SELECTED REFERENCES
INDUSTRIAL RELATIONS SECTION PRINCETON UNIVERSITY
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SENIORITY VS. AFFIRMATIVE ACTION**

1. BACKGROUND INFORMATION


This chapter presents a concise, yet thorough, review of the general principles of seniority systems, their application, and implications for industrial relations.


These bulletins contain factual material and analysis of the collective bargaining provisions governing the operation of seniority systems. The data is based on the contract clauses of all major bargaining agreements covering 1,000 or more workers.

2. THE DILEMMA OF SENIORITY


Of the seven papers in this section of the conference, the following are of particular interest. George A. Moore, Jr. in his article, "How to

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**Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.
settle a discrimination case: the employer viewpoint—steel industry consent decrees,” describes the process by which one industry, the union and government agencies worked out a solution to a common problem (pp. 147-176). The union perspective on these negotiations is presented by Bernard Kleinman and Carl Frankel. The authors believe that the steel consent decrees have largely solved the conflict between seniority and affirmative action in the steel industry and should serve as a pattern for other industries (pp. 177-229).


A trade union member explains why workers place so much emphasis on seniority rights and examines the problems which would follow if seniority systems were abandoned. He argues that seniority protects the minority worker.


This book traces the development of law relating to employment discrimination and analyzes judicial opinions. The author devotes considerable attention to the complex problems raised by seniority systems in the context of equal employment opportunity. He discusses the trend of court decisions and proposals for resolving the dilemma.


A review of the legislative history of Title VII and of court decisions indicates that the basis for finding a violation of the Civil Rights Act is proof that layoffs disproportionately affect women and minority employees and that the seniority system perpetuates hiring discrimination. The author points out that nondiscriminatory alternatives are available.


An examination of court decisions finds conflicting opinions on whether the last hired, first fired layoffs violate Title VII. The article suggests modifications of the seniority principle to lessen the impact of previous discrimination.

The authors argue that abolishing the seniority system would do nothing to solve the problem of unemployment among black workers. Any weakening of seniority rights would only divide workers along racial lines and deter the development of a political strategy for achieving full employment.


This report examines the legality of layoffs by seniority when disproportionate numbers of women, minorities or younger workers are affected. The Commission disagrees with the policy of layoff by seniority when it results in freezing past discriminatory actions. The report discusses alternatives to layoffs which have been used in Europe and in some American industries.

3. Alternatives to Layoffs


The authors cite numerous court decisions which have confirmed the responsibility of employers to plan operations so as to protect the equal employment opportunity rights of minorities and women. They conclude that reduction in hours is preferable to layoffs. If layoffs are unavoidable, the employer should layoff on an alternating or rotating basis in order not to concentrate the burden on the recently hired minority worker.


This article discusses the conflict between the traditional principle that the last hired is the first fired and the equal opportunity rules governing the employment of minorities and women. The authors advocate the concept of inverse seniority where a senior worker can elect temporary layoff in place of a junior person. The authors discuss the experience of companies where inverse seniority has been used and consider the cost to industry and the benefits to the workers, the company, and society.

Rosow, Jerome. "Corporate personnel policies during high unemployment." In Proceedings of a conference on the role of the business sector in manpower policy. Special report no. 4 of the National Com-

Policies which industry could take to reduce the number or impact of layoffs are the subject of this article. The programs include more opportunity for internal mobility; recurrent education and training; work sharing; restriction of overtime; benefit plan protection; financial incentives for early retirement; and early warning of impending staff reductions.


The article reviews why length of service is widely accepted in determining various employment rights and why Congress protected bona fide seniority systems in Title VII of the Civil Rights Act. The authors analyze the history of court decisions relating to seniority in layoff, promotion and job referral cases. They explore the possibility of work sharing, the shortened work week, rotating employment and periodic shutdowns as alternatives where a proposed layoff would have a disproportionately heavy impact on women and minority employees.

4. THE SUPREME COURT DECIDES


The Supreme Court, in two important decisions handed down on May 31, 1977, held that seniority systems are not unlawful even when they continue the effects of past discriminatory action. In Teamsters v. U.S. evidence was presented that the employer, an interstate common carrier, had engaged in a pattern of discrimination against racial minorities in hiring, transfer and promotion, and had maintained separate bargaining units. The Court found that such seniority systems are bona fide under provisions of Title VII of the Civil Rights Act. For employees locked into inferior positions because of pre-Act action, there could be no relief. But for employees hired after the Act, complete relief, including retroactive seniority as far back as the effective date of the Act is available. The text of the decision is given on pp. D1-D19. In a related case, the Supreme Court held that a retired airline flight attendant whose original termination was forced by a since abandoned discriminatory personnel policy, could not claim retroactive seniority credit. United Air Lines, Inc. v. Evans, ibid., pp. A6-A7; F1-F3.