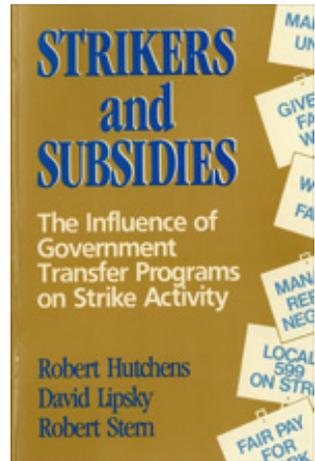

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Setting the Stage

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Strikers and Subsidies: The Influence of Government Transfer Programs on Strike Activity

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Setting the Stage

One of the most controversial labor policy issues is whether strikers should be eligible for government transfer payments, such as unemployment compensation, public assistance, and food stamps. Under current policies, strikers after an extended waiting period, are eligible for unemployment compensation in two states (New York and Rhode Island) and can collect unemployment benefits in many other states under certain conditions (e.g., if a strike does not result in the employer shutting down operations). Railroad workers engaged in a lawful strike are also eligible for unemployment compensation under the federal Railroad Unemployment Insurance Act. Needy strikers may also be eligible for cash grants and other forms of public assistance made available by state and county governments.

Consider the following cases:

- In July 1971, about 38,000 workers employed by the New York Telephone Company went on strike. Under New York's unemployment insurance law, these workers were allowed to collect unemployment benefits after they had been on strike for eight weeks. Before the strike was settled in February 1972, the strikers had collected \$49 million in benefits. The New York Telephone Company financed most of these benefits through payroll taxes the company subsequently paid to the state.

- In 1972, 166 workers went on strike against the Dow Chemical Company's Bay City, Michigan plant. Michigan's unemployment insurance law allows strikers to collect unemployment benefits if the strikers obtain, and are then laid off from, "bona fide interim jobs." Most of the Dow strikers obtained temporary jobs with "friendly" employers who, after a few days, laid off the strikers. The strikers then applied for, and collected, unemployment benefits for the duration of their strike. Michigan, like New York, raised Dow's unemployment insurance taxes to cover the cost of the strikers' benefits.

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- During the winter of 1977-78, about 160,000 members of the United Mine Workers (UMW) staged a strike against the Bituminous Coal Operators Association. As the strike dragged on through January and February, thousands of miners applied for and received food stamps. In West Virginia, for example, 35,000 miners collected \$18 million in food stamps.¹ In Pennsylvania, nearly 12,000 miners received food stamps and 2,700 received other forms of public assistance.² In 1981, the UMW once again struck the coal operators, and once again thousands of miners qualified for food stamps and public assistance.

- In August 1981, 12,000 air traffic controllers launched a nationwide strike against their employer, the Federal Aviation Administration. President Ronald Reagan ordered the striking controllers to return to their jobs. When they refused to do so, the president discharged the controllers for conducting an illegal strike against the federal government. Subsequently, many controllers applied for unemployment compensation. Although many states denied the controllers' claims for benefits, several allowed them to collect.

- At midnight on July 31, 1986, the collective bargaining agreement between the United Steel Workers union and the USX (formerly the United States Steel Corporation) expired. In the face of the failure to negotiate a new contract, USX shut down its plants across the country and declared a lockout. Some states ruled that the unemployed steelworkers were ineligible for unemployment benefits because of their participation in a labor dispute. Other states, however, allowed workers to collect benefits because of the lockout. In particular, nearly 800 steelworkers in Illinois and 7,500 steelworkers in Pennsylvania were allowed to collect unemployment compensation during their dispute with USX.

These are not isolated cases. Although comprehensive data on the use of public aid in strikes are lacking, it would be an easy task, using accounts in newspapers and periodicals as well as administrative and court decisions, to cite dozens of other examples. Indeed, Thieblot and Cowin, in a book published in 1972, predicted that the cost of public aid to strikers would exceed \$300 million in 1973. Although that figure was probably an overestimate, it is known that in 1980 strikers received \$30 million in food stamps and \$5 million under the Aid to Families with Dependent Children-Unemployed Parent (AFDC-U) program.

Unfortunately, no one knows the total cost of unemployment benefits received by workers involved in labor disputes.

But the cost of public aid to strikers is only one issue of concern to policymakers and citizens. Clearly, public aid to strikers also provides benefits, not only to the strikers themselves but also to their families and, indirectly at least, to the communities in which the strikers live. Many strikers' families suffer great hardship during prolonged strikes, and the benefits associated with the alleviation of that hardship may be worth more than the costs. Moreover, an entire community may suffer as a result of a protracted strike (especially when the strikers constitute a significant proportion of the community's workforce), and subsidizing strikers with public funds may do much to bolster the community's welfare. Providing public subsidies to strikers, then, may serve an entirely suitable public interest.

The extension and liberalization of various welfare programs during the 1960s laid the foundation for the increasing use of transfer payments by strikers in the 1970s. This development did not go unnoticed by the business community. Business interests and their allies increasingly decried the use of tax dollars to subsidize strikers. For example, in 1978 Richard L. Leshner, then president of the U.S. Chamber of Commerce, said:

our members consider it highly inappropriate that taxpayers should subsidize strikers. Such subsidies are even more incomprehensible when beneficiaries are continuing their strike outside the law. . . . In fact, our members continue to believe that taxpayers should not be required to subsidize strikers in any event, since their decision to cease working is voluntary. We believe public assistance should be available only to those who are out of work through no fault of their own.

In supporting the 1981 legislation that made strikers ineligible for food stamps, Senator Jesse Helms (Rep., N.C.), a long-time opponent of public aid for strikers, said,

any worker who walks off the job to go on strike has given up the income from that job of his own volition. A person making such a choice, and participating in a strike, must bear the consequence of his decisions without assistance from the taxpayers.³

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On the other hand, unions and their allies have defended the use of transfer payments in strikes as a fair and even necessary use of public funds. In 1975, the late George Meany, then president of the AFL-CIO, said, "It is our position that welfare benefits should be available to citizens who are demonstrably in need without regard for the cause of that need."⁴ When the Carter administration threatened to cut off food stamp assistance to striking coal miners in 1978, Meany said the threat was an "outrage, especially for an administration dedicated to protecting and preserving human rights. . . . This attempt to force the miners to agree to an unacceptable contract by starving their wives and children is a vindictive act."⁵

In the congressional debate over the retention of striker eligibility for food stamps in 1981, Senator Carl Levin (Dem., MI) said,

Elimination of striker participation in the food stamp program will pose hardship for the poorest of strikers. . . . The labor laws of this country protect the right to strike. The workers who choose to exercise this right should not be singled out for denial of food stamp benefits if they otherwise qualify under the Act and program regulation.⁶

While the debate over the use of government transfer payments in labor disputes continues, that debate is often characterized by rhetorical appeals to the emotions rather than analysis of hard evidence. In the hope that a more informed debate can lead to better policy, this book seeks to present a few pieces of hard evidence. The book is organized around the following questions.

- (1) What are our current practices, where do they come from, and what is their rationale?
- (2) Does the provision of government transfers to strikers affect strike activity?
- (3) What is the proper policy?

Our answers to those questions are summarized as follows.

What are our current practices, where do they come from, and what is their rationale?

Chapters 2 through 4 address this issue. Chapters 2 and 3 examine unemployment insurance, and chapter 4 examines public assistance.

To write these chapters we not only searched through libraries, but also talked to experts in the field. We interviewed representatives of the AFL-CIO, the National Association of Manufacturers, and U.S. Department of Labor. We sent a survey to the employment security agency in each state (and conducted follow-up telephone calls) in order to obtain information on state policies and court cases. In each of these efforts we sought views on whether and how specific provisions of government transfer programs influence strike activity.

This inquiry leads us to conclude that there is considerable confusion surrounding the issue of striker eligibility for unemployment insurance benefits. First, it should be recognized that the Social Security Act of 1935, which established the unemployment insurance system, gives the states the authority to establish the rules governing claimant eligibility for unemployment benefits (provided the states meet certain minimum federal standards). Therefore, each state can determine whether, and under what conditions, workers unemployed because of a labor dispute can collect unemployment benefits.⁷ Federal tolerance of state autonomy on this issue, reinforced by several key Supreme Court decisions, results in considerable diversity in the unemployment insurance eligibility rules that affect strikers.

It is widely believed, even by those with knowledge of the subject, that only two states, New York and Rhode Island, routinely permit strikers to collect unemployment benefits. Although it is true that these two states do allow strikers to collect benefits (in New York after an eight-week waiting period and in Rhode Island after a seven-week period), it is also true that *a majority of other states allow workers unemployed because of a labor dispute to collect unemployment benefits under certain conditions*. Moreover, in these states the workers are eligible to collect benefits after the normal waiting period (usually one week), or virtually from the outset of a strike. While the relevant state UI provisions take many forms, the following are particularly important.

(1) In 1984, 27 states had a “stoppage-of-work” provision, whereby strikers collect unemployment benefits if their employer continues to operate at or near normal operating levels during the course of the labor dispute. In a sense, this provision provides insurance against a failed

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strike; if the strike fails to shut down the employer, then unemployment insurance benefits are available to the strikers.

(2) In 1984, 21 states qualified claimants for benefits if the labor dispute is caused by an employer lockout. For example, in the dispute between the USW and the USX Corporation in 1986-87, cited earlier, the union instructed a large number of its Pennsylvania members to report to work after the expiration of the national contract. When the corporation turned the workers away from the locked gates of its Pennsylvania steel mills, it became a near certainty that the state would allow the steelworkers to collect unemployment insurance benefits.

(3) In 1984, 44 states had an “innocent bystander” provision whereby workers obtain unemployment insurance benefits if they are unemployed because of a labor dispute but are not participating in, financing, or directly interested in the dispute. Typically, innocent bystanders are employed at the struck establishment, but are not members of either the union or the bargaining unit that is on strike.

Of course, these rules interact. Some states have none of the provisions, others have one or two, while still others have all three. Interestingly, New York—popularly regarded as a state with liberal policies on the use of unemployment benefits in labor disputes—has none of the three policies. A New York worker engaged in a labor dispute receives no unemployment insurance benefits during the first eight weeks of the strike, irrespective of whether he is a participant or an innocent bystander, and irrespective of whether the employer continues to operate or has locked strikers out. Of course, after the eight-week waiting period, the New Yorker receives full UI benefits. In contrast, Rhode Island uses a stoppage-of-work rule. Thus in Rhode Island, a striker can collect benefits after a one-week waiting period if his employer *does* continue to operate during a strike and can collect benefits after a seven-week waiting period if his employer does *not* continue to operate during a strike.

It should be clear from this brief preview that the rules governing the payment of unemployment benefits in labor disputes are complex and diverse. The variation in the rules across states means that strikers who are otherwise identical may be eligible to collect benefits in one state but not in another. Some states, particularly those with work-

stoppage, lockout, and innocent bystander provisions, e.g., Georgia, Maryland, West Virginia, are relatively liberal in qualifying workers for benefits. Other states, particularly those without work-stoppage, lockout, and innocent bystander provisions, e.g., Alabama and North Carolina, are quite strict. By providing a thorough understanding of the “rules of the game,” chapters 2 and 3 lay the foundation for our subsequent empirical analyses of the effect of variation in the rules on strike activity.

Chapter 4 deals with the eligibility of strikers for AFDC-U benefits, food stamps, and general assistance. For nearly 20 years, opponents of federal assistance to strikers had struggled to remove striker eligibility for AFDC-U and food stamps from the law, but without success. When Ronald Reagan became president in 1981, however, the stage was set for Congress to enact a package of sweeping budget cuts. On July 31, 1981, Congress passed the Omnibus Budget Reconciliation Act (OBRA), which cut federal expenditures by \$35 billion. The Act brought about major policy changes in many domestic programs, including AFDC, Medicaid, food stamps, job training, and others.⁸ Elimination of striker eligibility for AFDC-U and food stamps were only two of the many policy changes incorporated in the OBRA.

Because Congress eliminated striker eligibility for AFDC-U and food stamps in 1981, the material covered in chapter 4 is primarily historical in nature. Yet the issue of whether strikers should be eligible for welfare benefits continues to be relevant, particularly because in 1986 a federal district court ruled that the provision in the 1981 law that denies food stamps to the families of strikers violates due process and interferes with the striker’s First Amendment right of freedom of association.⁹ Although the Supreme Court reversed this decision in 1988, thereby ending legal challenges to the OBRA, the issue will continue to be the subject of congressional debate on public policy.¹⁰ But in deciding on which transfer policies, if any, should be used in labor disputes, it is necessary to understand how the federal welfare system operated in the 1960s and 1970s, when strikers could qualify for assistance. Moreover, because the data gathered for our empirical analysis cover the period 1960-75, we are able to make an assessment of the effect of striker

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eligibility for AFDC-U and food stamps on the frequency and duration of strikes.

Until 1961, the AFDC program targeted families with children where the father was absent and the mother did not work. In 1961 Congress extended coverage under the program to dependent children in households with an unemployed father. States were given the option of deciding whether to participate in the AFDC-U program and by 1967, 21 had decided to do so.¹¹ Throughout the 1960s and 1970s, the payment of AFDC-U benefits to strikers remained a contentious issue, with controversy centering upon whether a striker fell within the definition of an unemployed parent. In 1977, the Supreme Court, in *Batterton v. Frances*, ruled that this definitional decision should be left to the states. Thus, the issue of whether states participating in the AFDC-U program could deny benefits to strikers' families was finally settled. By 1980, of the 26 states participating in the AFDC-U programs, 8 had chosen to deny benefits to strikers.

AFDC-U benefits were never an important source of income support for strikers. This is in part because, as noted above, many states either did not have an AFDC-U program or denied benefits to strikers. In addition, even if a participating state did permit strikers to collect benefits, a striker could only qualify if he met the same federal and state eligibility requirements imposed on all other applicants for assistance. The most salient requirements were that he was unemployed for at least 30 days, that he have a dependent child, that he could demonstrate financial need under his state's resource and income tests, and that he did not receive unemployment insurance benefits. In combination, these requirements always seriously limited the number of strikers eligible for AFDC-U. For example, since the average strike in the United States lasts about three weeks, the 30-day waiting period by itself prevented most strikers from ever becoming eligible for AFDC-U benefits.

Food stamps were a somewhat different story. The food stamp program is funded entirely by the federal government but is administered jointly by the federal government and the states under uniform federal standards. It is clear that during the 1960s and 1970s many more strikers qualified for food stamps than for AFDC-U. First, unlike the AFDC-U

program, all states participated in the food stamp program. Second, there is no waiting period for food stamp benefits. Third, the resource and income tests used to qualify applicants for food stamps have been more liberal than those used in most state AFDC programs. Fourth, after 1970 the Food Stamp Act specifically provided that otherwise eligible strikers would not be disqualified from receiving food stamps.

Strikers may also benefit from the General Assistance program. General Assistance is distinguished from AFDC-U and food stamps by an absence of federal involvement. It is funded and administered by state and local governments; in some states eligibility rules differ from county to county. Since it is a very old program, there are instances where strikers have received General Assistance throughout the 20th century. Indeed, since the program was not touched by the 1981 OBRA legislation, strikers can still receive General Assistance. In most states, however, this is a small program that provides minuscule benefits to people with the lowest of family incomes. To choose an extreme example, in August, 1974, Alabama provided General Assistance benefits of \$12.50 to 42 people. While we have no hard numbers, it is unlikely that many strikers benefit from this program.

Does the provision of government transfers to strikers affect strike activity?

This question is not merely “academic.” It has arisen in the most practical of settings. For example, in *Grinnell Corp. v. Hackett*, a case involving the payment of unemployment compensation to strikers in Rhode Island, the first circuit court demanded an empirical burden of proof. The court said:

[The] present record suffers from a fundamental defect. It provides no support for a causal relationship between the receipt of benefits, which unions obviously desire and often actively seek, and longer, costlier strikes. . . . [The] record lacks even a crude form of what we assume would be the most relevant and probative type of evidence—statistical comparisons of the length and cost of strikes in states granting unemployment benefits (Rhode Island and New York) and the length and cost of strikes of similar size in similar industries in other states not granting such benefits.¹²

Similarly, in *ITT Lamp Division v. Minter*, a case involving payment of AFDC-U benefits to strikers, the first circuit court called for evidence indicating,

. . . how many states permit strikers to receive welfare; whether or not strikes tend to be of longer duration where welfare is received; and studies or expert testimony evaluating the impact of eligibility for benefits on the strikers' resolve.¹³

There exist but a handful of studies that examine the relationship between transfer payments and strike activity. Perhaps best known is a work by Thieblot and Cowin, which is primarily based on case studies.¹⁴ A study of Great Britain by Gennard similarly relies on description, case studies, and gross cost estimates.¹⁵ John Kennan¹⁶ applies modern statistical methods in examining the relationship between unemployment insurance and the duration of strikes. His work, however, focuses on the New York and Rhode Island policy of providing UI benefits in very long strikes, and thereby ignores the multitude of other policies under which strikers receive government transfers.¹⁷

A distinguishing feature of the present work is that it uses modern statistical methods in an analysis of a broad range of government policies. Chapter 5 introduces the relevant theory, the hypotheses to be tested, the methods, and the data. Chapter 6 presents quantitative results and draws conclusions.

Chapter 5 opens with a discussion of theory. Theory is crucial to this project because it provides a bridge between the institutional details in chapters 2–4 and the quantitative results in chapter 6. Chapters 2–4 essentially tell us that in certain circumstances workers involved in strikes obtain government transfers. Theory addresses the question of whether there is a logical basis for arguing that these transfers affect strike activity. Much past work has treated this as a simple question that can be glided over in one or two sentences. In our view, that is a serious mistake for two reasons.

First, the answer is not at all obvious. Payment of government transfers to strikers will surely make it easier for workers to support themselves during a strike. But why would that result in more strike activity? The employer is presumably aware of the availability of such transfers. If

government transfers strengthen the bargaining position of the union, then one might expect a rational employer to be more willing to settle without a strike, or, failing that, settle sooner rather than later. That means *less* strike activity. The point is that a concept of what starts and stops strikes necessarily underlies any claim that government transfers increase strike activity. That concept deserves critical examination; it should not be left between the lines.

The second reason for exploring theoretical issues is that empirical work always raises questions that are best answered with a theory. What explanatory variables should be included in an analysis of strike activity? What is the appropriate dependent variable? What are the key hypotheses? What is the proper interpretation of a result? Empirical work *always* requires answers to such questions. Theory helps to make the answers logically consistent and explicit rather than implicit.

Thus, chapter 5 opens with a review of theories. On the basis of this discussion it is clear that there is no general consensus on the “right” theory of strikes. Rather, there are competing and often contradictory theories. Fortunately, for our purposes a *general* theory of strike activity is not requisite. We only need a theory that links transfer policies to strike activity. That theory was found in the work of Melvin Reder and George Neumann. The fundamental proposition of the theory is that strike activity is a decreasing function of the combined (union plus management) cost of strikes. As the potential cost of a strike increases, according to Reder and Neumann, the parties have a greater incentive to develop protocols that allow them to reach peaceful settlements. From this theory we derive a series of hypotheses linking specific provisions of unemployment insurance and welfare programs to strike activity.

Those hypotheses can be tested with state level data. Transfer policies affecting strikers usually vary across but not within states. If transfer policies affect strike behavior, then that should be revealed through differences in the “average” level of strike activity across states. In consequence, we collected data on several dimensions of strike activity for the 50 states over the period 1960–1974. We also collected data on the specifics of state transfer policies (“stoppage-of-work,” “innocent bystander,” etc.) for the same period. Chapter 5 closes with a discus-

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sion of the nuances of data sources, variable measurement, and statistical methodology.

Chapter 6 then presents results from a sequence of regression analyses on annual cross-sections and on the full (1960–1974) panel. On the basis of the statistical evidence, we conclude that *there is a link between the unemployment insurance system and strike activity*. A more generous unemployment insurance program is related to a higher strike frequency in states that use “innocent bystander” or “stoppage-of-work” disqualification rules. Similar results were *not* obtained for other unemployment insurance provisions, e.g., the New York-Rhode Island waiting period, or other dimensions of strike activity, e.g., average duration of strikes. Finally, *our statistical models did not uncover evidence linking welfare programs to strike activity*. Either such a link is nonexistent or our methods are insufficiently precise to discern it.

What is the proper policy?

When *should* government transfers be provided to workers engaged in strikes? As discussed in chapter 7, at the heart of this question lies a philosophical problem concerning the appropriate role of the modern state in what are usually two distinct spheres: government transfers and industrial relations. The answer necessarily involves finding a balance between what are often conflicting policy goals in the two spheres. For example, a goal like government neutrality in labor relations comes in conflict with the goal of alleviating hardship and distress. Thus, the chapter begins with an examination of current policy goals and tradeoffs between those goals.

Chapter 7 ends with the authors’ position on the proper policy. Briefly stated, in our opinion the present system is seriously flawed. It denies public assistance benefits to the family of a law-abiding striker irrespective of hardship. It provides unemployment insurance benefits to strikers when the involuntary nature of their unemployment is fraught with ambiguity. It places part of the burden of financing strike related transfers on the larger society, and thereby increases the level of strike activity. Chapter 7 proposes a package of alternative policies that are oriented toward the twin goals of alleviating hardship and promoting industrial peace.

NOTES

1. *Charleston Daily Mail*, April 7, 1981. See also *Charleston Evening Journal*, March 23, 1981.
2. *The Dominion Post*, April 21, 1981, p. 3-A.
3. U.S. Congress, Senate, *Congressional Record*, 97th Cong., 1st sess., 1981, 127, S9137.
4. *New York Times*, August 15, 1975, p. 36.
5. Quoted in *New York Times*, March 11, 1978, p. 12.
6. Quoted in *Daily Labor Report*, No. 114, June 15, 1981, p. A-2.
7. Railroad workers engaged in a lawful strike are also eligible for unemployment compensation under the federal Railroad Unemployment Insurance Act, 45 U.S.C.A. §352 (a), 1986.
8. Tom Joe and Cheryl Rogers, *By the Few, for the Few: The Reagan Welfare Legacy* (Lexington, Mass: Lexington Books, 1985), pp. 50-57.
9. *UAW v. Lyng*, 648 F. Supp. 1234 (D.D.C. 1986).
10. *Lyng v. UAW*, 108 S. Ct. 1184 (1988).
11. "Compilations Based on Characteristics of State Public Assistance Plans: General Provisions—Eligibility, Assistance, Administration: In Effect December 31, 1967," Public Assistance Report No. 50—1967 Edition (U.S. Dept. of Health, Education, and Welfare, Social and Rehabilitation Service, Assistance Payments Administration, 1969), p. 17.
12. *Grinnell Corp. v. Hackett*, 475 F. 2d 449 at 459 (1st Cir., 1973).
13. *ITT Lamp Division v. Minter*, 435 F.2d 989 (1st Cir., 1970); cert. denied, 420 U.S. 933 (1971).
14. Armand J. Thueblot, Jr. and Ronald M. Cowin, *Welfare and Strikes: The Use of Public Funds to Support Strikers* (Philadelphia, Pa.: University of Pennsylvania Press, 1972). This study was "funded by four industrial foundations and thirteen companies," according to Marc E. Thomas, "Strikers' Eligibility for Public Assistance: The Standard Based on Need," *Journal of Urban Law*, Vol. 52, No. 1, pp. 115-154, p. 118.
15. John Gennard, *Financing Strikers* (New York: John Wiley and Sons, 1977).
16. John Kennan, "The Effect of Unemployment Insurance on Strike Duration," *Unemployment Compensation: Studies and Research*, Vol. 2, National Commission on Unemployment Compensation, July 1980, 467-486.
17. Lewis Perl also studied the New York/Rhode Island rule using statistical methods. See Lewis J. Perl, "Statistical Analysis of Strike Activity," unpublished paper, New York: National Economic Research Associates, Sept. 11, 1974.