions ignored craft boundaries and attempted to organize all workers in a given plant or industry. The NLRB would then be requested to designate as the appropriate unit for collective bargaining, a broad "production and maintenance" unit — a "p and m" unit — that would include both production and skilled workers. In many instances, the skilled workers supported the industrial union, but in others they desired craft representation. In still other cases, the skilled workers at first supported the industrial union and then changed their minds and asked for craft representation. The Board soon found, therefore, that in fulfilling its obligation to designate the appropriate unit for collective bargaining it had to choose between a unit which allowed all workers a full measure of self-determination or one which it believed would most benefit the majority of the employees and otherwise "effectuate the policies of [the] Act" — i.e., promote industrial stability.

The latest definitive action of the NLRB in dealing with this problem is contained in its decision in the *American Potash* case.¹ The purpose of this article is to present empirical findings on the effect of that decision upon the development of stable labor relations. A brief review of the steps leading to *Potash* and of the policy enunciated there may be helpful in understanding the problem.

¹ 107 N.L.R.B. 1418 (1954).

American Can to American Potash

Very early in its history, the Board was confronted with conflicting claims by craft unions and industrial unions for the right to represent craft workers. Generally, the industrial unions sought a broad unit of production and craft workers, whereas the craft unions sought units of their particular skill.² The Board's first reaction was to establish broad units where it appeared that one union had a majority throughout the plant. In doing so, the Board relied heavily upon what it considered best for collective bargaining purposes. In many cases, the Board created large units over the protests of small groups on the basis that the larger unit would best serve the interests of the majority by insuring to them the fullest benefits of the act through the promotion of effective collective bargaining and peaceful labor relations.³

This policy, however, met with considerable protest, and in 1937 the trend was reversed; in that year the Board evolved the so-called "Globe" doctrine⁴ which, in most instances, allowed craft workers in initial representation elections to determine whether they wished to be included in the plant-wide unit or to have separate craft units. Although this action was opposed by some members of the Board on the basis that it provided self-determination for a small group of workers at the expense of the majority,⁵ the principle was established. Self-determination in these instances was thus given precedence over what some Board members considered more important—the unit most appropriate for collective bargaining.⁶

The Board was far more reluctant, however, to allow craftsmen who had been blanketed into a larger unit, or who had changed their minds about their representative and desired craft representation, to extricate themselves from the larger unit. The first reaction of the Board was to prohibit the severance of craft workers from a "p and m" unit. This principle, established in the *American*

² In some cases, of course, former craft unions such as the Machinists began to organize on a broader basis. Thus, the Machinists would seek either a "p and m" unit or a craft unit, and which one sought would be determined by the chance of success.

³ This policy was also pursued in regard to multi-plant and multi-employer bargaining. See the author's "The NLRB and the Multiemployer Unit," in 5 LAB. L.J. 34 (1954).

⁴ Globe Machine and Stamping Co., 3 N.L.R.B. 294 (1937).

⁵ Allis-Chalmers Mfg. Co., 4 N.L.R.B. 159 (1937).

⁶ The unit most appropriate for collective bargaining was given primary importance in some instances. This was especially true in the creation of multi-employer units. See Jones, "The NLRB and the Multiemployer Unit," 5 LAB. L.J. 34 at 35-36 (1954).

Can case in 1939,⁷ remained unchanged until 1942. In 1942, the Board, which had been under constant pressure from the AFL, agreed to conduct severance elections for those craft workers who had resisted the efforts of the industrial unions to win their allegiance.⁸ This break in the rigid nonseverance rule led to the principle established in the *General Electric* case of 1944.⁹ In that case, the Board held that severance of craft groups from a "p and m" unit would be permitted if the following conditions were met: (1) if the group seeking severance constituted a true craft group and not a dissident faction; (2) if the group had maintained its identity during the period of bargaining upon a more comprehensive basis; and (3) if the group had protested its inclusion in the broader unit, or, in the alternative, had no knowledge at the time the unit was created that a broad "p and m" unit was being considered. By 1947, the Board had discarded the identity criterion, although initially it had been very important.¹⁰ Moreover, the Board at this time began to allow the severance of departmental units, such as powerhouse workers, which could not qualify as craft groups.¹¹ Again, as these developments occurred, there was vigorous protest by some Board members that these decisions were not conducive to stable collective bargaining.¹²

By 1947, when the National Labor Relations Act was amended, the Board's policy was in general, therefore, one which gave great emphasis to self-determination — if the above conditions were met, the Board almost automatically ordered a severance election.¹³ The Taft-Hartley changes appeared not only to support the Board's policy toward severance but also appeared to encourage the Board to enlarge upon it. An amendment to section 9 (b) provided that a craft unit was not to be found inappropriate for collective bargaining on the basis that a broader unit had been previously established unless the affected craft workers had voted against separate representation. Moreover, the phrase "and otherwise to effectuate

⁷ 13 N.L.R.B. 1252 (1939).

⁸ *Bendix Aviation Corp.*, 39 N.L.R.B. 81 (1942).

⁹ 58 N.L.R.B. 57 (1944).

¹⁰ *International Minerals and Chemical Corp.*, 71 N.L.R.B. 878 (1946). For a full discussion of these principles and the cases which led to them, see Krislov, "Administrative Approaches to Craft Severance," 5 LAB. L.J. 231 at 234-235 (1954); Weiner, "The Appropriate Bargaining Unit," NEW YORK UNIVERSITY SIXTH ANNUAL CONFERENCE ON LABOR 515 at 527 (1953).

¹¹ *E. I. DuPont*, 73 N.L.R.B. 1167 (1947).

¹² *Phelps Dodge Corp.*, 60 N.L.R.B. 1431 (1945).

¹³ Krislov, "Administrative Approaches to Craft Severance," 5 LAB. L.J. 231 at 233 (1954).

the policies of this Act" was eliminated and the section was changed to read "in order to insure employees *the fullest freedom in exercising their rights guaranteed by this Act*, the unit appropriate for collective bargaining shall be the employer unit, craft unit, or subdivision thereof" (Emphasis added.)

These changes in the act, however, did not speed up the process of craft severance. Instead, as Krislov has pointed out, the Board adopted policies which actually limited severance.¹⁴ The Board did this in two ways: (1) by giving more consideration to the nature of the industry in determining if a craft unit were appropriate, and (2) by defining more carefully the characteristics of the group seeking severance to determine if the group represented a true craft. With these policy changes, especially as a result of the first, stability of labor relations again became an important consideration.

Almost immediately after the amendments to section 9 were passed, the craft unions argued before the Board that the changes called for mandatory craft severance elections. The craft unions also contended that, in determining the appropriate unit, the Board was precluded from utilizing the factors of prior unit determination and collective bargaining history.

These arguments were rejected by the Board in the *National Tube* case.¹⁵ The Board held instead that although the amendments prohibited the Board from finding a craft unit inappropriate solely because a different unit had been established, the Board still had the duty of determining in each case the appropriate unit for collective bargaining. In determining the appropriate unit, the Board declared that it could use the factors which it had utilized in the past, including prior unit determinations, as long as there was no reliance as such on past Board decisions.

With the question of mandatory elections resolved, the Board then denied the petition of the bricklayers for a separate unit even though the group constituted an appropriate unit for severance under the Board's criteria. The Board's reason for denying the petition was the high degree of integration between the work of the bricklayers and the entire production process. This integration of work, the Board declared, precluded severance in the basic steel industry.¹⁶ *The National Tube* doctrine of integration was later

¹⁴ Id. at 234.

¹⁵ 76 N.L.R.B. 1199 (1948).

¹⁶ Ibid.

applied to aluminum, lumber, and wet milling;¹⁷ in these industries, stability of labor relations was given precedence over self-determination.

Prior to the 1947 amendments to the act, the Board had not been particularly concerned whether the group seeking severance was a true craft as long as it had a specialized skill. Following the passage of the amendments, the Board set forth more precise criteria to determine whether the group was a craft unit and thus eligible for severance. These criteria included the presence and quality of an apprenticeship program, the amount of skill required to do the work, the place or location where the work was performed, and the type of supervision required. In addition, all workers in the total unit with the same skill had to be included in the proposed craft unit; and, if the craft unit sought was in a multi-plant company or in a multi-employer group, the proposed craft unit had to include all craftsmen in all plants.¹⁸

The Board continued to allow the severance of departmental groups, but here too the Board set forth more precise criteria to determine whether such a group was appropriate for severance. Thus, the departmental group had to have a craft nucleus, it had to be identifiable and homogeneous, it had to perform work different from that performed in the rest of the plant, and it had to include all of a particular kind of employees in the plant.¹⁹ This latter criterion became of especial importance in the *Westinghouse* case when the Board denied a petition for the severance of a departmental unit of tool room employees when it was found that there were tool and die makers in another department.²⁰ Moreover, the Board also denied the severance of departmental units when it found that the work of the department was highly integrated with the production process.²¹

American Potash

After the election of President Eisenhower in 1952, there was a change in the composition of the NLRB; this change in turn led

¹⁷ *Permanente Metals Corp.*, 89 N.L.R.B. 804 (1950); *Weyerhaeuser Timber Co.*, 87 N.L.R.B. 1076 (1949); *Corn Products Refining Corp.*, 80 N.L.R.B. 362 (1948).

¹⁸ *Krislov*, "Administrative Approaches to Craft Severance," 5 *LAB. L.J.* 231 at 234-237 (1954), and *Weiner*, "The Appropriate Bargaining Unit," *NEW YORK UNIVERSITY SIXTH ANNUAL CONFERENCE ON LABOR* 515 at 529-532 (1953) discuss the cases which led to these principles.

¹⁹ *Ibid.* See particularly *Allis Chalmers*, 77 N.L.R.B. 719 (1948).

²⁰ *Westinghouse Electric Corp.*, 101 N.L.R.B. 441 (1952).

²¹ *General Electric*, 89 N.L.R.B. 726 (1950).

to a re-evaluation of the craft-severance doctrine. The results of that re-evaluation were announced in the *American Potash* case²²—a decision which in effect accepted the arguments advanced by the bricklayers in the *National Tube* case.

It was the Board's opinion that if the conditions for separate representation were present—a true craft status and a proposed representative that had traditionally represented the craft—the group had to be afforded the opportunity to decide for itself the issue of separate representation. The principle was to apply in all industries, including highly integrated ones, except that it would not be extended to those industries in which the *National Tube* ruling had been applied.²³

This position, the Board stated, was consistent with the clear intent of Congress in this matter. According to the Board, it was not the purpose of Congress to have the Board “dictate the course and pattern of labor organization in our vast industrial complex.” If employees believed that they could be better served by craft unionism, the Board believed that it was not within its province to say that they had to be represented on an industrial basis. Employees, declared the Board, must be given the opportunity to decide the issue for themselves if the intent of Congress and the statute were to be effectuated.²⁴

In adopting this rule, the Board declared that it had given “grave consideration” to the arguments that craft severance would cause industrial unrest and would reduce maximum efficiency in the integrated industries. The Board agreed that the new policy might cause some unrest, but the Board contended that the alternative of denying craft workers separate representation, as proved under the *American Can* experience, “was no less productive of labor unrest.”²⁵ In reply to the argument that craft severance would reduce maximum efficiency in integrated industries, the Board remarked, “Whatever may be lost in maximum industrial

²² 107 N.L.R.B. 1418 (1954).

²³ Id. at 1421-1422. In refusing to order severance elections in these industries, the Board stated that it did not wish to disrupt established bargaining relationships. The same reasoning could be applied to any industry and, as the court pointed out in *Pittsburgh Plate Glass Co. case*, this section appears discriminatory. *NLRB v. Pittsburgh Plate Glass Co.*, (4th Cir. 1959) 270 F. (2d) 167, cert. den. 28 U.S. LAW WEEK 3217 (1960).

²⁴ 107 N.L.R.B. 1418 at 1422-1423 (1954). Krislov has argued that the legislative history of the amendment indicates that Congress did not intend to provide for mandatory elections. Krislov, “Administrative Approaches to Craft Severance,” 5 LAB. L.J. 231 at 234 (1954). The court agreed with this position in *Pittsburgh Plate Glass Co.*, (4th Cir. 1959) 270 F. (2d) 167, cert. den. 28 U.S. LAW WEEK 3217 (1960).

²⁵ 107 N.L.R.B. 1418 at 1422 (1954).

efficiency, and experience has not shown that this loss is measurably greater than that which flowed from the rigid doctrine of *American Can*, is more than compensated for by the gain in industrial democracy and the freedom of employees to choose their own unions and their own form of collective bargaining."²⁶ In short, the Board held that self-determination was the most important objective and that any adverse effects which might occur would be more than offset by the benefits which would result from the policy.

The Criteria for Craft Severance Under American Potash

In setting forth this policy, the Board declared that the requirements for craft severance — a true craft and a proposed representative that had historically represented the craft — would be rigorously enforced. Under this rule, the Board believed that fewer craft groups would be eligible for severance than under the prior policy.²⁷ Of extreme importance, therefore, is the meaning which the Board attached to the above criteria.

A "true craft unit," declared the Board, is a homogeneous group consisting of skilled journeymen craftsmen working together with their apprentices and helpers. In order to be considered a journeyman, an individual must have a high degree of skill attained only through long training. Such training usually would be acquired through an apprenticeship program, although an experience-equivalent would be recognized. In addition, and of great importance, the Board declared that it would not consider a craft group eligible for severance unless it included "all craftsmen of the same type in any plant, except those in traditional departmental units." On the other hand, employees who worked in association with the craft but who could not attain craftsman status would be excluded.²⁸

Severance was not to be restricted, however, to "true craft units." There were certain other functionally distinct departmental groups, declared the Board, "though lacking the hallmark of craft skill," who, because they have common interests in collective bargaining distinct from those of other employees, should be treated as severable units. These "departmental groups which have by tradition and practice acquired craft-like characteristics" would

²⁶ Id. at 1423.

²⁷ Ibid.

²⁸ Id. at 1423-1424.

be allowed to sever, if proof were provided that "(1) the departmental group is functionally distinct and separate, and (2) the petitioner is a union which has traditionally devoted itself to serving the special interest of the employees in question."²⁹ Here, as well as in cases of "true craft units," the Board placed the burden upon the petitioning union of proving that the requested unit was appropriate.³⁰

The manner in which the Board has applied these criteria is of importance to the findings to be discussed below. The tests for determining a true craft have, in general, been those stated by the Board. There have been, however, some noticeable exceptions. Aircraft Welders, who were at first denied craft status,³¹ have since been accorded it on the basis that welding is a separate and distinctive trade requiring long experience and the petitioning union was one that had long represented such employees.³² On the other hand, the Board has refused to consider units appropriate for severance in which the people failed to meet craft standards.³³

The Board has also insisted that the union seeking to sever a unit be the historical or traditional representative of the group and has refused to permit a severance election where the union does not meet this requirement. Thus, the Board declared inappropriate a maintenance unit composed of many crafts sought by the Carpenters, although the Board found appropriate for severance a unit which consisted solely of the millwrights.³⁴

Modification has occurred, however, in the Board's interpretation of what constitutes a historical and traditional representative. In the *Elgin Watch* case,³⁵ the Board denied the petition of the Die and Toolmakers Association to sever a unit of tool and die makers, because the union had been in existence for only one year. "A newly-formed labor organization," declared the Board, "can hardly be termed a 'traditional' bargaining representative."³⁶ Reconsideration of this decision soon followed, however; and, over the vigorous protests of Members Beeson and Murdock, the Board

²⁹ *Id.* at 1424.

³⁰ *Ibid.*

³¹ *Clayton and Lambert Mfg. Co.*, 111 N.L.R.B. 540 (1955).

³² *Hughes Aircraft Co.*, 117 N.L.R.B. 98 (1957).

³³ See, for example, *Inland Cold Storage Co.*, 115 N.L.R.B. 973 (1956), where the Board refused to consider refrigeration mechanics as craftsmen.

³⁴ *Marinette Paper Co.*, 114 N.L.R.B. 1452 (1955).

³⁵ 109 N.L.R.B. 273 (1954).

³⁶ *Id.* at 275.

reversed its position.³⁷ The majority declared that a history of existence was only one test and that "a union newly organized for the sole and exclusive purpose of representing members of that craft, in our view, can be as much a craft union as an older organization. . . ."³⁸ The Board believed that to hold differently would mean that craft employees would be "forever wedded to the past" and that a governmental agency would be granting "monopoly rights to particular labor organizations to the point of preventing new craft unions desired by employees from coming into being."³⁹ The Board, therefore, allowed a group of machinists the opportunity to vote for the newly formed Tool and Die Craftsmen union.

Far more complex, and perhaps of more importance in terms of stable labor relations, has been the Board's actions regarding departmental severance. Many of the former criteria for departmental severance have been retained, but the Board has substantially modified the rule laid down in the *Westinghouse* case, that the severance of a departmental unit which contained both craftsmen and lesser-skilled workers would not be allowed if there were similar craftsmen employed outside the department. Although the Board retains this policy for craft units, it does not do so for departmental units. Thus, in the *A. P. Controls* case,⁴⁰ the Machinists sought two departmental units — one of toolroom employees and the other of model-shop employees. In both units there were highly skilled journeymen working with lesser-skilled people. There were also journeymen of like skill in the plant who were not attached to either of these departments. The Board ruled that the two departmental units were appropriate for severance even though some craftsmen were excluded.⁴¹

Another important aspect of this problem arises when the Board must choose between a craft or departmental unit, when both may be appropriate. In many instances, the petitioning union requests one or more craft units, or in the alternative, a departmental unit. Thus, in the *American Cyanamid* case,⁴² the Machinists petitioned for eighteen craft units or, in the alternative, a unit composed of all maintenance employees. The Board found

³⁷ *Friden Calculating Machine Co.*, 110 N.L.R.B. 1618 (1954). The minority continued to hold that a "traditional bargaining representative" must have a history of representing workers of the craft.

³⁸ *Id.* at 1619.

³⁹ *Id.* at 1619-1620.

⁴⁰ 108 N.L.R.B. 593 (1954).

⁴¹ See also *Cessna Aircraft Co.*, 114 N.L.R.B. 1191 (1955).

⁴² 110 N.L.R.B. 89 (1954).

that a departmental unit was inappropriate but that units of tool-room machinists, instrument mechanics, scale mechanics, and mill-wrights were appropriate.

In another case,⁴³ the Machinists petitioned to sever a departmental unit of machine shop employees. In the department were six tool and die makers, twelve machinists, four highly skilled machine operators who could advance through the classification to journeyman status, and one helper. The Board denied the petition for a departmental unit but declared appropriate a craft unit of the tool and die makers and the machinists. In doing so, the Board remarked that "the machine shop employees . . . constitute a functionally distinct departmental group, who may be represented as a separate unit by a union which traditionally represents such employees."⁴⁴ It would seem, as the minority of the Board pointed out, that under the rules laid down in *Potash*, the departmental unit should have been declared appropriate. The question also arises, of course, whether it would not be better in cases of this kind to have a departmental unit to prevent undue segmentation.

There has been very close adherence by the Board to the principle enunciated in *Potash* that integration of the production process would not bar severance, except in the *National Tube* exclusions. Thus, in a case soon after the *Potash* decision was announced, the Board refused to give any weight to the argument that the maintenance and production functions were highly integrated and that the history of collective bargaining in the industry should prevent severance. Instead, the Board remarked that the only question before it was whether the petitioning union met the test laid down in *Potash*.⁴⁵ Thus, the Board has not hesitated to order elections in integrated industries.

Collective bargaining history will act as a bar to craft severance only where the petitioning union seeks a unit in a plant of a multi-plant company that has traditionally bargained on a company-wide basis.⁴⁶ Even here, however, the Board will allow severance if

⁴³ Kinnear Mfg. Co., 109 N.L.R.B. 948 (1954).

⁴⁴ Ibid. See also St. Louis Car Co., 108 N.L.R.B. 1388 (1954). Upon occasion the Board will declare a departmental unit appropriate even though the petitioning unit had sought only a craft unit. See American Bemberg, Division of Beaunit Mills, Inc., 111 N.L.R.B. 963 (1955).

⁴⁵ Forstmann Woolen Co., 108 N.L.R.B. 1439 (1954). See also North American Aviation, Inc., 115 N.L.R.B. 1090 (1956), where the Board conceded that there was a high degree of integration between the unit sought and the production process, but that such integration could not act as a bar.

⁴⁶ Thus the Board refused to allow units of tool room employees to be severed on an individual plant basis in the automobile industry.

the master contract allows deviations at the plant level and which are bargained at the local level.⁴⁷

Here in brief, then, is the manner in which the Board has attempted to effectuate the policies established in *Potash*. The important question is: has craft severance under these principles disrupted stable labor relations? It was to answer this question, as well as the concomitant one of what changes, if any, would be desirable in the *Potash* doctrine, that the empirical research was undertaken.

Methodology of the Study

Data for the study were obtained in the following manner. An examination was made of the *Decisions and Orders of the National Labor Relations Board* between March 1, 1954, the date of the *Potash* decision, and June 1, 1957. In every instance where it appeared that the Board had ordered a craft severance election, a questionnaire was sent to the industrial relations director of the employer involved. Questionnaires were not sent to the local unions because of the difficulty in securing addresses. In order, however, to obtain union views, the author interviewed representatives of the United Automobile Workers, Steelworkers, Paperworkers, and Machinists who had been involved in such elections. Admittedly, the views expressed could not verify or negate the results obtained from specific company representatives, but on broad questions there was a great deal of agreement between the company responses and the union representatives.

In all, 99 questionnaires were mailed. Thirteen of these, however, were mailed to branch plants of four multi-plant companies. In these cases, there was one consolidated response from the central office. These were counted as one questionnaire and one response. There were also five cases in which the election was a "Globe" election rather than a severance election. The adjusted total of questionnaires sent is, therefore, 85. There were 58 valid questionnaires returned, for a 72.6 percent response.

For analysis, the returns were separated (1) according to whether the petitioning union was successful in severing a unit, and (2) according to the employer's opinion of the effect of the Board's policy upon stable labor relations. Table I summarizes the results.

⁴⁷ Continental Can Co., 110 N.L.R.B. 1042 (1954).

TABLE I

Opinion of Policy	Where Severance Occurred		Where Severance Did Not Occur		Total	
	Number	Percent	Number	Percent	Number	Percent
Policy Conducive to Stable Labor Relations.....	7*	16.3	1	6.7	8	13.8
Policy Not Conducive to Stable Labor Relations.....	28**	65.1	13	86.6	41	70.7
No Opinion Regarding Effect of Policy.....	8	18.6	1	6.7	9	15.5
Totals.....	43	100.0	15	100.0	58	100.0

*Only 4 employers in this group were completely favorable toward the policy. Three employers expressed reservations regarding the policy. One stated that the policy had no effect; therefore, he did not care. Because these opinions were not negative, they were included in this category.

**In one case, the employer had no bargaining experience with the severed unit. A strike occurred during the first negotiations, and during the strike the group renounced its new affiliation. In subsequent tables the number 27 will therefore be used in this frame of reference.

It is obvious that the majority of employers, both where severance occurred and where it did not occur, believe that the policy of craft severance is not conducive to stable labor relations. The question immediately arises whether this attitude is simply a belief or whether it is based upon experience. In order to assess the actual impact of severance, the questionnaires contained a series of questions designed to probe the effect of severance upon various aspects of the company's labor relations, such as number of grievances, types of grievances, etc. The results are summarized in Table II.*

Results Where the Employer Believes the Policy Is Not Conducive to Stable Labor Relations

Rather surprisingly, the responses from those employers who believed that the policy is not conducive to stable labor relations and in whose companies severance occurred do not show any consistent pattern. It would be difficult to conclude from this data that severance has had any great effect. In fact, and here is the key to the problem, 18 of these 28 employers admit that severance has had no significant effect upon their labor relations other than to increase negotiating time. When the responses are separated upon the company's evaluation of the effect of severance upon stable labor relations, as they are in Table III,* a pattern does begin to emerge.

* See Appendix, Table II, p. 341 infra.

* See Appendix, Table III, p. 344 infra.

Employers Reporting No Significant Effect Upon Labor Relations

Table III verifies the opinions of the employers who report no significant effect upon their labor relations. With but few exceptions, severance has had little impact upon their labor relations programs. In three cases, however, the effect of severance was minimized because the severed unit renounced its new craft affiliation and returned to the original bargaining unit.⁴⁸ Even in those areas where severance appears to have had most effect — strikes and size of money settlements — the total effect has not been great. If severance has had such a minimal effect, why then are these employers opposed to it?

Fear is the principal reason for opposing the severance of craft groups. This fear arises principally from two sources: from what is considered to be another threat to continued production and from the belief that, if more craft units are severed, it will not be possible to overcome the ill effects which are believed to be connected with severance. These fears were stressed time and again by the respondents in this group.

There is, of course, a greater threat to continued production where two or more unions represent the employees because there is a greater possibility of strikes. When all employees are in one union, compromises can be made and the minority group has to accept the decision. In any event, only one contract has to be negotiated. But when there is separate representation for small groups, each group can insist upon its demands and it can strike to support them. If the work of the group is of great importance in the production process, a strike by the small group may force the company to discontinue operations even though the majority of employees are willing to work. Although the strikes experienced by the employers in this group did not disrupt production,⁴⁹ the possibility of a strike doing so is always present and constitutes a greater problem when there is more than one bargaining unit in a plant.

The ill effects which these employers cite as reason for opposition to severance include: increased jurisdictional disputes, excessive wage increases, possibility of further fragmentation of the bargaining unit, and the increased costs arising from severance.

⁴⁸ In one case, the severed group struck during the first contract negotiations. After striking for two weeks, the group renounced its craft affiliation; consequently, the employer never had a bargaining relationship with the craft group on a separate basis.

⁴⁹ In one case, the strike of the severed group lasted for two weeks. The production workers, however, refused to recognize the strike and, therefore, production was not interrupted. The severed group finally returned to work without securing their demands.

The fear of increased jurisdictional disputes was stressed by most employers as a reason for opposing craft severance. It is believed that severance solidifies classification boundaries and makes it very difficult to cross these boundaries without incurring jurisdictional problems. Thus, one company, while noting the slight effect of severance upon efficiency to this time, emphasized that the problem may become more acute in the future. This company has a highly integrated production process and one which is undergoing rapid technological change. The company fears, therefore, that in the future the crossing of craft lines may become more difficult. A concomitant fear, arising from the jurisdictional problem, is that cooperativeness of employees, and thereby efficiency, will be adversely affected if there is continued division of employees along craft lines in integrated industries.

Excessive or unjustified wage increases which may have to be given to craft groups is another important reason for opposing severance. These employers fear that such wage increases may either distort their wage structures or place them at a competitive disadvantage. Thus, one employer remarked that it had been a "battle" to keep his wage structure from being whipsawed.⁵⁰ Another respondent commented that the wage policies of craft unions, which did not take into account industry conditions but were based on geographical rates, "[put] pressure on our production rates and can put manufacturers who have crafts in a disadvantageous labor-rate position with their competitors who do not." Although a major reason for the support of severance by craft employees arises from the belief that their wage rates should be substantially increased, most employers oppose such a move for fear that it will lead to an upward adjustment in production employees' rates or distort established wage structures.

Further fragmentation of the bargaining unit by additional groups severing from it is a fear of many employers. Like the employer noted above, some employers are concerned with the effect further severance would have upon efficiency. The comment of one small company with 150 employees is indicative of the feelings of many: "If many crafts split off, results would probably be disastrous. . . . Imagine trying to run a small plant with many different unions representing different crafts, each with a few members." Other employers fear further fragmentation of the bargain-

⁵⁰ This employer added that he had resisted giving a needed wage increase to the craft group for fear of whipsawing and because he believed that such a wage increase would be an incentive for other groups to attempt to sever.

ing unit because of the increased possibilities of work stoppages and thus of a greater threat to continued production. One reason for the minimal effect of severance upon the labor relations policies of these employers is that the size of the severed unit or units has been small in comparison to the production unit. For this reason, the economic power of the severed group has been low, and thus the effect of severance has been minimized. There is a fear, however, that further severance might alter this balance of power either through the severance of larger units or by the severance of numerous units that would cooperate with each other.

And, last of all, there is opposition to severance because of the increased negotiation time. For small companies, this increased time represents an important cost; for large companies there is increased strain on the part of both supervisors and the industrial relations staff. Most employers do not believe that the cost to the employer is worth the value that employees receive.

Employers Reporting Adverse Effect Upon Labor Relations

In large measure, the fears expressed by the above group of employers have become realities for this group. There is no doubt that severance has definitely, and adversely, affected the labor relations of nine of these ten employers. Although severance has had an impact upon the labor relations of the tenth employer, the effect is not so serious as in the cases of the other nine. Table III does not, of course, show the effect of severance upon any one employer; nevertheless, the totals are revealing.

Eight of the ten companies report that jurisdictional-type grievances have increased. In two cases, the companies indicate that they have been able to cope with the problem; however, in one instance this was accomplished only after job descriptions were revised. In the other companies, jurisdictional disputes are still an important problem; and, in every case, jurisdictional questions have had an adverse effect upon efficiency.

Jurisdictional problems have affected efficiency in several ways. These problems have often led to drawing more rigid job classification lines; consequently, flexibility is lost and skilled workers cannot be used as effectively. For example, in one company which had three groups of machinists, two of the groups were allowed to sever. The duties of the third group, which was not severed, cut across the activities of the other two. Before severance occurred,

there were no serious work assignment problems, but after the severance there were constant disputes. In order to minimize these disputes, the company has had to define specifically the duties of each group. In other cases, efficiency has suffered in times of emergency because these classification lines prevent the easy transfer of workers to areas where they are needed.

A usual concomitant of severance has been the creation of new seniority units as well as new classification lines. The creation of new seniority units has also affected efficiency. When work requirements in the severed unit increase, it is often impossible, as noted above, to transfer qualified employees on a temporary basis to the severed unit. Nor, usually, are qualified long-service workers willing to give up their seniority for a permanent transfer to become junior employees in the severed unit. On the other hand, when work requirements in the severed unit decline, highly skilled and qualified workers must be laid off because they cannot be transferred to other jobs.

As could be expected, where jurisdictional problems exist, there is antagonism and jealousy between the two groups. All eight employers having jurisdictional difficulties, as well as one other, report that this has been their experience. In all seven instances in which efficiency has been lowered as the result of severance, a decrease in the cooperativeness of employees because of this antagonism was given as one reason for it. This problem is especially evident in cases such as the one noted above in which employees have been accustomed to working together and must continue to do so even though they are in different units.

Pressure upon supervisors as a result of work assignment problems has also contributed to a decline in efficiency. More care must be exercised in making work assignments to avoid disputes, and more time is spent by supervisors in dealing with the problems which arise. As shown in Table III, six of the companies report that grievances have increased, and four of them state that they are finding it more difficult to settle them.

Increased difficulty in grievance negotiation arises, however, not only from the work assignment problem but also from the "political" nature of the grievances. Six companies, including two who are having jurisdictional problems, state that, since the severance occurred, there has been a tendency to use the grievance process to impress upon the membership the worth of the union. In some cases, it is the production union; in other cases, the craft

union;⁵¹ and in some cases it is both. Thus, one employer remarked, "Both groups are prone to take grievances to the top steps of the grievance procedure. It appears they are hopeful that matters will be settled to their benefit by top management or by threat of arbitration." Or, as another employer put it, "There is a tendency to be less objective — to see if political capital can be made of grievance discussions."

Political considerations have also increased the difficulty of contract negotiations for many of these employers. Most employers in the total sample have found it more difficult to negotiate a contract for the production unit because of the more complex issues and because the severed group was small and lacked strength; consequently, the severed group had to accept the pattern negotiated by the production unit. For the employers in this group, the experience has been somewhat different. The strength of the severed unit has tended to be greater,⁵² and, as a result, it has often been more aggressive in its demands. There has thus been a greater tendency for both units to use contract negotiations for political purposes — the production unit must win gains to prevent further disaffiliation and the severed unit has to try to fulfill the promises made to secure recognition.

This need of the severed group accounts in large part for the four strikes that have occurred as a result of severance.⁵³ Although one of these strikes failed when the severed group over-estimated its strength and the production workers refused to support it, the other three strikes resulted in wage increases, in one instance a very substantial increase, or other benefits. Moreover, in two additional cases, the severed unit has been able to secure wage increases by simply threatening to strike.⁵⁴

⁵¹ One employer, while noting an increase in the number of grievances from the production unit, reports a decline in the number of grievances from the craft unit. Before severance, the craft group was forcing "petty" complaints through the grievance process in order to secure attention.

⁵² In contrast to the severed units of those employers who report no effect upon their labor relations, the severed group here tends to be either: (1) larger in relation to the production unit; (2) a departmental unit that is vital to operations; or (3) made up of several groups which have been severed out, which creates a condition conducive to whip-sawing. In addition, two employers who stated it was more difficult to negotiate a contract for the production unit than formerly believe that this difficulty is the result of severance which had weakened the production union. The production union attempts to cover up its weakness and to impress its members by more "militant" and prolonged bargaining.

⁵³ One company reported strikes by both the production and the severed unit. It is not clear, however, whether the production unit strike was a result of severance; for that reason, it is not included.

⁵⁴ The power of the severed unit is vividly displayed in one of these cases. Not only was the employer forced to grant a sizeable wage increase to the severed unit, which rep-

It is very apparent that severance has had a considerable impact upon the stability of labor relations in these companies. Some companies have been more affected by severance than others. All, as a result of their experience, are strongly opposed to the principle of craft severance.

*Results Where Employers Believe the Policy Is
Conducive to Stable Labor Relations*

Seven employers view favorably the NLRB's severance policy. Of the seven, however, only four are completely favorable; the others express reservations. Two employers stated that the policy is conducive to stable relations only if highly skilled people are allowed to sever; both believe that the policy would be harmful if severance is allowed for employees with minor skills or relationships. The other employer, as a result of his experience, does not believe that the policy had any effect one way or the other; consequently, the company is not opposed to it.

Table II shows that severance has had little if any adverse effect upon the labor relations policies of these employers. Three of them report wage increases for the severed group, but these increases are not viewed as a harmful development but rather as a needed and desirable adjustment. Although four employers report that there was a decline in the cooperativeness of their employees and one reports an increase in jurisdictional-type grievances, none regard these developments as serious. Moreover, there was no adverse effect upon efficiency; and, in fact, three of them report that efficiency has improved as a result of severance. In addition, further benefits of severance include a decline in the number of grievances for four companies, less difficulty in negotiating grievances for one company, and an increase in the cooperativeness of employees in another.

Statistics, however, do not adequately explain the reasons why some of these employers view the severance policy so favorably. In some instances, severance provided a solution for serious problems which had arisen among the skilled group. Many of these problems stemmed from the dissatisfaction of the skilled workers with the representation, or lack of representation, they had received from

resents a large minority of his work force, but he was also compelled to grant a more costly benefit plan. Although he has resisted wage increases for the production unit, he has had to extend the liberalized benefit plan to them. The production unit is, of course, dissatisfied. As a result of severance, the employer is faced with a higher wage cost than his competitors and also has an uncooperative work force.

the union representing the production employees. In one instance, this dissatisfaction was so great that the skilled group had struck to secure separate representation before the severance election took place. Much the same situation prevailed in three other companies, although the dissatisfaction was not expressed so overtly.

Nor does it appear that the union representing the "p and m" unit in some of these cases was too unhappy over the severance even though they formally opposed it. In at least two instances, the union representing the production employees found the skilled workers a constant source of irritation. The dissatisfaction of the skilled group was expressed in several ways including the forcing of petty complaints to the top step of the grievance procedure and the failure to support the union on other questions. In both companies, the number of employees involved was not large; thus, the union representing the production employees did not suffer great financial loss or loss of bargaining power.

The experience of these employers with severance has thus either been favorable or without important effect. Yet, as noted above, there is some fear that unlimited severance can become harmful to stable labor relations. It is of significance that the size of the unit severed in relation to the production unit is small; and, in every instance, there was only one group severed. If this situation should change, there might well be a change in the attitude of these companies.

Results Where Employer Has No Opinion Regarding Effect of Policy Upon Stable Labor Relations

Severance has had little adverse effect upon these employers other than to increase negotiating time. However, this increase has not been great — usually only a few hours. Three companies report that severance resulted in a wage increase, but this development is not viewed unfavorably. One company also reports a slight increase in jurisdictional grievances, but, again, this problem is not regarded as serious. There have been no strikes.

All other effects of severance in these companies can be classed as beneficial. In two instances, grievances have decreased; and these employers, as well as one other, report an increase in efficiency. In another company, severance has resulted in greater cooperativeness — the skilled employees are now more willing to work with production employees, and the production employees are not resentful toward the skilled employees for leaving the unit. Moreover, one employer believes that, if severance had not been

allowed, production problems would have greatly increased because of the intense dissatisfaction of the skilled people with the representation they had been receiving. The evidence thus indicates that the benefits derived from severance in these companies outweigh the disadvantages connected with it.

Again, as in the case of the employers reporting that the policy was conducive to stable labor relations, there was only one unit severed; and the size of the severed unit, with one exception, was small in comparison to the production unit. In the one exception, 40 employees were severed from a total bargaining unit of 100. In this case, however, the 40 employees were a distinct skilled group with little interplay with the other employees.

Employer Attitudes Where Severance Did Not Occur

Table IV* summarizes the replies of the 14 employers in the cases in which the petitioning union was unsuccessful in severing the skilled workers from the "p and m" unit. The attitude of these employers toward severance is divided very similarly to that of those employers where severance did occur: 11 view the NLRB's severance policy unfavorably; one views it favorably, and 2 have no opinion.

Employers who believe that the policy is not conducive to stable labor relations do so for reasons similar to those of employers who oppose the policy where severance did occur: fear of jurisdictional problems and strikes, fear of having two or more competing unions, and fear of added costs. The general attitude of this group of employers is summed up very well by one company representative who remarked, "The more different unions you have to negotiate with, the more complex your labor relations become. We would prefer to have one union representing our entire plant. . . ." Moreover, the one company which does favor the severance policy does not do so on the basis that it is conducive to stable labor relations, but because the company is opposed to compulsory unionism. This company believes, therefore, that skilled employees should have separate representation if they so desire.

Threats of severance, it is interesting to note, have not caused most of these companies to change their labor policies as they affect the skilled workers. In only two companies has there been any change, and in both instances the skilled groups were given wage increases. A third company was willing to give an increase, but

* See Appendix, p. 346 *infra*.

the union would agree to it only if it were given to all employees. Most employers are of the opinion, however, that their labor policies are fair and do not require any changes, although they readily recognize that there is dissatisfaction among the skilled workers and that one important reason for the dissatisfaction is the narrow wage differential between craft and production workers. It is the belief of most employers, as will be discussed below, that the major source of dissatisfaction among skilled workers is the inadequate representation which they have received from the union.

Severance and Employee Desire

There is no question about the desires of many craft workers — they do want separate representation. Of the 79 elections which took place in the employing units included in this study, the employees voted for severance in 56 of them — or in 70.9 percent of the cases. In the majority of them, the vote was heavily in favor of severance, with 15 cases resulting in a unanimous vote. Moreover, in 16 of the 23 cases in which the petitioning union lost the election, the vote was very close; in two cases there were tie votes. This desire of craft people for separate representation has also been found by other investigators.⁵⁵

Craft workers desire separate representation for several reasons of which the most important are a belief that the union representing the "p and m" unit is not providing adequate representation for the skilled group, a belief that their status is being undermined, a belief that they will have greater job opportunities if they are members of a craft union, and a dissatisfaction toward the incumbent union that has been aroused by a dissident faction or leader. Of these reasons, inadequate representation appears to be the most important. There is widespread belief among craft people that their problems and interests are not properly considered in a large unit. In part, this feeling encompasses the problems of wages and status, but it also is more than that. As skilled workers, they believe they have problems different from those of other employees and that only a craft representative can understand these problems. Moreover, as a minority, they can be outvoted on every issue, and they believe their interests are often not properly considered.

Second in importance is the question of status, including the wage aspect. The narrowing of wage differentials between skilled

⁵⁵ Krislov, "Administrative Approaches to Craft Severance," 5 LAB. L.J. 231 at 239 (1954).

and production employees has been a cause for great dissatisfaction. In addition, there is also the feeling that there is a loss of status in being represented by an industrial union. There is among skilled workers a pride in the craft that is not given adequate recognition except by the union representing the craft.

In several cases, one major reason for desiring separate representation is the belief that craft representation would lead to greater job opportunities. In areas where the craft is highly organized, it is believed that membership in the craft union will open up job opportunities in the trade. These opportunities are apparently regarded more highly than the job opportunities and job security lost in the plant because of a narrower seniority unit.

Dissatisfaction which stemmed from the operation of a dissident faction or leader is an important element in some of the cases. In at least two instances, it appears to be the sole reason for severance; and, in one case, when the group became disenchanted with the leader, they returned to their former bargaining unit. It must also be recognized that, in, part, this reason often merges with the first reason noted — inadequate representation.

That there is substance underlying the craft workers' dissatisfaction is revealed by the widespread agreement, as shown in Table II, that the interests of the craft workers are better served as a result of severance. Although the employers who opposed the severance policy are more inclined to believe that the craft employees did not benefit from severance, more than half of them did answer in the affirmative. As noted above, there are many indications that craft workers are better satisfied with craft representation — the lower number of grievances that develop among craft people after severance is a good example.

Employers who believe that the craft employees have not gained from severance cite most often as the reason for their belief the loss in job security. Where severance has occurred, the craft workers have had their "bumping" rights restricted to their particular units. In several instances, this had led to the layoff of skilled workers, whereas, formerly, they could have displaced workers in less skilled jobs. In addition, it was frequently pointed out that the skilled workers had received no wage increases or other benefits.⁵⁶ Frequently, bargaining for the skilled group does not take

⁵⁶ The union representative also stressed this point. A UAW international representative pointed out that in one instance the monthly dues of the craft group have more than doubled without any tangible results.

place until after the contract for the production unit is negotiated, and the pattern established there is closely followed for the skilled group. In three cases, dissatisfaction with craft affiliation has caused skilled groups to renounce their craft affiliation and return to the original unit. The evidence indicates, however, that most craft employees are better satisfied with craft representation, and this is true regardless of whether they have received any material benefits.

Nor have the interests of production workers been greatly harmed by the severance of craft employees. In only five cases does it appear that the interests of production workers were adversely affected by severance; in three cases, because of loss of promotional opportunity, and in two cases, from loss of bargaining strength. With but few exceptions, however, the production group remains the dominant group and has the economic power to back up its demands. This conclusion was verified by representatives of the Automobile Workers and the Paperworkers.

Conclusions

In answer to the question posed above, "Has craft severance under the principles established in the *Potash* decision disrupted stable labor relations," the answer is yes—but not as much as feared when the policy was first announced. Logically, the Board's action could have been extremely disruptive; empirically, the effect does not appear to have been so great as was feared. On the other hand, there seems to be no question that separate representation is desired by many craftsmen. The evidence also indicates, as the Board believed, that craft groups are better satisfied with separate representation, and this helps, in some measure, to promote better labor relations. Moreover, the interests of production workers are seldom harmed by severance.

Severance can have, and sometimes does have, an unstabilizing effect upon labor relations, as indicated in the cases discussed above. In nine cases, this effect was very unstabilizing. Moreover, there is an intangible factor often connected with severance that cannot be properly evaluated. One employer put it best when he remarked, "A climate of hostility is generated between union representatives; a competitive situation develops and the company in self-defense becomes more restrained and rigid in its relationship with the unions." This pressure upon management undoubtedly has an effect upon the morale of the organization. However, it can-

not be questioned that severance has had a beneficial effect upon the labor relations of some employers, thus offsetting, to some extent, the detrimental effect upon others.

Where severance has had an adverse effect upon stability of labor relations, the following reasons appear to be significant. First, work groups have been broken up without regard for work requirements or without including all of the craftsmen in the unit. Thus, in one case discussed above, two departmental groups of machinists were allowed to sever, but the third was not even though the work of the third group overlapped that of the other two. If the *Westinghouse* rule requiring all craftsmen to be included in the departmental unit were again enforced, as it is for craft groups, this difficulty could be avoided and the adverse effect of severance would be lessened.

In other cases, the Board has unnecessarily broken up working relationships by declaring a craft unit appropriate when a departmental unit would have been equally appropriate. In one of the cases discussed above, the Board divided a group of employees who were constantly working together by declaring that a craft unit was appropriate while at the same time conceding that a departmental unit, sought by the petitioning union, would also have been appropriate. This problem also develops when a maintenance group is divided into several units with one union representing two or more of the units, with some of the maintenance employees remaining in the production unit. In one situation of this nature, trouble was averted when the craft union, the production union and the employer recognized the absurdity of the situation, disregarded the Board's certification, and negotiated one contract for all maintenance employees even though some of them were officially in the production unit.

It would also appear, in connection with working relationships, that the Board could give more weight to the degree of integration of the production process in determining whether severance should take place. The present policy of the Board in ordering mandatory elections, except in those industries to which the *National Tube* doctrine has been applied, has restored in a modified form the concept of "exclusive jurisdiction."⁵⁷ It is highly questionable whether this policy conforms with the intent of Congress in amend-

⁵⁷ Krislov, "The NLRB on Craft Severance: One Year of American Potash," 6 LAB. L.J. 275 (1955).

ing section 9 (b). Not only does the legislative history of the amendments fail to reveal such an intent, but, as the court pointed out in the recent *Pittsburgh Plate Glass Company* case,⁵⁸ the Board's direction of elections on the basis of "traditional representative" and "true craft" represents a failure of the Board to carry out its statutory obligation to determine the appropriate unit in each instance after an examination of all the facts. The Court stated:

"The Board was not authorized by the amendment to surrender to anyone else its statutory duty to determine in each case the appropriate unit for collective bargaining. It had been set up by Congress as an independent body presumed to possess expert knowledge and wisdom in the field superior to that of the courts or of Congress or of the active participants in the industrial world and therefore better fitted than anyone else to decide what would best serve the working man in his effort to bargain collectively with his employer, and what would best serve the interest of the country as a whole."⁵⁹

The court concluded, therefore, that the Board had erred in taking the position that it had no alternative but to order severance elections when there was a true craft and a traditional representative.

In determining whether severance should be permitted, the Board should consider, therefore, the nature of the production process.^{59a} Although it is possible to push the principle of integration to the extreme and allow no severance on the basis that there is some integration of the production process in every case, such a course is not necessary. A return to the criteria, such as the location of the work performed, utilized before *Potash* seems all that is necessary. This action, along with that noted above, would prevent unnecessary disruption of work relationships.

The second factor in whether severance will have an effect upon stability of labor relations is the size of the severed unit in relation to the production unit. If the severed unit is small, the effect is much less than when it is large. Where the severed unit is large, there is more likely to be a competitive rivalry between the two units, and both units have power to back up their demands.

Equally important is the third factor—the number of units

⁵⁸ (4th Cir. 1959) 270 F. (2d) 169. In this case, the court reversed a board determination that there should be a severance election because the Board's policy of allowing severance elections in some industries and not doing so in others was discriminatory. The court believed that the reasons for denying severance elections in those industries to which the National Tube doctrine had been applied were present in the glass industry.

⁵⁹ *Id.* at 173.

^{59a} This approach may have to be adopted by the Board because the Supreme Court has denied certiorari, 28 U.S. LAW WEEK 3217 (1960).

severed. Where there was more than one unit severed, there tended to be a greater effect upon the stability of labor relations. Thus, the fear expressed by many employers that the severance of additional units would be harmful is borne out by experience. The effect upon small employers tends, of course, to be greater than for large employers.

It may well be that the problem of craft severance has not become so acute as was feared because of the developments in the labor movement itself. The AFL-CIO No Raiding Agreement of 1955, which was later included in the constitution of the merged federation, has had a decided impact upon the number of severance elections.⁶⁰ For example, of the 79 elections analyzed in this study, 54 occurred before January 1, 1956. Although the number of severance elections increased briefly in 1957, the trend appears to be in the direction of fewer elections rather than more. However, there is no doubt that there will continue to be some elections, for a few unions within the federation have continued their "raiding" activities; and certain independent unions, such as the Tool and Die Craftsmen, are vigorously attempting to secure new members.

It also appears that, through the possibility of severance, many craft groups have brought their dissatisfactions to the attention of the industrial union representing them. Some unions, such as the UAW, have taken large measures, including structural revision through constitutional amendments, to deal with the problem. Others, however, have done nothing; and it is significant that, in those cases in which severance did not occur, only three local unions adopted measures to deal with the dissatisfactions which led the craft group to attempt to sever. In another instance, the union deliberately set out to punish the dissidents. It is for this reason, among others, that the possibility for some relief must be available.⁶¹

In assessing the impact of severance upon the stability of labor relations, one has to conclude, therefore, that the actual impact

⁶⁰ As Dunlop pointed out, the labor movement did not find a return to "exclusive jurisdiction" to its liking and has adopted what he calls the "principle of established bargaining relationships." Dunlop, "Structural Changes in the American Labor Movement and Industrial Relations System," in *PROCEEDINGS, INDUSTRIAL RELATIONS RESEARCH ASSOCIATION* 12 (1956).

⁶¹ The Board does not allow severance for the purpose of decertification; thus craft employees cannot withdraw their union affiliation to place pressure upon the union to consider their needs. The Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin bill) [P.L. 86-257, 86th Cong., 1st sess., 1959] does, however, contain provisions which may provide a solution in those instances where there is actual discrimination.

has not been so great as feared. In part, this result has been caused by action of the labor movement itself. One can also suggest that the Board could revise its policy along the lines indicated above to provide both self-determination and greater stability of labor relations. The *Potash* decision enthroned the principle of self-determination for craft groups over the stability of labor relations; both objectives are equally valid as a matter of public policy.

APPENDIX

TABLE II

Employers' Opinions Regarding Effect of Severance on Stability
of Labor Relations

Questions	Policy Not Conducive to Stable Relations		Policy Conducive to Stable Relations		No Opinion Regarding Policy		Totals	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent
Interests of Craft Group Better Served (More Pay, Better Representation, etc.)								
Yes.....	15	55.6	4	57.1	4	50.0	23	54.8
No.....	10	37.0	2	28.6	1	12.5	13	31.0
Yes and No.....	2	7.4	0	0	1	12.5	3	7.1
No Opinion.....	0	0	1	14.3	2	25.0	3	7.1
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Interests of Production Workers Have Suffered (Lowered Bargaining Pow- er, Loss of Promotional Opportunities, etc.)								
Yes.....	4	14.8	0	0	1	12.5	5	11.9
No.....	22	81.5	7	100.0	7	87.5	36	85.7
Yes and No.....	1	3.7	0	0	0	0	1	2.4
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Negotiating Time								
Small Increase—								
Less than 30%.....	7	25.9	3	42.8	3	37.5	13	31.0
Great Increase—								
More than 30%.....	19	70.4	1	14.3	2	25.0	22	52.4
No Effect.....	1	3.7	1	14.3	3	37.5	5	11.9
Decrease.....	0	0	2	28.6	0	0	2	4.7
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Severance and Contract Ne- gotiations—Greater Diffi- culty in Negotiating Con- tract for								
Severed Unit.....	9	33.3	0	0	4	50.0	13	31.0
Production Unit.....	12	44.5	6	85.7	3	37.5	21	50.0
Both Units Equally Dif- ficult.....	6	22.2	1	14.3	1	12.5	8	19.0
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Strikes as a Result of Severance								
Severed Unit.....	8	28.6	0	0	0	0	8	18.6
Production Unit.....	0	0	0	0	0	0	0	0
None.....	20	71.4	7	100.0	8	100.0	35	100.0
Totals.....	28	100.0	7	100.0	8	100.0	43	100.0

TABLE II, continued
 Employers' Opinions Regarding Effect of Severance on Stability
 of Labor Relations

Questions	Policy Not Conducive to Stable Relations		Policy Conducive to Stable Relations		No Opinion Regarding Policy		Totals	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent
Effect upon Size of Money Settlements								
No Effect.....	19	70.4	4	57.1	5	62.5	28	66.7
Increase								
Severed Unit.....	8	29.6	3	42.9	2	25.0	13	31.0
Production Unit.....	0	0	0	0	0	0	0	0
Equal Increase.....	0	0	0	0	1	12.5	1	2.3
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Number of Grievances								
Increased.....	8	29.6	0	0	2	25.0	10	23.8
Decreased.....	1	3.7	4	57.1	6	75.0	11	26.2
No Effect.....	18	66.7	3	42.9	0	0	21	50.0
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Grievance Negotiations								
More Difficult.....	4	14.8	0	0	0	0	4	9.5
Less Difficult.....	1	3.7	1	14.3	0	0	2	4.7
No Effect.....	22	81.5	6	85.7	8	100.0	36	85.8
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Types of Grievances								
Has Affected								
Jurisdictional.....	9	33.3	1	14.3	1	12.5	11	26.2
Other.....	0	0	0	1.0	0	0	0	0
No Effect.....	18	66.7	6	85.7	7	87.5	31	73.8
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Personnel Program (Pension Plans, Vacation Plans, etc.)								
Has Affected.....	3	11.1	0	0	1	12.5	4	9.5
No Effect.....	24	88.9	7	100.0	7	87.5	38	90.5
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Effect upon Cooperativeness of Employees								
Good.....	0	0	1	14.3	1	12.5	2	4.8
Adverse.....	10	37.0	4	57.1	0	0	14	33.3
No Effect.....	17	63.0	2	28.6	7	87.5	26	61.9
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0

TABLE II, continued
Employers' Opinions Regarding Effect of Severance on Stability
of Labor Relations

Questions	Policy Not Conducive to Stable Relations		Policy Conducive to Stable Relations		No Opinion Regarding Policy		Totals	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent
Effect upon Efficiency of Employees								
Good.....	0	0	2	28.6	3	37.5	5	11.9
Adverse.....	7	25.9	0	0	0	0	7	16.7
No Effect.....	20	74.1	5	71.4	5	62.5	30	71.4
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0
Number of Cases Where Severed Unit Returned to Former Unit.....	3	100.0	0	0	0	0	3	100.0
Effect upon Company's Labor Relations—Total Evaluation								
Good.....	0	0	2	28.6	0	0	2	4.8
Adverse.....	15	55.5	0	0	0	0	15	35.7
No Significant Effect Other than Increasing Negotiating Time....	12	44.5	5	71.4	2	25.0	19	45.2
No Opinion.....	0	0	0	0	6	75.0	6	14.3
Totals.....	27	100.0	7	100.0	8	100.0	42	100.0

TABLE III

Results of Cases Where Employees Report That Severance Has Adversely Affected Their Labor Relations*

Questions	No Effect upon Labor Relations		Had Effect upon Labor Relations		Totals	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Interests of Craft Group Better Served (More Pay, Better Representation, etc.)						
Yes.....	7	41.2	8	80.0	15	55.6
No.....	8	47.0	2	20.0	10	37.0
Yes and No.....	2	11.8	0	0	2	7.4
Totals.....	17	100.0	10	100.0	27	100.0
Interests of Production Workers Have Suffered (Lower Bargaining Power, Loss of Promotional Opportunities, etc.)						
Yes.....	2	11.8	2	20.0	4	14.8
No.....	14	82.3	8	80.0	22	81.5
Yes and No.....	1	5.9	0	0	1	3.7
Totals.....	17	100.0	10	100.0	27	100.0
Effect upon Negotiating Time						
Small Increase—Less than 30%.....	7	41.2	0	0	7	25.9
Great Increase—More than 30%.....	10	58.8	9	90.0	19	70.4
No Effect.....	0	0	1	10.0	1	3.7
Totals.....	17	100.0	10	100.0	27	100.0
Severance and Contract Negotiation—Greater Difficulty in Negotiating Contract for:						
Severed Unit.....	5	29.4	4	40.0	9	33.3
Production Unit.....	8	47.1	4	40.0	12	44.5
Both Units Equally Difficult.....	4	23.5	2	20.0	6	22.2
Totals.....	17	100.0	10	100.0	27	100.0
Strikes as a Result of Severance						
Severed Unit.....	4	22.2	4	40.0	8	28.6
Production Unit.....	0	0	0	0	0	0
None.....	14	77.8	6	60.0	20	71.4
Totals.....	18	100.0	10	100.0	28	100.0
Effect (of Severance) upon Size of Money Settlements						
No Effect.....	13	76.5	6	60.0	19	70.4
Increase						
Severed Unit.....	4	23.5	4	40.0	8	29.6
Production Unit.....	0	0	0	0	0	0
Equal Increases.....	0	0	0	0	0	0
Totals.....	17	100.0	10	100.0	27	100.0

* Number of employees in this group is 18. Because the employees in one case struck during the first negotiations and at the end of a 28-day strike voted to decertify the craft union, the employer had no bargaining experience with the craft union. In most categories, therefore, there are only 17 responses.

TABLE III, continued
Results of Cases Where Employees Report That Severance Has Adversely
Affected Their Labor Relations

Questions	No Effect upon Labor Relations		Had Effect upon Labor Relations		Totals	
	Number	Per cent	Number	Per cent	Number	Per cent
Effect (of Severance) upon Number of Grievances						
Increased.....	2	11.8	6	60.0	9	29.6
Decreased.....	1	5.9	0	0	1	3.7
No Effect.....	14	82.3	4	40.0	18	66.7
Totals.....	17	100.0	10	100.0	27	100.0
Effect (of Severance) upon Grievance Negotiations						
More Difficult.....	0	0	4	40.0	4	14.8
Less Difficult.....	1	5.9	0	0	1	3.7
No Effect.....	16	94.1	6	60.0	22	81.5
Totals.....	17	100.0	10	100.0	27	100.0
Effect (of Severance) upon Types of Grievances						
Has Affected						
Jurisdictional.....	1	5.9	8	80.0	9	33.3
Other.....	0	0	0	0	0	0
No Effect.....	16	94.1	2	20.0	18	66.7
Totals.....	17	100.0	18	100.0	27	100.0
Effect (of Severance) upon Personnel Program (Pension Plans, Vacation Plans, etc.)						
Has Affected.....	1	5.9	2	20.0	3	11.1
No Effect.....	16	94.1	8	80.0	24	88.9
Totals.....	17	100.0	10	100.0	27	100.0
Effect (of Severance) upon Cooperativeness of Employees						
Good.....	0	0	0	0	0	0
Adverse.....	1	5.9	9	90.0	10	37.0
No Effect.....	16	94.1	1	10.0	17	63.0
Totals.....	17	100.0	10	100.0	27	100.0
Effect upon Efficiency of Employees						
Good.....	0	0	0	0	0	0
Adverse.....	0	0	7	70.0	7	25.9
No Effect.....	17	100.0	3	30.0	20	74.1
Totals.....	17	100.0	10	100.0	27	100.0

TABLE IV
Results of Cases in Which Severance Did Not Occur

Questions	Totals	
	Number	Percent
Would the interests of craft workers have been better served by severance?		
Yes.....	3	21.4
No.....	9	64.3
No Opinion.....	2	14.3
Totals.....	14	100.0
Has the severance attempt resulted in any changes in the company's labor relations policy?		
Yes.....	1	7.1
No.....	12	85.8
No Opinion.....	1	7.1
Totals.....	14	100.0
Has the severance attempt resulted in any changes in the union's policy regarding skilled workers?		
Yes*.....	4	28.5
No.....	9	64.4
No Opinion.....	1	7.1
Totals.....	14	100.0
Employer's Opinion of Effect of Craft Severance Policy upon Stability of Labor Relations		
Favorable.....	1	7.1
Unfavorable.....	11	78.6
No Opinion.....	2	14.3
Totals.....	14	100.0

* Three unions attempted to relieve the dissatisfaction of skilled workers; one union attempted to punish the skilled workers for the severance attempt.