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COLLECTIVE BARGAINING FOR RETIRED EMPLOYEES

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HEARING BEFORE THE SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 1145

TO AMEND THE NATIONAL LABOR RELATIONS ACT TO PRO-
VIDE THAT THE DUTY TO BARGAIN COLLECTIVELY INCLUDES
BARGAINING WITH RESPECT TO RETIREMENT BENEFITS FOR
RETIRED EMPLOYEES

HEARING HELD IN WASHINGTON, D.C., ON JULY 18, 1979

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COLLECTIVE BARGAINING FOR RETIRED EMPLOYEES

WEDNESDAY, JULY 18, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2257, Rayburn House Office Building, Hon. Frank Thompson, Jr. (chairman of the subcommittee) presiding.

Members present: Representatives Thompson, Miller, Kildee, Kovovsek, Biaggi, Erlenborn, and Kramer.

Staff present: Frederick L. Feinstein, counsel; Jeunesse M. Beaumont, subcommittee clerk; Edith Baum, minority counsel for labor.

Mr. THOMPSON. The subcommittee will be in order.

I think that you will find even though it is a bit dark in places in the room, it is a bit more comfortable. Yesterday this room is alleged to have been 90°. We can take our jackets and ties off if we want to here, but you can't do it on the floor. The Speaker doesn't like that.

As you probably know, the House is in session. It went in at 10 o'clock. It is entirely possible that the members will have to come and go to respond to rollcalls. That is something over which we have little control.

Here is a vote now. Before we go, I have a brief opening statement.

Today we will be considering the bill H.R. 1145, to provide that bargaining concerning conditions of retired employees be a mandatory subject of bargaining.

[The text of H.R. 1145 and staff analysis of the bill follow:]

96TH CONGRESS
1ST SESSION

H. R. 1145

To amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1979

Mr. THOMPSON (for himself, Mr. CONTE, Mr. MINISH, Mr. ROE, Mr. EDGAR, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the first sentence of section 8(d) of the National Labor
- 4 Relations Act is amended—
- 5 (1) by inserting after “other terms and conditions
- 6 of employment” the following: “, including retirement
- 7 benefits for retired employees”, and

- 1 (2) by inserting after "all the terms and condi-
- 2 tions" in paragraph (4) of the proviso the following:
- 3 "(including terms and conditions relating to retirement
- 4 benefits for retired employees)".

H.R. 1145**TO AMEND THE NATIONAL LABOR RELATIONS ACT TO PROVIDE THAT THE DUTY TO BARGAIN COLLECTIVELY INCLUDES BARGAINING WITH RESPECT TO RETIREMENT BENEFITS FOR RETIRED EMPLOYEES****Explanation of the Bill**

H.R. 1145 would amend section 8(d) of the National Labor Relations Act to make bargaining with respect to retirement benefits for retired employees a mandatory subject of bargaining. A mandatory subject of bargaining is one about which employers and unions must bargain in order to fulfill their legal duty under the Act to bargain in good faith. In addition, it is unlawful to make unilateral changes in an area considered to be a mandatory subject of bargaining. Currently matters affecting retired employees are permissive subjects of bargaining meaning that either side at that bargaining table is permitted to refuse to discuss the issue with no adverse legal consequence. It also means that conditions affecting retired employees can be altered unilaterally by the union or management.

The NLRB has ruled that employees' pension plans are included within the term "wages" and are therefore a mandatory subject of bargaining. In *Pittsburgh Plate Glass Co.*, 177 NLRB 911 (1969), the Board extended this concept by defining "employees" to include retirees for the purposes of bargaining about changes in retirement benefits. This meant that retirement benefits of an employee were a mandatory subject of collective bargaining both before and after retirement. The Supreme Court, in *Allied Chemical and Alkali Workers of America Local Union No. 1 v. Pittsburgh Plate Glass Co.*, 404 U.S. 157 (1971), overruled the Board's decision and held that retirees were neither employees nor members of the bargaining unit and therefore bargaining about their retirement benefits was not mandatory.

H.R. 1145 adopts the view of the Labor Board. It would overrule the Supreme Court decision in the *Pittsburgh Plate Glass* case by requiring discussion of retirees' benefits when raised as a collective bargaining issue.

Need for the Bill

Retired employees live on fixed incomes in an inflationary economy. The cost of living has risen steadily in recent years and the cost of hospitalization has doubled in some parts of the country. Yet pension and hospitalization benefits under collective bargaining agreements have tended to lag behind costs in part because the adjustment of these benefits remains a permissive rather than mandatory subject of bargaining. Absent legal compulsion, some employers and unions have voluntarily continued their practice of bargaining with regard to retirees' benefits, but others have taken the opportunity to stop serious bargaining in this area as well as to make unilateral changes in the retirees' benefits.

The law must make it possible to discuss adjustments to collectively bargained retirees' benefits plans in response to changes in the economy, altered public support programs and new retirement fund practices. Retired persons should

Retiree Bargaining Amendment

not be made to bear the burden of changing economic conditions. As the Board said in its *Pittsburgh Plate Glass* decision, "With respect to new problems which arise under a . . . plan for retired employees, collective bargaining is not only a suitable method for exploring different solutions, but it is probably the most rational and effective method." 177 NLRB at 916

CHANGES IN EXISTING LAW MADE BY H.R. 1145

(New matter is printed in italics and existing law in which no change is proposed is shown in roman.)

H.R. 1145 would amend the National Labor Relations Act as follows:

National Labor Relations Act

* * * * *

UNFAIR LABOR PRACTICES

Section 8. * * *

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, *including retirement benefits for retired employees*, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: *Provided*, That where there is in effect a collective-bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification—

* * * * *

(4) Continues in full force and effect without resorting to strike or lockout, all the terms and conditions *(including terms and conditions relating to retirement benefits for retired employees)* of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later.

Retiree Bargaining Amendment

Mr. THOMPSON. Last September we had an informative day of hearings on this bill that included testimony from a wide range of witnesses. Today we shall similarly hear from a group of distinguished witnesses on this important legislation.

In recent years bills identical to H.R. 1145 have been sponsored by approximately 30 Members of Congress. Ever since the Supreme Court handed down its decision in the *Pittsburgh Plate Glass* case, holding the Congress had not intended the Labor Act to extend to retired employees, there has been pressure to overturn the case.

In this Congress alone, the committee has received far more mail on this issue than on any other. Retired workers from every region of the country have written to me asking that they be given a voice at the bargaining table.

That is what H.R. 1145 would do. It would assure that the concerns of the employee once retired were not overlooked in the collective bargaining process. It does not mandate changes in their conditions, but rather that the conditions are discussed.

This is a point I would like to emphasize, because I believe it was misunderstood in our prior hearing. The bill does not amend the pension law or the contract law. It does not provide retired workers with new substantive rights to amend the contracts. Changes in their conditions are no more or less permissible.

The point is that now the employer can unilaterally institute changes or refuse to institute changes in conditions affecting retired workers.

Under H.R. 1145, the sole difference would be that both sides at the bargaining table would be required to talk about these changes, even if they didn't end up in agreement.

Along the same lines, at prior hearings we heard testimony that I imagine will be repeated today, that this bill somehow or other creates an open-ended liability. I don't believe this to be the case.

At present there exists certain legal liabilities of employers covering treatment of their retired employees. H.R. 1145 does not alter or affect these liabilities except to say that they must be discussed.

If existing law precludes a change in liability, such a change would continue to be precluded even with the enactment of legislation. If under law an employer's liability toward retired employees is susceptible to change, then enactment of H.R. 1145 would mean only that such changes must be discussed with the collective bargaining representative before changes are instituted.

In other words, the extent to which liabilities remain open or closed simply would not be affected by the passage of H.R. 1145. Employers and unions would be required to do no more than to discuss these liabilities openly.

Frankly, I have been somewhat surprised by the vehemence with which some segments of management criticized this bill during our prior hearings, for I don't believe that the bill would significantly alter the realities of the collective bargaining process.

In many situations—the auto, steel, and coal industries being prominent examples—bargaining for retirees is the rule. Both sides mutually agree to discuss the issue, but even in those situations where one side exercises its option under existing law and refuses to bargain about the issue the subject cannot in reality be avoided if the other side chooses to press it.

For example, the union need only hold out on some mandatory issue until the company agrees as a tradeoff to address the concerns raised by the retired workers.

The point is the issue is present even if it is forced under the table by the current law. H.R. 1145 would merely place the issue on the table rather than under it.

Collective bargaining is a process of discussion and deliberation regarding the conditions of an employment relationship. The benefits received by retired workers are still clearly conditions arising out of an employment relationship.

The fact that an individual crosses a line from active employee to retired employee shouldn't alter the ability to discuss the benefits arising directly out of the employer-employee relationship.

Stripping people at the point of retirement of their rights to discuss conditions that directly affect them can't be justified. It is for these reasons that H.R. 1145 has been introduced.

I see that the second bells have rung. The committee will recess briefly while the members have an opportunity to go vote. Then we will come back and hear our witnesses.

[Brief recess.]

Mr. THOMPSON. The subcommittee will be in order.

Mr. Erlenborn has a statement he would like to make.

Mr. ERLENBORN. Thank you, Mr. Chairman.

I have no prepared statement, and I do not want to argue with our chairman, but rather to point out one or two things in addition to what the chairman said.

The chairman suggested in various ways that the purpose of this legislation is to put on the table for the parties to discuss in negotiation the question of the retirement benefits for retired employees.

To make the record completely accurate, I would suggest that the bill goes a bit beyond putting the subject on the table for discussion. It makes the subject a matter of mandatory bargaining, which can lead to bargaining to impasse, which then can lead to a strike or to a lockout, which is not possible under the law today.

So, it is more than just requiring that the parties discuss the matter. It can, if the legislation is adopted, lead to additional strikes or lockouts.

I would also caution—and I have taken no position on this legislation per se, I just think we ought to look at it very carefully—that we all do look at it carefully because I know it is well intended, it has the best of intentions.

Retired employees do have a problem in these days of rapid inflation, in trying to maintain some semblance of a decent standard of living. Some pension plans have cost of living increases, others do not.

But I caution that we look at this very carefully because good intentions are not sufficient.

Let me suggest there was every good intention behind the passage of the private pension legislation, known as ERISA, and in many ways ERISA has helped present and future retired employees.

Also I would like to point out that one-third of the pension plans that existed at the time ERISA passed have terminated. In a 5-year

period, one-third of the pension plans existing at the time ERISA was passed have terminated, many because of the onerous provisions of ERISA.

So, the good intentions of the sponsors of ERISA were not sufficient. The actual effect of the passage of the legislation was to enhance and protect the benefits of some employees, but other employees lost their benefits altogether.

So we should look very carefully at anything we do in this field.

Thank you, Mr. Chairman.

Mr. THOMPSON. Thank you.

I didn't mean to indicate in my opening statement that this will not become a mandatory subject of bargaining because it will indeed in the event it passes.

Our first witness today is a friend of mine for a great many years, Mr. Lewis Persico, president of the Retirees Club of Local 731, United Auto Workers, of which I happen to be a charter member.

He appears on behalf of the National Council of Senior Citizens and the United Auto Workers International Union.

Lew, among other things, is the vice president of the Mercer County, New Jersey Labor Union Council. He has been a member of the United Auto Workers since 1942.

Good morning, Lew. Please proceed as you wish.

I might say at the outset that all statements will be made a part of the record by unanimous consent in full, and since we do have a considerable number of witnesses, and maybe have a number of roll calls, I will ask for summaries to the extent possible.

Lew?

STATEMENT OF LEWIS PERSICO, PRESIDENT, RETIREES CLUB OF LOCAL 731, UNITED AUTO WORKERS, APPEARING ON BEHALF OF THE NATIONAL COUNCIL OF SENIOR CITIZENS AND UNITED AUTO WORKERS INTERNATIONAL UNION, ACCOMPANIED BY ERIC SHULMAN, LEGISLATIVE STAFF, NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. PERSICO. Thank you.

Before I start, Mr. Chairman, I would like to request that the copy of the statement you made prior to this hearing, the opening statement—I understand it is not available now, but we can get a copy, if we request it.

Mr. THOMPSON. That can be arranged.

Mr. PERSICO. My name is Lewis Persico, president of the Retirees Chapter of Local 731, UAW in Trenton, N.J., an affiliate of the National Council of Senior Citizens.

I am also speaking in behalf of the UAW and, as the chairman has stated, the Mercer County Labor Union Council, of which I am vice president.

Mr. Chairman, I have been a member of the United Auto Workers since 1942, and I am proud to say that when our union goes to the bargaining table, the economic needs of retirees are not forgotten.

Less than 4 percent of America's retirees now receiving pension benefits have those benefits indexed for increases in the cost of

living. My pension is indexed and my income has kept pace with inflation.

But as many as 1 million Americans are not as fortunate as I. As current law now stands, neither a labor union nor a business is required to negotiate on behalf of retirees and their pension benefits. Although some agreements, such as the UAW's, do include provisions for retirees, many do not.

In this day and age, with double-digit inflation becoming a common occurrence, retirees are rapidly losing the battle to make ends meet. I believe that any pension plan that is not indexed to increase as the cost of living rises is a plan hardly worth having.

The fact is that the median private pension amount for retired men now stands at \$2,080, about \$175 a month. This figure, coupled with social security benefits, which averages \$264 a month, gives the typical retiree an annual income of just \$5,268. The point is that the value of this income steadily diminishes as inflation takes its toll.

Labor unions have generally recognized the importance of bargaining for improved benefits for retirees and many collective bargaining agreements include expanded pensions and health benefits for retirees.

Unfortunately, this is not always the case. As current law now stands, either a union or a company can choose not to discuss this issue.

Moreover, since bargaining for retirees is not currently considered mandatory, the possibility for modification of a pension or health plan without any discussion or justification always exists.

Because pension plans are long-term agreements they cannot anticipate changes in Government programs that may have a direct effect upon the plans themselves. The *Pittsburgh Plate Glass* case presents just such a dilemma.

A private health insurance program that became duplicative with the passage of medicare in 1965 was unilaterally modified by the *Pittsburgh Plate Glass Co.* The modifications were objected to by the union and the Allied Chemical and Alkali workers filed an unfair labor practice charge.

Had this issue been a subject of mandatory collective bargaining, the two parties would have had to meet to work out their differences.

Unforeseen occurrences in the economy or in our public policy will often have a direct affect on negotiated pension plans. Because of this, we believe strongly that the union, and the company, should be on one equal footing in dealing with such occurrences.

The fact that a company can unilaterally alter an agreement on this issue is grossly unfair to the worker as well as to the retiree.

It is for these reasons that I am here today, to let this committee know that the National Council of Senior Citizens and its 3,800 affiliates, of which our local retirees group is one, will work tirelessly in support of H.R. 1145.

I would like to submit for the record, Mr. Chairman, two letters received by the National Council of Senior Citizens from elderly retirees, which illustrate the problems that H.R. 1145 proposes to rectify.

One is from an elderly couple, Mr. and Mrs. William Sloop of Richwood, Ohio. It is brief and I would like to read it.

Please, may I ask your help and support of bill H.R. 1145, which mandates unions to negotiate for retirees, as well as others.

I worked for Marion Power Shovels, now associated with Dresser, one of the many larger manufacturers of dry excavating equipment.

I worked a total of 42 years, drawing \$250 per month for 38 of those years. When I retired I was completely forgotten. Oh, I just received an honorary membership card from my union, but I can't use it for cost-of-living or anything else, but to take up space.

Then, too, if I should pass away first, all of my pensions, social security and all would be wiped out, nothing to leave my wife but an honorary membership in the union.

Please help support this bill and have it retroactive to at least 10 years.

Please do what you can.

The other letter, Mr. Chairman, is from Ralph Delaney, president of the CWA Retired Members Council in South Euclid, Ohio. Mr. Delaney has been vocal advocate of retirees' rights, and along with his letter he has sent a great deal of material, much of which you will find interesting.

I would like to read a letter from Mr. R. R. Reed, who was an A.T. & T. vice president in 1974 when Ralph Delaney contacted him. Mr. Reed's letter is as follows:

Dear Mr. Delaney: This is to acknowledge receipt of your letter to me dated July 22, 1974. In writing to me as Chairman of the Company's Collective Bargaining efforts, I conclude that you believe we are bargaining with our unions on matters affecting retired employees.

On this point, I must emphasize that negotiations with our several unions are limited—by Court decision—to matters pertaining solely to active employees that they represent. They cannot bargain collectively for our 140,000 retired people. This is a widely misunderstood matter which I thought you would like to know.

As for your immediate concern, let me assure you that the Company continues to be mindful of the circumstances of our retired employees and I believe our past actions reflect this concern.

Thank you for expressing your points of view.

When statements are made to this committee, to the effect that corporations are hiding behind the Supreme Court decision of *Pittsburgh Plate Glass Co. v. Allied Chemical and Alkali Workers*, these statements are true.

Clearly, Mr. Reed has chosen to misinterpret that Supreme Court decision and use it as a handy excuse to pacify irate retirees. I would agree with one statement Mr. Reed made, that this is a widely misunderstood matter and it is one that H.R. 1145 can clear up.

While we are on the subject of the Supreme Court and its decision in the *Pittsburgh Plate Glass* case, I truly believe that the issue of whether or not retirees are considered employees for purposes of establishing the appropriate bargaining unit is wide of the mark.

The real issue is whether or not unions and employers have an obligation to regard the continuing welfare of workers who have devoted a major portion of their lives to the service of the company and the union with whom they were associated.

In essence, the Supreme Court ruling said that after the union retirement dinner and after the gold watch is given, it is goodbye Charlie. As Mr. Sloop said, an honorary union membership card will not give him cost-of-living increases in his pension.

We believe that America's strength lies in the backbone of its working men and women. It is these people that made America what it is today and will continue to keep America strong.

But nothing is ever free, and the price we pay for the hard work, loyalty, and productivity of our workers is some assurance that their needs will be met once their productive years are passed.

This, to me, is an essential compact made between the worker, his employer and his union, and it is a compact that must be respected and honored.

We believe that the best way to insure that the interests of retirees are represented at the bargaining table is to require the parties to negotiate on the issue. If this means that the definition of employee under the National Labor Relations Act must be expanded, so be it.

We are looking for a means to an end and H.R. 1145 provides the means to give retirees some voice in affairs that affect their daily lives.

As you said, Mr. Chairman, you and I have known each other for a good many years. Prior to my retirement I worked for 12 years in my area as a labor staff representative. My duties were to take care of primarily the union people, but we went beyond that. We took anybody that had a problem.

In those 12 years, and prior to that as the president the last 2 years before we merged with the AFL in my county, numerous phone calls and requests came for aid from people that worked in various plants that didn't have the cost-of-living or anything else, in that way, that they were forced to sell their homes and move into a small apartment, medical bills they had to pay, things of this kind.

Fortunately, in a lot of cases we were able to do something for these people. When I looked at my people, the people that come out of the General Motors plants, for example, the UAW—as you stated I am chairman of the retirees.

I have at least 300 people come to the meetings every month and see the way they are enjoying life because of the cost-of-living plan we have. When I compare it with some of the other people coming out of some of the industries that worked 35 or 40 years, there is such a difference between them. It is pitiful.

I urge, Mr. Chairman, that you do everything you can to get the bill passed because I think it will help the people that actually made this country strong, and this would be a big help.

Mr. Chairman, I want to thank you and the members of the committee for giving me the opportunity to come here today and address this very important issue. It is my firm belief that the enactment of this bill would be of tremendous benefit to the 4 million labor union retirees.

Thank you very much.

[Further information follows:]

Communications

GLENN E. WATTS, President



Workers of America

(AFFILIATED WITH AFL-CIO)
1925 K STREET, N.W.
WASHINGTON, D. C. 20006
TELEPHONE: AC 202/785-6710

August 9, 1978

File: 1.58

Mr. Ralph Delaney, President
CWA Retired Members Council
Post Office Box 41
South Euclid, Ohio 44121

Dear Brother Delaney:

This is in response to your letters in which you very vividly express your views concerning pensions.

It is true that a PAX worker in Cleveland will receive about \$27.00 a week increase this month. But, it is also true that CWA tried to get an increase in pensions for those of you who have already retired. We tried equally as hard to convince the Bell System that a cost-of-living increase should be included in the pensions.

We were not successful, unfortunately, but we have not stopped trying. We were informed again, recently, that the Bell System still has no intention of increasing pensions this year. We, in turn, notified them that we still believe this decision to be unfair, and that we will continue to persuade them to do otherwise.

You, the officers and members of the CWA Retired Members Council of Cleveland, have always supported the policies and programs of CWA. I urge you to continue to give us support. It was with your help, as well as that of other members, both active and retired, that has made CWA the great Union that it is today.

Let me assure you that a petition is not necessary. CWA is doing what we can to make life easier for our members who have retired, and we will continue to do this.

Sincerely and fraternally,

Glenn E. Watts
Glenn E. Watts
President

cc: G. Cramer
M. Hughes

THE - TWELVE - WE - WANT - YOU - TO - KNOW

1. WE WANT YOU TO KNOW THE BELL SYSTEM WORKER WHO HAS ~~BEEN~~ RETIRED FROM EIGHT TO TWENTY YEARS RECEIVES A PENSION OF \$37.00 A WEEK TO SOME \$90.00 A WEEK AND THIS INCLUDES A 15½% INCREASE FOR SIX YEARS.
2. WE WANT YOU TO KNOW THE LAST INCREASE WE RECEIVED WAS IN 1976.
3. WE WANT YOU TO KNOW THIS INCREASE WAS SOME 60¢ PER WEEK FOR EACH \$100.00 A MONTH PENSION, OR \$2.40 A MONTH INCREASE PER \$100.00 MONTH.
4. WE WANT YOU TO KNOW THE BELL SYSTEM HAS MULTI-BILLIONS IN THEIR PENSION FUNDS AND THE INTEREST MORE THAN PAYS FOR ALL PENSION INCOMES.
5. WE WANT YOU TO KNOW THE OHIO BELL PENSION FUND HAS ALMOST TRIPLED IN SOME TEN YEARS AND WE HAVE NO COST OF LIVING IN OUR PENSIONS.
6. WE WANT YOU TO KNOW WE WILL BE BUYING LESS AND LESS OF THE GOODS AND SERVICES THAT ARE PRODUCED BY THE WORKER OF THE COUNTRY.
7. WE WANT YOU TO KNOW THE BELL SYSTEM IS HIDING BEHIND THE RULING OF THE UNITED STATES SUPREME COURT THAT THEY ARE EXCUSED FROM INCREASING THE PENSION INCOME OF THEIR WORKERS WHO HAVE RETIRED.
8. WE WANT YOU TO KNOW THAT THOUSANDS OF BELL SYSTEM RETIREES ARE RECEIVING A POVERTY PENSION AFTER 20 YEARS, 30 YEARS OF SERVICE.
9. WE WANT YOU TO KNOW MORE AND MORE BELL SYSTEM RETIREES ARE BECOMING TAX EATERS AND NOT TAX PAYERS.
10. WE WANT YOU TO KNOW THAT THE UNITED STATES CONGRESS HAS INTRODUCED LEGISLATION TO CORRECT THIS TYPE OF DISCRIMINATION BUT HAS NOT ACTED AS YET.
11. WE WANT YOU TO KNOW WE WANT THE BELL SYSTEM TO INCREASE OUR PENSION NOW.
12. WE WANT YOU TO KNOW WE ARE MAD AS HELL FOR NOT RECEIVING A COST OF LIVING IN OUR PENSION IN THE YEAR OF 1977 AND ALSO NONE IN 1978.

FORMER DUES PAYING MEMBERS OF THE COMMUNICATIONS WORKERS OF AMERICA



C.W.A. RETIRED MEMBERS COUNCIL OF CLEVELAND, OHIO

*Affiliated with The Ohio State Council of Senior Citizens, Inc.
and National Council of Senior Citizens, Inc.*

Post Office Box 41 • South Euclid, Ohio 44121

R. R. Reed
Vice President



AT&T

American Telephone and
Telegraph Company
195 Broadway
New York, N.Y. 10007
Phone (212) 393-3467

July 26, 1974

Mr. Ralph W. Delaney, President
C.W.A. Retired Members Club of Cleveland Ohio
Box 41
South Euclid, Ohio 44121

Dear Mr. Delaney:

This is to acknowledge receipt of your letter to me dated July 22, 1974. In writing to me as Chairman of the Company's Collective Bargaining efforts, I conclude that you believe we are bargaining with our unions on matters affecting retired employees. On this point I must emphasize that negotiations with our several unions is limited - by Court decision - to matters pertaining solely to active employees that they represent. They cannot bargain collectively for our 140,000 retired people. This is a widely misunderstood matter which I thought you would like to know.

As for your immediate concern, let me assure you that the Company continues to be mindful of the circumstances of our retired employees and I believe our past actions reflect this concern.

Thank you for expressing your points of view.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. R. Reed".

Communications



Workers of America

Executive Officers

PRESIDENT
Ralph Delaney
VICE PRESIDENT
Joseph Grill
EXECUTIVE SECRETARY
Ann Isvonen
TREASURER
Frank Foster

C.W.A. RETIRED MEMBERS CLUB OF CLEVELAND OHIO
Box 41 South Euclid, Ohio 44121

August 6, 1974

Executive Board

VICE PRESIDENTS
Edward Buykus
Josephine Formanek
Patrick Gilmore
John Graff
Steve Hnath
Rose Kieran

John Cook
Bessie Link
Lillian Miller
Harriet Olson
Ned Rabun
James Ward
Clete Wilson

Mr. Rex Reed, Vice President
Chairman A.T.T. Bargaining Committee
A.T.T. Company
195 Broadway Avenue
New York, New York 10007

Dear Chairman Reed:

The Club Officers and Members thank you for the prompt response to our letter on Collective Bargaining. We do not agree with the concept that a company is limited at the bargaining table for active employees only, for many reasons. The first reason being no where in the U. S. Supreme Court Labor Case cited 66 L C 12/8/71, does it state that it is unlawful to bargain for employees who have retired. We have read and evaluated the 15 page brief, pages 22,899 to and inclusive 22,913 and again we must state no where did we find in the brief did it state that it was unlawful to bargain for employees in retirement.

The second reason we oppose the theory that the Company and the Union can't bargain for retirees is that during the past two years many contracts have increased benefits for those in retirement. C.W.A. and the Bell System increased the medical benefits from 50% to 80% during the past three year contract.

In 1973 the United Auto Workers Union bargained a contract with the White Motors Company for increased pension benefits for the retired workers. We also know the International Association of Machinist has just signed a contract with the Addressograph Multigraph Corporation, for scheduled increases for all of their retirees, through the next six years.

We would like to state that the employers do not share the burden of Social Security, taxes equally with the employees. The company share is treated just like any other business cost, it can be passed on to the consumer in the form of higher prices. We have also been informed that a company share of Social Security tax can be deducted as a business expense. The employee on the other hand cannot pass on or take a tax deduction on his share of the Social Security tax.

We, as retirees of the Bell System who worked many years for a modest wage, believe it is most unjust to expect the retiree to live on a fixed income. The Bell System pension funds most certainly are in a good position to meet a cost of living increase to the employees in retirement.

We hope this will be given very serious consideration by the Union and the Company for all Bell System retirees.

Respectfully submitted,

R. W. Delaney
Club Officers — Ralph W. Delaney, President

cc: WATTS

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National Council of Senior Citizens, Inc.
Washington, D.C.

Please, may I ask your
help & support Bill H. R. 1145,
which mandates unions
to negotiate for retirees, as
well as others.

I worked for Marion Power
Shovel, now associated with
Dresser one of the ^{major} largest
manufacturers of big excavating
equipment

I worked a total of 42
years, drawing, 250 per
month for 38 of those years

When I retired I was
completely forgotten!

Oh, just received honorary membership card at my union, but I can't use it for cost of living or anything else, but to take up space.

Then too, if I should pass away just, all my pension social security & all would be wiped out, nothing to leave my wife but an honorary membership card in the union.

Please help support this bill & have it retroactive to at least 10 years.

Please do what you can.

Mr & Mrs William Sloop

Mr. THOMPSON. Thank you very much. I would say that your statement speaks very well for itself.

I have really no questions. I just have two comments.

First, I would think in light of the realities which Mr. Erlenborn expressed, such as the termination of a great many retirement plans, to make this retroactive would be an extremely difficult, if not impossible, task, however meritorious it might be, and however much we might want to help those people.

My other comment is I think the gold watch is on its way out. They are mostly plastic digital watches now.

Thank you very much.

Mr. PERSICO. Just one more thing. Some years ago, when Henry Clayback was in our city of Trenton, N.J., Henry Clayback, who made the high-class cigars, one fellow that worked there, it seems every time social security went up, their agreement said that the pension of the company would be cut back.

So the person wasn't making any headway at all. In other words, if he got a cost-of-living increase in social security, it would be deducted from his company pension. These things exist, unfortunately, but that is it.

Thanks again, Mr. Chairman. I will see you back home someday.

This is Eric Shulman from the legislative department of the Council of Senior Citizens.

Mr. THOMPSON. Mr. Erlenborn?

Mr. ERLBORN. Thank you, Mr. Chairman.

I really have no questions. I am a little confused by the chairman's comment about retroactivity.

It is my understanding that if this legislation were to pass, then all present retired employees could be represented in mandatory collective bargaining issues in the future. I am a little confused about the retroactivity.

Mr. THOMPSON. Theoretically, that is so. I don't think my colleague and I can imagine a set of circumstances in which there would be an agreement to go back 10 years.

Mr. ERLBORN. You mean to pay benefits retroactively?

Mr. THOMPSON. Yes.

Mr. ERLBORN. Well, I think that would be highly unlikely. Thank you.

Mr. THOMPSON. If possible, we would go back to Mr. Kildee's grandfather.

Mr. MILLER. No questions, Mr. Chairman.

Mr. KILDEE. Mr. Chairman, just a statement.

The UAW and GM voluntarily negotiate for the retirees. But that is a very fragile thing because any time GM unilaterally wishes to stop that it could be stopped. It would be a tragedy in my town were that to stop.

I believe that someday this bill, hopefully act, will be looked upon as a matter of simple justice. I regard it in that fashion now. But there are some who need to be brought up to that realization.

The retirees in my district, UAW retirees, do have this, but that could stop anytime ex parte on the part of General Motors. So, I think we do need some legislation.

Mr. KOGOVSEK. Just a quick statement, Mr. Chairman, a statement to commend you for introducing this kind of legislation.

I think, as Mr. Kildee said, it is simple justice. It seems to me too often not only management, but also labor, tends to forget the work and the contribution of the employees of any industry after retirement.

I commend the United Auto Workers especially for showing this kind of legislation can work. It has been done by the United Auto Workers for many, many contracting negotiations. I think you set the example. I just think that this committee should pass this bill out favorably.

Mr. THOMPSON. Mr. Kramer?

Mr. KRAMER. Thank you, Mr. Chairman.

I would address a question to either of the two gentlemen at the table.

How would legislation such as this affect the actuarial soundness of present pension plans? In other words, as I understand it, they really would be subjected to almost continuing uncertainty every time a new bargaining round of negotiations came up because you would not know what could be anticipated in the way of new or added benefits for retired people until the negotiations had taken place.

Therefore, it would be very difficult, I think, in planning a pension system, to put that system on an actuarially sound basis so it would, in effect, pay for itself out of the employer and employee contributions.

That would be one concern that I would have, and I would appreciate your comments on that.

Second, I would appreciate your comments on the situation as to what a younger employee would feel about this kind of legislation. In other words, if there were only so many dollars to go around, it would appear to me that would put a union in a conflict-of-interest situation if charged with the responsibility of mandatorily representing both present employees and retired employees. What probably would be best for the retired employees would not be best for the present employees, unless a new source of dollars could be found. I think vice versa the same situation would be true.

Mr. PERSICO. I would like to answer the second part first.

In my experience, as president of my local union for a good many years, early in 1950 is when we first proposed a pension for the retirees. We did have some opposition from the younger people saying we still have to go to 65.

As time passes, they take a different view. For example, right now the UAW had a special convention in Detroit just a couple of months ago, and one of the things that was so outstanding was to see so many young people.

In fact, when the vote was taken on whether to go back to the bargaining table, cost-of-living for the pensioners, that is a number one issue on the table right now.

It was unanimous. The younger people in the shop have finally come to the conclusion, the realization, for example, that it is only going to be a matter of time when I am going to get old, and therefore 100 percent.

As far as UAW is concerned, as far as being vice president of the council back home, our people think, our delegates feel the same

way. Talking to other young people in the labor movement, not 100 percent, but the vast majority are for it.

In most cases a lot of these people see their parents today scrounging around to make ends meet. They realize it is only going to be a matter of time when they will get old, and they are for it 100 percent. So I have no quarrel on that.

Mr. SHULMAN. The only thing I would like to say about the actuarial matter, Mr. Kramer, I think what we are saying here, I think what the bill would do would be to make sure that these issues are taken up at the bargaining table.

We don't know exactly what the impact of a particular bargaining plan would be on retirees. That is one of the considerations that would have to be discussed at the bargaining table.

We are not even saying it would definitely require instituting a cost-of-living increase or an indexed cost-of-living increase in pension plans. All we are really saying is this is an issue that has to be addressed at the bargaining table, the whole issue of retiree rights, and unilaterally modifying agreements, such as the *Pittsburgh Plate Glass* case.

Mr. KRAMER. What kind of statistics can you furnish us in terms of what existing pension plans are doing for cost-of-living increases and things of that sort?

Mr. SHULMAN. Generally speaking I think most pension plans for retirees now give spot increases for the cost-of-living. Very few—and I think the figure is less than 4 percent—of the pension plans in this country are in fact indexed for the cost-of-living.

Mr. ERLNBORN. Would the gentleman yield?

Mr. KRAMER. Certainly.

Mr. ERLNBORN. On that point, I think it should be made clear, so that there is no misunderstanding, it is already a mandatory subject of collective bargaining to amend the pension contract or agreement to provide for cost-of-living increases in the future.

That is already something that can be bargained, it is a mandatory subject of collective bargaining, for present employees when they retire in the future.

The only issue here is one that I guess contemplates, rather than to do that, which is presently available, to bargain year-by-year for spot increases in the pensions of those already retired.

So if the union wished to and were successful in negotiation, they could provide cost-of-living increases in the pension document for all future retirees.

Mr. SHULMAN. I think we are addressing the issue of present retirees.

Mr. THOMPSON. Mr. Erlenborn is exactly correct. All current employees are taken into account.

Thank you very much. It is nice to see you.

Mr. PERSICO. Thank you.

Mr. THOMPSON. Our next witness is Karen Ferguson, director of the Pension Rights Center, accompanied by Jay Tower, staff attorney.

I see Karen didn't get here.

Mr. TOWER. Karen didn't get here.

STATEMENT OF JAY TOWER, STAFF ATTORNEY, PENSION RIGHTS CENTER

Mr. TOWER. Mr. Chairman, members of the subcommittee, I am Jay W. Tower, attorney for the Pension Rights Center, a nonprofit organization working to protect and promote the interests of present and future pension plan participants and beneficiaries.

I appear today to express the center's support for H.R. 1145, a bill to amend the National Labor Relations Act.

The bill is a simple one. Its amendment of section 8(d) of the act makes the retirement benefits of retired employees part of the package of "wages, hours and other terms and conditions of employment" over which unions and employers have a mandatory mutual obligation to bargain.

H.R. 1145's amendment of section 8(d)(4) makes clear that the provisions of the collectively bargained contracts pertaining to the retirement benefits of retired employees are to be treated by the parties as they would treat any other subject of mandatory bargaining.

The bill addresses only the terms and conditions of employment of those who are employees within the meaning of the NLRA.

While 1145 would allow unions and employers to demand retirement benefits for retired employees be placed on the bargaining table, the subject of good faith negotiation, it would not make retirees part of the bargaining unit.

It would not require retired union members or retired nonunion members to pay union dues. It would not require application of the Federal labor law duty of fair representation to the relationship of unions and retirees.

It would not require the involvement of unions in pension benefit claims proceedings. Most importantly, the bill would not give rise to any conflict of interest on the part of a union that is unfavorable to retirees.

Amendment of section 8(d) does not of itself solve the problem confronting retirees in 96 percent of our Nation's private pension and benefit plans. That is, automatically dwindling benefits in the face of continuing inflation.

The unrepresented and underrepresented retirees must also be helped. For this reason, the center urges this subcommittee study and consider more expansive mechanisms such as retiree bargaining units, benefit indexing and mandated proportional retiree-actives benefit increases.

At the same time, we do not believe that the controversial nature of these proposals should delay enactment of H.R. 1145, legislation that can help many retirees now.

This subcommittee is the only governmental body to have come forward with a realistic remedy that takes account of all interests and can provide immediate relief.

It is ironic indeed that the Pension Benefit Guaranty Corporation in H.R. 3904 presents retirees and the soon-to-be retired with the prospect of benefits not only reduced by inflation, but further reduced by a decision of the multiemployer pension plan sponsors to cut vested pay status benefits rather than increase their contributions to fulfill existing obligations.

The PBGC legislation not only threatens retirees with cutbacks, but it places them in the position of watching their benefits get reduced in the collective bargaining process without the benefit of any representation, direct or indirect.

Members of the subcommittee, *Pittsburgh Plate Glass* was decided by the Supreme Court almost 8 years ago in a time of rising inflation. The inflation escalates, the retiree's plight escalates.

It is time to take action. It has been time to take action. We ask that this committee report this bill favorably, now.

Thank you.

Mr. THOMPSON. Thank you very much for a fine statement.

With respect to the ERISA law, and the PBGC, the gentleman from Illinois and I have been working very closely together, looking at that, to have an extension of the period of time—it really is not a subject here except to point out this subcommittee is also the pension task force, and its members are very deeply interested in that whole subject. We will be getting to that as time goes on.

As you understand, it is an extraordinarily complicated bit of legislation.

H.R. 1145 is certainly not by any means the solution to some of the other problems which you raise. But a number of the multiemployer plans are in very deep trouble now, and we are extremely worried about them.

We don't want to tip any of them over. At least I don't, and I am sure my colleague, Mr. Erlenborn, who indeed knows more about that legislation than I do, would agree.

So with that I will thank you very much and ask Mr. Erlenborn if he has any questions or comments.

Mr. ERLNBORN. Thank you, Mr. Chairman.

Mr. Tower, because of your position with the Pension Rights Center, I am certain you are familiar with ERISA and the funding requirements.

Mr. TOWER. Yes, I am.

Mr. ERLNBORN. Now, if a present employee participates in a pension plan that through negotiation or otherwise has incorporated in it a cost-of-living escalator for pension benefits, is that not taken into consideration by the actuary in making a determination of the current cost of amortizing the past service liabilities, the presently accruing service credits, and future service credits of a present employee, so that the employer is setting aside periodically, annually or more often, sufficient funds to see that those pension benefits are paid at the time the employee retires.

Mr. TOWER. For the very few pension plans that do have indexes, this is the case. However, I would point out that the actuaries, in determining funding, a contribution rate that is necessary to properly fund a plan, generally adopt inflation assumptions in the neighborhood of 3.5 to 5 percent.

In a world such as the one that we are presently in now, where we are dealing with double-digit inflation, where most of the major economists in the country are saying that even if we reduce inflation, because of indexing of one type or another, we will be stuck with 8.5, 9 percent inflation, no matter what we do, no matter what the Congress does, no matter what individuals do to change spending habits, those assumptions will not be adequate and it will

be necessary for the actuaries to go back as their plans have experience with indexing and recalculate what the proper contribution rates are.

Mr. ERLBORN. As a matter of fact, ERISA shortfalls must be funded in even a shorter period than past service liabilities that are brought about by increasing benefits.

Mr. TOWER. That is correct.

Mr. ERLBORN. You may argue with the assumptions the actuaries choose, but at least ERISA does require setting aside currently funds to pay for the service credits that are being currently earned by the employees.

Mr. TOWER. It does.

Mr. ERLBORN. Now, that is very consonant with the philosophy that was expressed, the theory expressed by many who were supporters of ERISA, in that they said pensions are really a payment for services rendered, they are part of the compensation paid to an employee.

You have heard that theory, I am certain.

Mr. TOWER. Yes, we are proponents of that theory.

Mr. ERLBORN. All right. Now, if you follow that theory, how do you justify increasing benefits for retired employees?

Mr. TOWER. When those employees retired for the most part—I can take a few examples—people who retired 10 years ago on what at that time was an adequate pension, it was a pension that was designed to provide with social security 50 or 60 percent of their preretirement income.

That was what they bargained for. They bargained for a pension that would, with social security, provide them a percentage of income. That was the wage that they were bargaining for.

The installation into the bargaining process of indexing, of mandatory bargaining over retirees' benefits, does not change that. That bargaining process would still go to simply keeping equity.

Mr. ERLBORN. I would argue with your assumption that they were bargaining for a certain level of retirement income security that was to be insulated against inflation. If that were true, they would have bargained the cost-of-living increase in the pension plan. That is what gives them the level of pension security insulated from inflation.

Mr. TOWER. Possibly.

Mr. ERLBORN. You are assuming in the absence of their having done that, that they really intended to bargain for the cost-of-living escalator, but they forgot to do it, and now we have to allow it to be done *ex post facto*.

How can you square the theory of paying for services rendered as part of the compensation package when the services have been rendered, all of the compensation bargained for has been paid, the employee is no longer rendering services, and now you want to increase that pay.

Mr. TOWER. I would point out simply that prior to the 1970's, inflation in this country from 1900 through 1969 averaged roughly 1.2 percent per year. At that rate, I don't think I would be all too concerned with it.

At that rate, as a retiree age 65, life expectancy of another 10 or 15 years, that is a small reduction, and I am not going to press it at

a bargaining table before I retire when I can get an increase in some other benefit, be it a health benefit, be it an active wage.

However, at the same time I don't think that it is correct to say that these retirees were looking toward a future where their retirement benefit would be materially less than what it was when they retired, and indeed what it was when they last negotiated for that benefit.

Retirees' unions do not, regardless of the guise that employers wish to stick the negotiating process in, simply negotiate for a contribution rate. They negotiate for a benefit.

Mr. ERLNBORN. It depends on whether it is a multi- or single-employer plan. Multiemployer plans negotiate a contribution.

Mr. TOWER. Multiemployer plans—

Mr. ERLNBORN. ERISA calls them defined benefit plans.

Mr. TOWER. They are defined benefit plans. You negotiate a contribution rate, but you negotiate that rate while you are looking at the benefits.

Both sides have actuaries with them. One side says we want a benefit increase of \$25 or \$30. The other side says we want a benefit increase of \$15, or no dollars. They both come up with a translation into a rate, a contribution rate. That is what gets into the contract.

At the same time when it comes to ratification, when the unions go to the membership, we have negotiated not an increase of 5 cents per hour for a contribution into the plan, but rather we have negotiated a \$2 per month per year of service increase, we have negotiated an increase of 2 percent of final pay, we have negotiated an increase of \$25 in your monthly pension. That is the reality of the bargaining situation.

Mr. ERLNBORN. Well, let me make one last observation. It seems to me what happens is the employer must know how much it costs to produce whatever it is he is producing. Let's say it is an automobile. There is a wage package available. Part of it is direct compensation, part is health care, part is pension, a part may be vacation funds, whatever it might be.

Each unit of labor costs so many dollars per hour depending upon how much goes into each part of that compensation package. That then determines how much cost there is in producing the automobile in this instance, and the automobile is sold on that basis.

How can you 10 years later come along and say we are going to increase the cost of that automobile because we guessed wrong in the compensation package, and we took as current compensation something which probably should have been put aside instead into the pension plan for cost of living escalator.

But now 10 years later, having made that mistake, we are going to insist we get that cost of living increase.

Who is going to pay for it? The automobile has been sold. It may not even be in existence anymore. Who is going to pay for the cost of that labor?

Mr. TOWER. Without being flip, new automobiles and new consumers. It is no different, Mr. Erlenborn, than the situation that you have now when employers in a noncollective bargaining situation take it upon themselves, because of an obligation that they

feel to their retirees, to increase every 3 years, every 5 years, some cases every 10 years, the benefit that is going to people who have already retired.

That is not a cost that was foreseen when those people retired, that was not a cost that the actuaries figured in. It is a new cost. It is not a cost that is going to be financed by past sales. It is going to have to be financed by present sales.

This bill does not change that circumstance. It may extend it to industries in which it is not presently the case. But it doesn't change the nature of the dealings.

Mr. ERLNBORN. Thank you, Mr. Chairman.

Mr. THOMPSON. Mr. Biaggi?

Mr. BIAGGI. Let's continue another line of thinking. We have new costs in connection with social security that have to be dealt with under present appropriations. We have done that, but I think you have highlighted a very important development.

I don't think the Congress or labor became mindful of these triggering devices that would automatically increase pensions until the last decade or so because the growth theretofore was very gradual. As you said, you would hardly be here making a case.

But Congress responded by providing automatic triggering devices for increases when the CPI inordinately rose.

The fact of the matter is we are now dealing with a realization. Because we did not do it in the past, and because the problem didn't exist in the past, doesn't that mean we shouldn't be in a position to assess the current conditions. In the assessment this notion was born, and this notion is reflected in H.R. 1145.

I think it is certainly worthy of consideration. The very least that should be done is put the labor representatives in a position where they can negotiate. There is nothing mandatory about the outcome, but at least it is an item that is worthy of consideration.

Mr. TOWER. I agree with you.

Mr. BIAGGI. I think that is the nub of the thing, and that is exactly what we are looking at today.

Mr. TOWER. I agree with you completely. I would only point out that the previous witness is very fortunate in that he was a member of the United Auto Workers, which many of us consider the prime labor union in the Nation.

At the other side, though, there are union members of unions that are not as strong as the UAW, are not as strong as the coal miners or the teamsters, unions that have not been able to do anything for the retirees, so that they have retirees who retired after 38 years in their shop in 1966, on a pension of \$73 a month.

That is what they are still getting, \$73 a month, while the actives, the people retiring today from those same shops are getting more than \$400 a month. That is the situation that this bill would address. That is the situation that must be remedied.

Mr. THOMPSON. Mr. Miller?

Mr. MILLER. How prevalent is the practice that was referred to in the earlier testimony of offsets in terms of when social security goes up there are offsets in pensions?

Mr. TOWER. It is increasingly prevalent. I cannot give you a percentage. I don't have it. I do know that it is on the upswing in plans that are not collectively bargained.

Every pension consultant that I deal with, that I have had occasion to deal with, advises his corporate clients to integrate their pension plan.

In the collectively bargained arena, I know that members of the AFL-CIO, social security Department, have made statements in the past that there are very few collectively bargained plans that do integrate, and at the same time our experience is that that also is on the increase.

Mr. MILLER. My understanding is it is done in at least one of the oil companies in my district, Shell Oil, which would be collectively bargained with the Atomic Oil Workers. So, it does happen in collective bargaining.

Mr. TOWER. It does happen, contrary to any representations the AFL-CIO may be making.

Mr. MILLER. I don't know whether it is still in effect or not.

Mr. TOWER. It is particularly so in plans that are not jointly administered.

Mr. MILLER. That would be sort of the reverse argument of Mr. Erlernborn's. Here you have them reducing based upon the cost of a product and overhead. In this situation, John, you are in effect reducing your contribution to a pension level because the Government has increased theirs.

I am not sure I have an answer for yours. I don't, other than as he says, new automobiles, new consumers. But I also am interested in what do you do about the problem of integration. We outlawed it in one of the senior programs.

We used to have a passthrough, and then the Governors would reduce it, like Reagan and Brown in California. We would increase social security \$7.50 and they would reduce the State's contribution by \$7.50 and put it in the general treasury.

Obviously the retirees didn't come out any better. If you have integration in pension plans, you in effect have, in my understanding, Shell Oil reducing their pension contribution to existing retirees by the amount social security is increased.

So I don't know what you do in that situation either.

Mr. ERLERNBORN. Would the gentleman yield?

Mr. MILLER. Yes.

Mr. ERLERNBORN. This has been a long-term—I don't want to describe it as a problem—dispute in philosophy, whether we should or should not prohibit integration with social security. It is done fairly frequently, the theory being that what the parties are seeking is a guarantee of a level of retirement income security, based upon a percentage of preretirement earnings.

Now that is made up in a package of several different elements. If part of the package goes up, the other part can go down or vice versa, so that if you are seeking, for instance, after 30 years of employment 80 percent of preretirement income as the level of income security, social security, private pension, together make up that 80 percent.

Our former colleague from Pennsylvania, John Dent, and Dominic Daniels from New Jersey and I, were in Sweden a few years ago, where they have four or five different packages for pensions.

None of them take into account the level of benefits in the other. They said it was becoming increasingly common for retirees to

have more income in retirement than they had when they were working because the level of benefits of the various parts of their retirement income did not take into account at all the level of benefits of another part.

Mr. MILLER. I understand that. But it would seem to me that when—I see your argument, that you are arguing for a benefit package. But the assumption I assume when you agree to that package is that it insures you a standard of living.

Now, when the standard of living is being diminished by inflation and the Government comes along and makes a contribution based upon that fact, and the private sector can erode their part, I appreciate the dollar amount is constant, but the plight of that individual is greatly increased.

Mr. ERLNBORN. Would the gentleman yield further.

I would just say the ideal, which of course is not achieved in too many places, I think would be guarantee of a level of retirement income securely tied to a cost of living escalator after retirement, so that the person, the retiree, would be guaranteed the level at 75 or 80 percent of preretirement income, with a cost of living escalator to guarantee him against the eroding of the purchasing power. That would be the ideal package.

Mr. THOMPSON. If the gentleman would yield.

In terms of congressional retirement, those who retired 4 years ago now have a greater income than those of us who are still serving, and we are afraid to give ourselves increases.

Mr. ERLNBORN. That is right. We have no guts.

Mr. MILLER. Thank you very much.

Mr. THOMPSON. Mr. Kildee?

Mr. KILDEE. I have no questions, Mr. Chairman.

Mr. THOMPSON. Mr. Kramer?

Mr. KRAMER. Thank you, Mr. Chairman.

I would only briefly comment—and I am sure this is debatable—but I would hate to get us into a situation comparable to our present social security situation. That is, I think we have continually faced piecemeal crisis after piecemeal crisis, in which we are forced to raise both the base and the percentage in order to pay for our past mistakes.

In other words, we need a continuing new flow of salaried people who deduct social security from their pay along with employers who pay their contribution, in order to pay for past benefits.

I think the actuarial unsoundness of the social security system has become a very large problem that we have not totally come to grips with yet. I would hate to superimpose upon the private sector a new program of such potential magnitude.

There is no question that inflation is a very important problem. However it is one of which I think we unfortunately continue to treat the symptoms rather than the cause. We have done that for a long time.

The question I would ask you pertains to a statement that you made about potential conflicts of interest in mandatory union representation.

It seems to me there are only a certain number of dollars to go around, unless prices are escalated by the manufacturer in order to provide new additional sources of revenue to meet unanticipated

costs arising from union bargaining demands. However, if the case is that there are only so many dollars to go around, then if retired employees are successful in bargaining for more benefits, it means they must do better at the expense of someone else.

It seems to me that that has to be at the expense of the consumer, reflected in higher prices. Or, it has to be at the expense of the existing work force, who will obviously get less if the retirees get more.

To me that presents a real conflict of interest for the union in terms of who they are really going to represent at that bargaining table, the retired employee or the present employee.

I would like to hear further comment on your statement that that does not present a conflict of interest.

Mr. TOWER. Basically three points.

One, we are always dealing with a situation where there are *x* number of dollars available. They are either available because profits have been great or they are available because you are looking forward toward new sales.

We are also dealing with a situation where there is no bargaining presently for these retirees. They are not getting the increases.

This bill does not require a union that does not want to negotiate on behalf of retirees to negotiate on behalf of those retirees. Rather, it simply says that those unions that do wish to negotiate the benefits on behalf of their former members, on behalf of retirees, under the plan, may do so.

If a union is willing to do that, if it is willing to put it on the table, then it surely is willing to see part of the wage package going toward that increase.

Mr. KRAMER. I understand that——

Mr. TOWER. Which is better than nothing.

Mr. KRAMER. I understand it is not a vehicle for mandatory increases. It just provides a mandatory method for bargaining that the unions can choose to exercise or not.

But you as an attorney can appreciate the fact that conflict-of-interest situations can develop regardless of whether you choose to undertake that representation or not. If you choose to, and you have clients with two conflicting viewpoints, then nevertheless the conflict develops.

So what I am saying is I am not sure that even if the union has the choice to bargaining or not, once they have elected to bargain they then have put themselves in an irreconcilable conflict-of-interest situation because they cannot adequately represent both retirees and present employees.

Mr. BIAGGI. Will the gentleman yield? It would seem so on its face. But you have been talking about an evermaturing membership that will have a vested right and will be on the precipice of retirement. That could be very substantial.

Perhaps the very youngest of the members may not feel as strongly about this, but as they become closer and closer to retirement, they would have a very deep interest in seeing that their pensions are not eroded.

I think the constituency of that local, that union, would by virtue of that process compel the representatives who are bargaining to bargain in good faith. So it is not a question of the retirees not

having representation. I think they in fact would because the active members would have a very real interest in them.

I understand your concern. It is a real concern, if you were to isolate it from the total picture. But given the total picture, there would have to be some good faith bargaining once given the right.

Thank you for yielding.

Mr. THOMPSON. What I fail to understand, Mr. Kramer, is your construction or interpretation of this leading to a conflict in interest. Unions are extremely diverse. In a shop the auto workers, or any other union, would represent various crafts, white collar, blue collar workers, so on, all during their working lifetime, planning their own future beyond their working days, as Mr. Biaggi indicates.

To place themselves and their colleagues in a position to bargain for those who have gone before them or to place those who are behind them in a position of being able to bargain for them.

I would hardly construe that to be a conflict of interest. However, it is a point of view.

Thank you very much for your testimony. We appreciate your answers.

Our next witness was to be Mr. Denis Glavin, president of the United Electrical Workers. He is unable to appear because of the strike in Westinghouse Electric Corp.

Appearing in his place is Mr. Lance Compa, the UE Washington representative; also, Mr. Dick Williams, the president of UE Local 107 Retirees Association.

STATEMENT OF LANCE COMPA, WASHINGTON REPRESENTATIVE, UNITED ELECTRICAL WORKERS

Mr. COMPA. Mr. Chairman, Mr. Williams is also unable to attend. He was taken ill.

Mr. THOMPSON. Without objection, his statement will be made a part of the record.

Mr. COMPA. Someone will make a statement in his place.

Mr. Chairman, I wonder if you would permit me to take 1 minute to introduce the five members of the UE Local 107 Retirees Association who made the trip down here today to attend this meeting.

Mr. THOMPSON. Please do. I believe I met them and had the pleasure of talking with them in my office.

Mr. COMPA. I would ask each of them to stand.

Carl Soderberg, Frank Palmisano, James Sutherland, John Burdett, and George Baker.

Mr. THOMPSON. Gentlemen, you are all very welcome. Nice to see you.

Mr. COMPA. Among them, Mr. Chairman, these Westinghouse retirees have 175 years of service with the company.

I am going to, for the sake of brevity, summarize Mr. Glavin's statement, and then Mr. Sutherland on behalf of the group will make a short statement.

Mr. THOMPSON. Please proceed. Both will be made a part of the record in full, along with accompanying extraneous material.

[The prepared statement of Mr. Glavin follows:]

STATEMENT OF DENIS GLAVIN, PRESIDENT, UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA

The retired workers who are before you today and who have appeared in prior hearings are well able to describe the difficulties of living on a fixed pension during a period of roaring inflation. I am here to address the difficulties we as union negotiators face when we raise the issue of retiree pensions and other benefits at the collective bargaining table.

We have recently been having national contract negotiations with the Westinghouse Electric Corp. in Pittsburgh. Negotiations began in mid-May and early on we raised the plight of Westinghouse retirees with the company, pointing out that the company's unilateral pittance have increased retiree pensions an average of less than 1½ percent a year during the past 5 years while inflation averaged 8-9 percent a year. The company arrogantly responded that since the law does not require them to negotiate this issue, they refused to pursue the matter.

This is the reality that we run up against with the electrical manufacturers and many other industries with whom we bargain. Only the change in the law that the committee is considering can change that reality.

You will hear representatives of management raise all sorts of smokescreens to distort the meaning of this bill—that it will deprive retirees of the “right to deal separately” with their former employer, that it fails to “guarantee” retiree pension improvements, that it will lead to agreements to reduce retiree pension benefits, that there is a conflict of interest between retirees and active workers.

Each of these is a hypothetical argument that ignores what is actually happening right now—the decline in pensioners' living standard by the companies' refusal to bargain on this issue. It is especially phony to oppose this bill because it “deprives” retirees of the opportunity to deal separately on the pension issue, or that it fails to guarantee improvements. It is precisely because retirees are getting deeper and deeper in the hole through “dealing separately” that they have come to you for this bill. We would be glad, if the companies would agree to abide by the results, to have a neutral party poll the retirees on their desires to see if they think this bill deprives them of something. As for the failure to guarantee improvement, let's see the management representatives support a bill that would guarantee retiree pension increases.

Even more fraudulent is the supposed “conflict of interest” between active employees and retirees, as if the companies' refusal to bargain on retirees is the only thing that keeps the active workers from taking food off the retirees' tables. Management is incapable of understanding the wellspring of support for retirees among the active rank and file workers. Given the opportunity—and it is clear from those industries where companies voluntarily bargain on retirees—active workers are glad to use their bargaining strength to help the retirees. They know it is the best way to build up protection for themselves when they retire.

This bill does not require the expenditure of a single federal dollar except to print it in the statute books. It does not obligate employers to pay a dollar more in costs or benefits. It simply requires them to bargain the issue with collective bargaining representatives. As in any bargaining context, the company and union can both calculate and take into account in formulating their bargaining positions the costs of improving retiree pensions. This is all we are after: pass this bill so the next time we sit down across the table from Westinghouse and the rest, they don't turn up their noses and refuse to discuss it; they say instead, “What have you got in mind?” and we get down to business on this as with any other issue.

UE LOCAL 120
Baltimore, Md., March 20, 1979.

Mr. F. C. R. HOLLMANN,
Locke Insulators, Inc.,
Baltimore, Md.

DEAR MR. HOLLMANN: In response to a verbal request from the union for a list of Locke retirees, we have been informed that providing such a list is prevented by prohibitive cost.

In view of the fact that pension checks are mailed monthly to Locke retirees, it seems to us that the cost of obtaining a computer run of the addresses and names and amount of monthly benefits should be minimal.

We need a list of Locke retirees, their names and addresses and monthly benefit amounts, so that we can contact them about their living standards and the sufficiency of their pensions. We need this information not only because we are concerned

about the conditions of Locke retirees, but also in order to prepare our pension proposals in upcoming contract negotiations to protect future retirees who are now Locke workers. To judge what pensions future retirees will need, we have to know what present retirees are facing.

We ask the company to consider this request further, and to provide the list if at all possible.

Very truly yours,

JAMES JOHNSON, *President.*

LOCKE INSULATORS,
March 26, 1979.

Mr. JAMES JOHNSON,
President, Local 120

DEAR MR. JOHNSON: As you know, we do not negotiate with Local 120 on matters related to the status of pensioners. For that reason we do not propose to review further the possibility of providing your local with a listing of current pensioners and the benefits paid to them.

Concerning the question of preparation for upcoming negotiations, we can provide data at that time which will indicate the amount of pensions to be paid to employees with various levels of service and compensation.

Sincerely,

F. C. R. HOLLMANN,
Manager-Administration.

Mr. COMPA. As you indicated, Mr. Chairman, Mr. Glavin is tied up in the nationwide strike in the Westinghouse Co. What he intended to address here today, and which he did in this short statement that was prepared, is not so much the dollars and cents of what has happened to Westinghouse retirees and other retirees over the last few years, because of inflation, because those figures speak pretty much for themselves, and they are available to everybody.

What Mr. Glavin wanted to talk about, and what he wanted to ask the committee to address themselves to, and not get pushed off the track by hypothetical arguments and predictions about dire consequences that might happen if this bill is passed, is the concrete reality of what happens in a collective bargaining situation when this condition of retirees is brought up.

We have just concluded national contract negotiations with the General Electric Co., and we are now involved in a strike with the Westinghouse Electric Corp. In both of these sets of negotiations the problems of retired GE and Westinghouse workers was brought up to the company. In both we got the same response.

I was fortunate to have the opportunity to be at the General Electric table, and I can tell you exactly what happened when we said to the company across the table that we would now like to address the problem of General Electric retirees.

They took off their glasses, tilted their heads back, and looked across their noses at us, and said, "We are not obligated under the law to bargain with you over this subject, and we do not choose to do so."

That was the end of it. Even though we pressed them. We argued with them. We brought up the facts and figures. They always retreated to that *Pittsburgh Plate Glass* ruling. They looked back and said, "We do not choose to discuss this subject."

In documents that we submitted also for the record, you will see an exchange of letters between a local union and an independent

company, a small company of about 500 employees, where on March 20 of this year the union requested a list of retirees.

That is all the union requested, was a list of retirees of this company and how much they were getting in their monthly pension. The company's response was, as you can see:

As you know, we do not negotiate with Local 120 on matters related to the status of pensioners. For that reason, we do not propose to review further the possibility of providing your local with a listing of current pensioners and the benefits paid to them.

This is the concrete situation that we face with these companies. They literally hide behind that *Pittsburgh Plate Glass* ruling to the extent of not even providing what we think is a pretty reasonable request for information.

Before turning the matter over to Mr. Sutherland for his statement, let me just raise one thing. I cannot help but make a comment and a comparison with the issue that was discussed yesterday in this subcommittee, and that is the right of house staff physicians to bargain.

Without taking anything away from them, or taking anything away from that bill, because we support the bill, we think that anybody who works for a salary should have the right to bargain collectively.

But these are doctors who even though they are working now in hospitals for low pay and working 70 or 80 hours a week—and they have a real problem—in a few years they are going to pretty much be able to write their ticket as far as wages and conditions of work and so on.

But these retirees are in a different situation. In a few years it is not going to be a question of writing their ticket.

Mr. THOMPSON. They are consumers and purchasers in their later years, particularly of Cadillacs and Continentals. [Laughter.]

Mr. COMPA. Right. Union made, we hope.

But at any rate I noted the enthusiasm with which the committee discussed the right of housestaff physicians to bargain. I just hope that the same kind of enthusiasm will be generated for these retirees who are having a tough time of it in these, their final years after retirement.

Mr. BIAGGI. Do you share the committee's enthusiasm?

Mr. COMPA. For which?

Mr. BIAGGI. For the interns?

Mr. COMPA. Yes. As I said, we think anybody that works for a salary should be able to bargain collectively. At this point, I will let Mr. Sutherland come forward to make his brief statement.

STATEMENT OF JAMES SUTHERLAND, RETIREE, WESTINGHOUSE CO.

Mr. SUTHERLAND. Mr. Chairman, my name is James Sutherland. I have been retired from the Westinghouse Co. for 13 years after 24 years service to this corporation. My age is 77.

I am appearing before your committee on behalf of some 600 workers on pension from the turbine plant of the Westinghouse Co. in Lester, Pa., where presently over 4,000 workers are employed.

We are banded together in a retirees club associated with the union which represented us in our working years, Local 107 United Electric and Machine Workers of America.

Last year we gave testimony before your committee on the need for legislation mandating employers to bargain with unions on the matter of retirement benefits for workers already retired.

At that time, we submitted to your committee a long list of names of pensioners, the length of their service to the Westinghouse Co., and the amounts of pension payments these workers were getting. The years of their retirement dates started at 1957 and went up to the year 1977.

The list showed, for example, a Westinghouse pension of \$87 a month to a worker who retired in 1958 after 25 years' service. It showed an \$86 pension to a worker who retired in 1967 with 24 years of service. Our list was a long one.

Perhaps the size of the pensions granted in those years seemed a lot then. But today such a pension income, even with social security added, is well below poverty guidelines. The very fact of inflation pushing past 13 percent today compels us to seek ways out of it, to seek relief from it.

Retired workers are particularly hard hit because they spend a larger percentage of their income of those items hardest hit by inflation—food and housing. The price of those two items have been going up faster than the cost of living as a whole.

Last year, since the Westinghouse Co. refused to bargain on retirees needs, UE, working together with its retirees, initiated a campaign to get the company's attention to the plight of the retirees.

It was a nationwide effort and fortunately resulted in a 10-percent pension increase for those retired prior to 1971, a much lower increase for those who retired after that date.

It is to such lengths that the unions and retirees clubs are forced to go to shame Westinghouse into meeting its obligation to retired workers.

We feel very much encouraged that a bill such as H.R. 1145 is now being considered by your committee, a bill which opens the way to alleviation of the distresses a couple of million retired workers are experiencing today.

This bill moreover, if legislated, would relieve the worries of millions more organized workers facing retirement in the future.

We must point out to you that a coalition of 14 unions representing workers at Westinghouse and GE have just completed negotiations on a new contract this July 1979. All these unions had a mandate from their memberships to negotiate improvements for the retirees.

But both companies refused to negotiate the needs of these retirees. They took refuge in the U.S. Supreme Court ruling which relieves employers of this responsibility if they choose to.

Take notice that we say "all these unions had a mandate from their memberships." What this means is, these unions could not make a proposal to management to include retirees in the bargaining process unless the memberships so approved.

We feel this adequately answers the charge of the U.S. Chamber of Commerce spokesman who contended at the hearing held before

your committee last year that workers still on the job would not consent to a smaller bargaining package for themselves in order to provide benefits to oldtimers no longer on the job.

Workers everywhere are quite conscious of the fact that they face an inflated future too and would welcome representation by the union when their working life is over.

Of course, corporations and business groups oppose the legislation your committee is discussing today. Their argument centers on the cost and complication of implementing this legislation.

Well, their argument centered on the cost and complication of implementing social security, too, and on the cost of this and that whenever the subject was to benefit working people.

Our UE Local 107 Retirees Association feels convinced that legislation legalizing bargaining for retirees is achievable and reasonable. It will not affect the Government's budget by a single dime.

It will merely inform the employers that pensioners are retired from work, not life, and that they have a responsibility to help maintain the life of the retirees in a much more material way than they have.

Is it really asking the Congress too much to legislate a law that does nothing else than give us a chance?

One word in closing. Mr. Chairman, our question, when we come before you today, is "when"? We are looking for some kind of agreement or some hearing early. When that comes up, we will appreciate it very much.

When can we expect action on this? If you can give us an answer to that today, we will be very happy.

Thank you very much, sir.

Mr. THOMPSON. The only thing I can say is that we will complete the hearing. We had a hearing in the last Congress, as you know, in which Mr. Kildee testified.

I would think that the record will be complete enough so that the matter can be discussed by the subcommittee along with other legislation on which we are having hearings—yesterday, today, and tomorrow—probably also after the August recess, in September, or sometime during this session, we hope.

It all depends on the schedule of the full committee and the other legislation scheduled. But we do intend to move it as soon as we can. I just cannot give you a date. I do appreciate you being here, however.

Mr. SUTHERLAND. Thank you, sir.

Mr. THOMPSON. Mr. Kildee?

Mr. KILDEE. Just a comment, Mr. Chairman.

There has been reference made to possible conflict between younger workers and older workers, those already retired. That has not all been my experience with the UAW, which has had some success in negotiating for the retirees.

Each year I buy one of the buttons, "Cost of Living for Retirees." Last year I put in the record and again the same thing happened this year. I don't think I ever bought one of those buttons raising money to help negotiate the cost-of-living adjustment for retirees from anyone over 30 years of age.

It is the young guys in the local out really pushing for this. So it certainly has been resolved very well within that very large union. So I don't see that conflict at all.

As you point out, you don't see it either. I agree with you. There is a collegiality, a fraternity there, where they recognize they are in the same lifeboat together.

Thank you very much for your testimony.

Mr. THOMPSON. Mr. Kramer?

Mr. KRAMER. I have one question.

Mr. Sutherland, I would like to ask you a question. I think this whole legislation has arisen, or the need for the legislation has arisen, because of intolerable inflation that is sweeping this country in recent years.

Do you have any thoughts—and it is certainly fine if you don't, because this is not a question you were prepared for—on your feeling about what causes that inflation?

Mr. SUTHERLAND. I could give you this answer, which I have thought about an awful lot.

Today in the pension fund there is over \$2.5 billion. It is in a fund that the Westinghouse and other retired employees at that time said we don't want a raise, we will put this in the fund, when we retire we want something from it.

Today they are not even paying the interest out on that fund. They say it is going to cost them a lot of money. They have had the interest on it for a long time. Now, this is something that they could do something about, and it wouldn't hurt anybody.

As I read off in the statement, it will not cost anybody a dime. That is one thing I could answer.

Mr. KRAMER. You are talking about Westinghouse?

Mr. SUTHERLAND. Westinghouse. They are affiliated with the GE and Sylvania on some of the pension business. This gentleman here can give you a little more information on that.

Mr. KRAMER. You say they choose not to—

Mr. SUTHERLAND. Well, the Supreme Court made the decision that hurt us. I think it is a shame. They said the companies do not have to negotiate with the unions unless they have to.

Now, you know the unions negotiate for their employees. But they are not allowed according to the Supreme Court decision—

Mr. KRAMER. I understand that. You said there were pension funds available—

Mr. COMPA. What he is referring to—

Mr. KRAMER. They would use to make available to the retired employees.

Mr. COMPA. What it boils down to is GE and Westinghouse pay their pension benefits out of interest earned on the pension fund. They are not even using up all the interest. So the principal is intact, and they are only paying out part of the interest for benefits, so that benefits could be increased even at this point without getting into the principal.

Mr. BAKER. I would like to say one thing. There are union organizations, like the automobile workers, like the aluminum workers, the steelworkers, and those people, that negotiate every day, every time a contract comes up they negotiate, and they are willing to.

I think that Westinghouse and GE are two very big organizations, and they fit into the picture somewhere. They surely must be in a position to negotiate. That is all we ask.

If you for 1 minute think that a retiree wants a union to go in there and negotiate to cut into a pension benefit and tear that pension apart so we will have nothing, that is crazy. That is foolish.

Mr. KRAMER. In your situation, you retired 13 years ago, is that right?

Mr. SUTHERLAND. I did, yes, sir. This gentleman has been retired much longer than I have.

Mr. KRAMER. What was your final salary when you retired?

Mr. SUTHERLAND. My salary depended if you worked a little overtime occasionally. But the pension plan I have now is only \$125. That was a 10-percent raise we got just recently to make us feel good, I think.

Mr. KRAMER. When you retired your pension was \$125?

Mr. SUTHERLAND. No; it has just been raised twice.

Mr. COMPA. Westinghouse has occasionally made unilateral increases, small increases.

Mr. KRAMER. How much were you earning when you retired? What was your pension when you retired, and what is your pension now?

Mr. BAKER. My pension is raised since 1964. I retired in 1964 with 28 years behind me. They gave me—and this doesn't include my wife in the pension—they paid me \$96 a month. Today it is \$150.

But we know, you and I know, since 1964 it doesn't buy that much groceries. There are so much groceries we have to pass up.

Mr. KRAMER. That was the amount of your pension for 28 years of service?

Mr. BAKER. For 28 years.

Mr. KRAMER. How much were you earning approximately when you retired?

Mr. BAKER. Approximately \$9,000 a year.

Mr. KRAMER. In 1964. Thank you.

Mr. COMPA. Could Mr. Palmisano make a comment.

Mr. PALMISANO. About what George Baker said, it didn't include his wife, \$96. At that time he wasn't allowed to include his wife, which we had the option afterwards, to give 55 percent to our wives. If he had given 55 percent to his wife out of the \$96, you know what his pension would be now?

Mr. KRAMER. You are talking about a reduced benefit?

Mr. PALMISANO. To get back to your question, your question was what causes inflation? You are asking us laypeople what causes inflation. We have millions of experts right here in Washington that don't know what causes inflation themselves, and they don't know how to find the cure for it. And you are asking us laypeople.

I think you are silly asking me, a layperson, what causes inflation. I really think that is a silly question to ask people like us, when you have all kinds of experts here that don't know the reason for it, or how to cure it.

Mr. KRAMER. That is part of the problem.

Mr. PALMISANO. You fellows are the ones who have to get on the ball down here, find out what is causing it and find a cure for it.

Mr. THOMPSON. Any more questions?

Mr. SUTHERLAND. May I say one word. You know, everybody is either a part of the problem or a part of the solution. The problem is ours. The solution must be done by you people.

If you think about it in the proper way and respect old age and everything else, and the position we are in, and the cost of living, you will certainly just give us the privilege of asking our union to negotiate for us.

That is all we need, sir. If we get that we are in heaven.

Mr. KRAMER. I couldn't be more sympathetic with you in terms that I realize very clearly how inflation is impacting on your ability to make ends meet.

But in comment to your statement—and this is a little bit beyond the issue—but I would only say as an elected representative I would hope that we would take into consideration what your thinking is.

I don't know that anybody in this room feels—I certainly don't—that I have the ultimate repository of all wisdom. I am very interested in the average person's thinking on a particular subject because they often have a lot more insight in my experience than many of the so-called experts do.

Mr. SUTHERLAND. Thank you, sir.

Mr. THOMPSON. Gentlemen, thank you very much.

Our next witnesses will be introduced by our colleague, Representative Gene Atkinson of Pennsylvania.

I might say to you gentlemen, constituents of Representative Edgar, he is very interested in this legislation but is otherwise engaged today.

Mr. SUTHERLAND. He is indeed, thank you.

Mr. THOMPSON. Mr. Atkinson?

STATEMENT OF HON. EUGENE V. ATKINSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. ATKINSON. Thank you, Mr. Chairman, members of the committee staff.

I do not have a formal statement this morning, but am appearing before the subcommittee to introduce several of my constituents from the 25th District of Pennsylvania.

As the subcommittee knows, I have introduced legislation identical to that introduced by the chairman and others to provide that the duty to bargain collectively under the National Labor Relations Act includes bargaining with respect to retirement rights for retired employees.

I strongly support such legislation and urge the committee to report legislation to the floor.

In heavily industrialized areas like Pennsylvania's 25th District, where on-the-job and retirement economics are heavily influenced by collective bargaining, adding additional bargaining rights to the NLRA could have an important influence on the economic well-being of thousands of citizens.

The citizens I am privileged to introduce today—and I want to thank the subcommittee for its courtesy in extending the invitation

to these citizens—are retirees who know firsthand about the problems facing older retirees and who have plans for solving these problems, plans that can be implemented through the collective bargaining process rather than through more Federal programs and larger deficits.

While many steel companies on whom these steelworker retirees depend for pension benefits have been willing to negotiate concerning retirees' benefits, the retirees have no legal right to negotiations. Such negotiations could be terminated at any time.

Planning for long-range objectives is difficult at best in this environment. For such retirees, cooperation with the union is essential and, in my estimation, the overall bargaining process would be strengthened by granting bargaining rights to retired employees.

Mr. Chairman, it is my honor to introduce to the subcommittee Mr. Louis De Sena, president, and Mr. Frank Kromerich, financial secretary of the Philip Murray Retirees Club, affiliated with Steelworkers Local 1211, a union my father, John T. Atkinson, served as president a number of years ago.

The Philip Murray Retirees Club is a very active civic organization in my hometown of Aliquippa, Pa. Both Mr. De Sena and Mr. Kromerich have long been active in union and civic affairs and Mr. De Sena is the past president of local 1211.

They are accompanied by Mrs. Melina Belfiore, the widow of a retired steelworker, from Baden, Pa. Mrs. Belfiore has been especially active in seeking increased benefits for many older widows of retirees who are left with few benefits, and in some cases no benefits, under current benefits arrangements.

It is a pleasure to accompany these hardworking and dedicated citizens here today. I have asked them to discuss the specific problems of many retirees and widows so that the subcommittee will have a clearer picture of the problems faced by these citizens who spent many years helping to build our Nation and our Nation's economy into the system from which we all benefit today.

I thank you very much for the time, Mr. Chairman.

Mr. THOMPSON. We thank you very much for your interest, and all the time you have taken in this matter.

Mr. De Sena, would you like to proceed.

STATEMENT OF LOUIS DE SENA, PRESIDENT, AND FRANK KROMERICH, MEMBER, PHILIP MURRAY RETIREES, UNITED STEELWORKERS OF AMERICA LOCAL 1211, ACCOMPANIED BY MELINA BELFIORE, WIDOW OF RETIRED STEELWORKER

Mr. DE SENA. I am Louis De Sena. I have been a steelworker for 43 years of continuous service, 1934 through 1977, in the Rod Mill Department of the Aliquippa Works, Jones Laughlin Steel Corp.

My fellow officer, Frank Kromerich, has worked for 45 years of continuous service, 1928 through 1973, in the Welded Tube Department of the same company.

We thank you for the opportunity to address your committee on the issue of collective bargaining for retired employees.

We have two articles on the pension problem that have appeared in the Aliquippa Local 1211 Steelworker monthly edition. It has

14,000 circulation and covers the Beaver Valley area plus a few thousand extended countrywide to universities and other unions.

Local Union No. 1211, USWA, is the largest steelworker local union in Pennsylvania with a membership of 10,000 employees. In the interest of time, we will not read them, and submit them as part of the record.

Our retirees club has a growing membership of 900 members composed largely of steelworkers, plus members from all stations of life. We conduct regular monthly meetings that enjoy active membership participation. The two above-mentioned articles and the following testimony is mostly derived from our monthly meetings.

The most discussed and heated topic is, of course, the erosion of pension benefits and the dire need for money improvements, especially for the retirees of the sixties and early seventies.

Of equal heat is the topic of the widows, who virtually receive no moneys except when social security benefits come into play. There are many widows in our area.

Following are earnings examples of a retiree and widow for the year 1969: The steelworker retired at age 65, 39 years of service, his 1968 yearly income was \$7,200. He received a pension of \$227 per month, which amounts to about 37 percent of his monthly earnings. In 1979 this \$227 amounted to about 12.5 percent of his would-be earnings of 1979. That means he is making one-eighth of the money he should make in order to pay his bills.

Another steelworker passed away at age 60 whose 1968 earnings amounted to \$8,200. His widow was 52 years old and received \$120 per month from the steel company under a spouse survival option—rarely taken. She was forced to take a job in a restaurant to make ends meet.

The above two have homes that required upkeep, improvements, new appliances, replacement furniture, gas bill, electric bill, water bill, sewage bill, telephone bill, garbage fee, evergrowing school taxes, borough taxes, county taxes, house insurance, home furnishing insurance, inflated prices for the numerous household supplies that include food and clothing.

Then there is the necessity of an automobile with its car insurance, operator license, license plate, semiannual inspection, tune-up, oil change, grease job, rip-off repair bills, and the still climbing \$1 per gallon gasoline. Every several years a change in cars, also.

The health care of doctors bills, expensive brand name prescription drugs, medicare payments, deductibles and the 65-special monthly payments. Don't forget hearing aid, false teeth, eyeglasses, chiropractor and various examinations.

All of the above are at the inflated prices of 1979 and not of 1969, when the fixed income was determined. Oh, yes, let's not forget our unrelenting inflation.

Currently in Beaver County our school system is crying about inflation and the need for more tax money to meet their expenses. They are seeking reassessment of property value that was last assessed in 1959. This will triple the valuation of property.

The majority of retirees own property and constitute the largest segment of property taxpayers. They will get hit real hard by this anticipated tax increase.

Not only does the property taxpayer have to bear the brunt of the current inflation but they have to pay the school system's inflation expense also, in spite of the fact they don't receive any benefits or services from the school system.

Everything and everybody is brought up to par with 1979 values except those on fixed income who certainly need, at least, to come within look-see distance of this would-be 1979 earnings.

Everything and everybody keeps up with inflation through cost-of-living increases, price increase and pay raises, but the buck literally stops with those on fixed incomes.

The foregoing is a hasty recollection of expenses the retirees and widows must meet as part of their daily lives. The point we want to make is that they are subject to the economic and health problems the same as active people, if not more so.

It doesn't seem to be realized by the powers that be who control their economic conditions. Like Shylock, in the Merchant of Venice, they also are humans.

Out of necessity our retirees club is unequivocally in support of the bill amending section 8(d) of the NLRA by inserting "including retirement benefits for retired employees" that will provide collective bargaining rights for retired employees.

In addition, we are in support of membership rights to be maintained by retirees. The reason we submit this need is due to the reluctance of our international officers (USWA) to permit us to retain membership within the union. The reason they put forth is that the U.S. Supreme Court prohibits retirees' membership. We find this highly incredible.

However, be that as it may, we certainly wouldn't want to jeopardize the legislative approval of the foregoing amendment to the NLRA by pushing the issue. We will wait for the membership issue at some future time because we are of the conviction that representatives of any group should be held accountable for their actions or inactions by the group they represent. Anything to the contrary would be antidemocratic and not in keeping with the American way of life.

Getting back to the amendment, it was several days ago that we were informed that our pensioner agreement is a permissive instrument that can be unilaterally changed by either of the parties. We don't know, but there certainly will be a rebellion among we steelworker retirees if it is so.

Does anyone believe that we retirees will stand idly by while one of the parties cuts away any of our benefits? However, we will pursue the legitimate course of action available.

The amendment must pass so that corrective action can be taken to give credibility to pension benefits. As it stands now, the pension plan is a shameful farce with its self-destruct lack of protective features. Labor-management can project inflationary trends and should provide protective features.

There are many retiree abuses that require attention. For example, we retirees know absolutely nothing about the funding of pension moneys, notwithstanding ERISA's requirements for information releases by the company.

How much per man-hour is put into the fund. How many man-hours? What fund? Where? Who controls it? The cost? Interest accrued? How many retirees, and so on.

After all, it has been reported that there is \$500 billion in pension funds, and it appears to be the most secretive fund ever put together. We are sure that the committee is aware of needed corrective action for the retirees and widows and we won't continue in that vein.

Yes, the Aliquippa Philip Murray Retirees Club supports the collective bargaining rights for retirees amendment, and it is a step in the right direction. It is desperately needed.

We must be permitted the right to make certain that pension benefits are good and true. The retirees and widows are deserving of fair and just treatment which they are not receiving nowadays.

Thank you.

[The material submitted by Mr. De Sena follows:]

ALIQUIPPA PHILIP MURRAY RETIREES CLUB,
Aliquippa, Pa., July 23, 1979.

HON. FRANK THOMPSON, Jr.,
Washington, D.C.

DEAR REP. THOMPSON, Jr.: At the July 18 Hearing conducted by your Sub-Committee on Labor-Management Relations, you requested more information regarding the statement on the top of page 3 in re the U.S.A. leadership's reason for the prohibition of Retirees membership—the following is submitted:

Inclosure No. 1—Senior Council Resolution.

Inclosure No. 2—Ltr to Int. Officers (voice & vote).

Inclosure No. 3—Ltr from Int. Treas McKee.

Inclosure No. 4—Ltr from Int. V. P. Odorcich.

Inclosure No. 5—Art. on "Voice & Vote".

In addition . . . at the LU No. 1211 Annual Banquet (10-28-78) in Aliquippa honoring 200 newly retired members of the Local Union . . . Treas. McKee and I were invited as speakers.

Later, McKee and I discussed the Retiree membership issue. He alleged that the U.S. Supreme Court decision prohibited membership status for Retirees. To which I replied with a B.S.; and followed with the 1949 pension negotiations plus the rights of organizations to determine eligibility for membership.

Hoping that the above is what you wanted.

Again, thank you and your Committee for the honor of addressing your Committee. Best Wishes.

Respectfully,

LOUIS DE SENA, *President.*

ALIQUIPPA PHILIP MURRAY RETIREES CLUB, RESOLUTION FOR SENIOR COUNCIL

Whereas, The age retirement restriction has been changed by law in order to prevent a national waste of human resources; and

Whereas, Business concerns are utilizing their retired executives as consultants; and

Whereas, That a steelworker's economic life does not end with retirement; and

Whereas, A steelworker retiree's pension agreement is still part of Union-Industry Negotiations; and

Whereas, Problems of Retirees are known best by the Retirees; and

Whereas, Experienced retirees are singularly qualified to determine priorities of pension items for resolution; and

Whereas, It is a waste of steelworker human resources to exclude retirees from Union policy making; Therefore be it

Resolved; That the 1978 Steelworkers Convention establish a Senior Citizen Council composed of representatives chosen by and from Steelworker Retirees Club to be seated with the same privileges as other representative delegates and that the clubs be affiliated with the International Union.

Adopted by the Executive Board of the Aliquippa Philip Murray Club.

ALIQUIPPA PHILIP MURRAY RETIREES CLUB,
Aliquippa, Pa., September 6, 1978.

To Lloyd McBride, Frank S. McKee, Joseph Odorcich, Walter Bachowski, James Coyne, and Paul Lewis:

Our Aliquippa Philip Murray Retirees Club conducted its regular monthly meeting on September 3, 1978. At this meeting several speakers discussed the need for our Retirees Club to initiate a move to seek membership for retirees within the Steelworkers Union.

The mood of the members was, that our Steelworkers Union—to which many sacrifices were made by retirees—had simply 'thrown the retirees out in the street' and left them to fend for themselves.

The mood was the result of resentment toward the union in that the retirees are denied a voice in retirees' problems and a vote to hold elected officials accountable for their actions or inactions. This 'Voice & Vote' denial was heatedly brought out.

Consequently, a motion was duly approved by the membership directing our Retirees Club Executive Board to pursue a course of action that will provide for all present and future retirees to remain as members of the United Steelworkers of America. The unanimous passage of this mandate was greeted with standing applause!

As President, let me assure you and all other International Officers that the Executive Board of the Aliquippa Philip Murray Retirees Club personally dedicate ourselves to this mandate.

May we have your comments on this?

Sincerely yours,

LOUIS DE SENA, *President.*

UNITED STEELWORKERS OF AMERICA,
Pittsburgh, Pa., September 13, 1978.

LOUIS DE SENA,
President, USWA Aliquippa Philip Murray Retirees Club,
Aliquippa, Pa.

DEAR BROTHER DE SENA: The Constitution of the United Steelworkers of America does not provide for voice or vote to retirees at local union membership meetings since it calls for active participation by duespaying members only. The intent of this provision was certainly not to close the door on our retired members but to make certain that "outsiders" were barred from taking any part in the local's affairs.

I am sure that you realize that one of my prime interests is seeing that the Steelworker Old Timer Concept becomes a national program for all our retired members and I am working diligently to get this program started.

Until such time as the Constitution is amended to provide for voice or vote by a retired member in the affairs of a local union, the provision must stand.

In the meantime, I have heard many complimentary things about your retiree club and I hope you will continue to be a source of aid and assistance to your retired members.

Fraternally yours,

FRANK S. MCKEE,
International Treasurer.

UNITED STEELWORKERS OF AMERICA,
Pittsburgh, Pa., September 27, 1978.

Mr. LOUIS DE SENA,
President Aliquippa Philip Murray Retirees Club,
Aliquippa, Pa.

DEAR BROTHER DE SENA: When the day comes that the United Steelworkers of America "throws the retirees out in the street", that is the day I want nothing to do with a Union of that type. Let me assure you that, if there is any way we can accomplish what our retirees want and still carry out our responsibilities to our membership. I'll join you wholeheartedly in such a venture. However, there are a few difficulties we have to overcome and, to say the least, they are not small.

For instance, a Supreme Court ruling which says, in effect, that the Union has no right to bargain collectively for their retirees after they leave the active employment of the company. Also in the fabricating plants, too often, when it comes down to the nitty gritty and the issue is to strike for more money for our retirees, our

younger people will not strike for that issue. I know this first hand having been involved in a few of these situations lately and I was very ashamed of our people. There is another matter which must be completely thought out so that we do not fall into the same pitfall that the United Mine Workers did because a corrupt administration took advantage of the pensioners' vote. As a result, great disgrace befell that mighty and proud Union.

In closing, I might add that we have not forgotten our retirees as you will find out as soon as we start implementing the Steelworkers Oldtimers Foundation for which we recently received a federal charter. At that time, we will be calling upon all of our retirees to put their shoulder to the wheel to make it a smashing success as we have done in Fontana, California in the last few years. I know you will respond in the same fashion you did in helping to build, not only, this great Union, but also this great Country of ours.

God bless all of you and give you many years of good health so that we can bring this dream to fruition together.

Sincerely,

JOSEPH ODORCICH, *Vice President.*

[From Local 1211 Steelworkers, October 1978]

PHIL MURRAY RETIREE CLUB

(By Louis De Sena)

VOICE AND VOTE IGNORED

Prior to the Steelworker Convention held in Atlantic City (Sept. 1978) the Aliquippa Philip Murray Retirees Club submitted a "Voice and Vote" appeal to the International Officers for consideration. In addition, a duly processed resolution for the establishment of a Senior Council was submitted for consideration at the convention. They were ignored.

The main thrust of these two items was to permit present and future Retirees to remain as members of the United Steelworkers. The reason is that our pre-1974 Retirees are having a rough time meeting current living expenses due to the deterioration of their pension payments. The Retirees blame this on inflation and damn poor consideration of needed pension items by the Union and Company at the bargaining table.

Pension items to be negotiated is the responsibility of the International Officers, for which they should be held accountable. And, the only way they can be held accountable is by permitting the Retirees the right to vote when the International elections are held. Local Union officers are not responsible for pension items, therefore, this writer does not believe Retirees should vote at the Local Union level.

CHERISHED TRADITIONS

In our American way of life, a person is being represented by a concern, agency, union, and etc., generally possesses ways and means to keep their representatives in line. Our elected International officers ignore this principle in spite of the proclamation in the Steelworker Constitution (Article II) that patriotically states: " * * * to protect and extend our democratic institution * * *" plus " * * * and to perpetuate and extend the cherished traditions of democracy * * *".

MEMBERSHIP OBSTACLES

This writer has been reminded by the International of three (3) difficulties to overcome in order for Retirees to remain as members.

1. That the Supreme Court ruled that the Union has no "right" to bargain for Retirees. Our reply: We won the right to bargain for Retirees' pension items in the 1949 negotiations. More important, what the heck does that have to do with membership rights?

2. They cite the problems the United Mine Workers have with their Retirees. Our reply: What are the problems? Did the Mine Workers Retirees do something wrong? If they did, does that mean that Steelworkers' Retirees will also commit a wrong?

3. They mention that our young Steelworkers will not support the Retirees. Baloney! We Steelworkers Retirees were some thirty years younger in 1949 when we fought for a Pension Plan.

TWO (2) NO-NO

It has been reported that by 1970 the amount of Pension money that will be held in trust by financial institutions will amount to \$5,000,000,000,000. The Pensioners don't have a damn thing to say about this tremendous amount of money. FIRST: Retirees are not permitted to say one word about negotiable pension items, and SECOND: The Retirees are not permitted to say a damn thing about the one-half trillion dollars that belong to the Retirees!

THE RETIREE VOTE

Retirees constitute 10 percent of the population in the United States. A high percentage of the Retirees go to the polls every election. The International leaders of the Steelworker Union is seeking to organize and capture this voting strength. Is this what the officers interpret as the meaning of the constitutional objective "cherished traditions of democracy"?

SHOWCASE DIGNITY

The Retirees are tired of hearing about how, with dignity, the Retirees fought, sacrificed, suffered and etc. for the right to be a member and represented by the Union.

Isn't it a sad commentary that today—these same individuals (Retirees) are demanding the right to be a member of the union they built!

PHIL MURRAY RETIREE CLUB

(By Louis De Sena)

RETIREEES ANGRY

At the September monthly meeting held by the Aliquippa Philip Murray Retirees Club a motion was duly proposed directing the Executive Board to give immediate priority and attention to a course of action that will provide for present and future Retirees be permitted to remain as bonafide members of the United Steelworkers of America.

The various speakers on the motion gave emotional comments on their rapidly diminishing pension payments. They blamed it on inflation, and mostly, on the Union and Management negotiations. The mood of the Retirees was that the Union and Management had "thrown the Retirees out in the street" and left them to fend for themselves.

INFLATION

Inflation has been with us since the early forties (World War II) and the complaints have been growing louder as the years have gone by. Today, the country is in deep trouble and no way to stop the damaging inflationary trend. It has damaged the purchasing ability of the elderly who are on unprotected fixed incomes. These incomes have shrunk in size of the dollars and in the value of dollars. That is, if these same Retirees who retired in the sixties would have retired today they would receive 500% more dollars—plus the fact that the dollars he received in the sixties has suffered a terrific drop in value since that time. They may be called a double-dip depreciation as the Retirees are faced with meeting the current high prices with less dollars that have less purchasing value.

GOOD AND TRUE PENSION

The Pension plans is the result of tough negotiations in 1949. It is a valuable fringe benefit and should share top priority as a benefit. Its value can easily be realized by the thought * * * What would we do if we didn't have a pension plan? Of course, we would fight for one. Certainly we would want it to be "good and true" and not a "fleeting" plan like we have at the present time. The only way it can be a "good and true" plan is with a protective automatic adjustment feature that would absorb newly negotiated improvements.

Certainly, the disgusting \$15 per month cost of living increase for the pre-1974 Retirees would not have occurred if our pension plan was "good and true." This \$15 increase covers the period 1974-1980. My goodness, that increase was wiped out a long time ago! The Retirees denounced it as a hell-uva practical joke!

LEFTOVERS

Since the Pension agreement, pension items have always been placed on the bargaining table. With the exception of the 1974 negotiations, pension progress has been slow and meager. As a matter of fact, pension items were at the bottom of the priority list. It certainly was not given the consideration as other items. Pension needs were unfairly treated and usually received that part of the negotiated dollar that the negotiators couldn't figure out how to allocate to other items. It was a file 13, wastebasket procedure that ended up as a pension benefit. Maybe these are harsh comments but how else can you explain the depreciated pre-1974 Retiree pension payments?

VOICE AND VOTE

The Steelworker's economic life does not end with retirement. He is still dependent on negotiations. The value of a pension is not realized until he enters the ranks of Retirees. Thirty years ago, our Retirees were young workers and fought for a plan. Today, the active employee must protect and develop a good and true pension for the coming future. For, the pre-1974 pension payments have gone down and sure as the good Lord made green apples, the post-1974 payments will go down also.

At the present time, the Pension plan requires immediate attention and that is why the Retirees at the meeting are demanding action.

The Retirees want a VOICE in the negotiating of pension items as to their priority and a VOTE to hold the responsible elected officers accountable for their action or inaction.

[From the Aliquippa Steelworker]

PENSIONS GOOD AND TRUE

(By Louis De Sena)

The time for the negotiations of a new Labor Agreement is here. And, it appears that the "Life Security Program" (LSP) is the No. 1 priority.

Steelworkers have always desired a fair, decent, and respectful Pension Program. Certainly this meant that, as Retirees, they would receive a GOOD and TRUE pension; . . . "GOOD"—in a sense that the benefits would be substantial, and . . . "TRUE"—in a sense that the benefits would remain constant.

It is no secret that the pension benefits of the Retirees of the "fifties" and the "sixties" have eroded to undeserved and unfair low substandard living conditions. Already, our Retirees of the early "seventies" are feeling the effects of this speedy erosion of pension benefits. It will continue into the future—if not corrected.

The vast majority of the Retirees are the true Founding Fathers of our Union. There are only a handful of active employees left in the Steel industry who have experienced the "Amalgamated" organizing failure and the "S.W.O.C." success. They have built our Union from nothing to a strong healthy Union on a patient step-by-step basis. They consisted of "Leaders"—who depended on the active "Militant Unionists".

There has been countless proud references to the many struggles of the Steelworker. The Retirees, no doubt about it, appreciate the verbal proud references—but, *adulating words without true gratitude do not reflect sincerity.*

Our Retirees were men of action. The fruits (raising the standard of living) of their action extended to the entire world. They experienced many continuing personal and family sacrifices to build a strong healthy Union.

In all these struggles, our Retirees were faithful to the Union with an intense, religious loyalty and dedication;

When our Union leaders directed a strike, our Retirees quickly re-acted with the battlecry "Moost be Strike" and did what they had to do;

When the Retirees were active employees it was physically hazardous for someone to openly speak against the Union;

When an employee was discovered as not belonging to the Union, he was branded with the (Scarlet) term—"Stool-pigeon";

When the election for the modified Union Shop to replace the Maintenance of Membership Shop was held in 1952—well over 80 per cent of the employees voted in favor of the Union Shop;

In the days of our Founding Fathers, there were two things that nobody in the steel community dared to do—and that was, to disparage the Union and/or "Pappy" (FDR).

Our Retirees were respectful and proud of their Union. And, in spite of having large families to support, mortgaged homes, no savings, no relief programs, poor sub-standard wages, depression, recessions, financial weak Union and etc. . . . they were determined and had the guts to fight the powerful Steel industry and allies for decent improvements and needed break-through benefits.

The Steel industry is also indebted to the Retirees. . . .

Steelworkers improvised and suggested ideas to improve upon the "horse-and-buggy" conditions of work. It was not the book-educated silver-spooned engineers that brought about the improvements—it was the Steelworker with his many years of (educational) work experience gained through daily hard actual physical work that brought about the efficiency of today.

The Union and the Steel industry are the prime beneficiaries of the sacrifices and fruitful efforts of the Retirees. The Retirees deserve the respect, decency, and gratitude from both beneficiaries. Both should be morally and deeply indebted to our Retirees.

Presently, the pre-1974 Retirees feel deeply hurt not only in a "physical" sense because of the erosion of their pension benefits. . . . but mostly in a mental sense that their life-long dedication with sacrifices to the cause of the Union . . . and . . . their proud efforts to the welfare of the Steel industry, has not been truthfully or fairly appreciated. For, we are dealing with faith and trust. This writer feels that their faith and trust has been shaken because the pensions were part "GOOD" at the time of retirement but certainly not "TRUE" as time went on.

The Retirees deserve and are entitled to a GOOD and TRUE pension. . . . not only for those in the future but for those in the past. The injustice of their present eroded pension should be corrected and brought up to date. The present fleeting pension benefits of "here today and gone tomorrow" in the name of fairness, decency and respect should be corrected.

This writer suggests that a form of an Annuity Automatic Adjustment provision in our pension program be agreed to by the Union and the Steel industry. A built-in erosion proof provision will insure a GOOD and TRUE respectful pension program.

The Retirees deserve and should be (all) honored with a GOOD and TRUE respectful pension program . . . not, only, with proud references.

Mr. THOMPSON. Thank you.

I just have one comment. It is hard for me to believe, unless the union is hiding the *Pittsburgh Plate Glass* case, that there is a prohibition or that it is in any way illegal for you to remain a member of the union in one or another capacity. That just is not the law.

Mr. DE SENA. I have been told that by two members of the International Union.

Mr. THOMPSON. Mr. Kildee?

Mr. KILDEE. On that, in the UAW, which union I am very familiar with, the retirees are members of the union. So there is clearly—

Mr. KROMERICH. Not the United Steel Workers of America.

Mr. KILDEE. That is probably an internal matter to your union.

Mr. DE SENA. I have the letters confirming the fact, by the International Officers, it was the Supreme Court decision of 1971, with the *Pittsburgh Glass*, that prohibits us from becoming members. I don't believe that. I told them so to their face.

Mr. THOMPSON. I would like to see copies of those letters for the record.

Now, it is so that they are not required to bargain for you if they don't want to. The steel companies are not required to bargain. This legislation would make it mandatory that they do bargain. It doesn't mean they are going to come to an agreement.

I might point out that over the years I have caused two amendments to the act relating to collective bargaining. The first was to make mandatory as a subject of bargaining under section 302(c), I believe it is, the establishment of day care centers for the children

of working mothers. The other one, which we thought would be used much more than it has, makes prepaid legal services a subject of mandatory collective bargaining.

I don't know that there have been more than a dozen or so negotiations for day care centers, and they are mostly in the garment industries in the cities, where the greatest percentages of workers are women with children, and many with grandchildren.

There have been relatively few prepaid legal bargaining agreements. They are not by any means in themselves inflationary. They are simply something that is a mandatory subject to put on the table.

But we would appreciate copies of your letters to the union and your response to that point.

Mr. DE SENA. Let me add this. One of them is in writing, but the other one is a face-to-face encounter with Mr. McKee.

Mr. THOMPSON. Whatever you have.

Mr. DE SENA. I do have a copy.

Mr. THOMPSON. Is this charming lady going to say something to us?

Mrs. BELFIORE. Yes, I am. Everybody came with a speech but me. They wrote me out a piece of paper, and Lord help me, I could have never followed it.

All I have to say is this. When my husband retired, he got a pension. I didn't get anything. I am a lady that likes to stay home. I don't like to go to work. I have to go to work.

Now, the ladies that I represent, we don't belong to no clubs. We are just everyday old ladies. They sent me here, if there is any possible way that you can help us.

Now, this is what I cannot understand. Can I mention a union, please?

Mr. THOMPSON. Surely.

Mrs. BELFIORE. All right.

Mr. THOMPSON. You can mention anything you want.

Mrs. BELFIORE. No, I don't want to get myself into trouble, either.

Mr. THOMPSON. You won't.

Mrs. BELFIORE. Oh, yes. I do want to thank you for letting me come to your House. All right.

When the union was bargaining with the mill, my husband had 47 years in the mill, and there was people that had 50 and 55. This is what I would wish someone would explain to me.

Say, for instance, Mr. Kildee, you are working for 47 years and this man here is only working for 35. They pick you up and give you a pension. Now, your wife is excluded. I mean, they forget about her. She is out. They pick him up and they give his wife that God forbid when he dies she gets half of his money.

Does that sound right to you? It don't sound right to me.

Mr. THOMPSON. Isn't that the choice of the man when he is working?

Mrs. BELFIORE. We didn't get that choice, no. We didn't.

Now, they say that we did. Now, my husband was a man that was a little bit, you know, Italian. But me, I am Italian, too, but not educated. I only went to the sixth grade. But if he were to come home and told me that, being that he was a little older than me, 18

years, I would have said, OK, you know what, how about putting \$50 away for me?

But with a \$100 pension, where was we going to go?

Mr. THOMPSON. What you are saying is that your husband was the padrone?

Mrs. BELFIORE. Yes, a beautiful man.

Mr. THOMPSON. I understand.

Mrs. BELFIORE. Now, when he died, he always thought that I would get something. I could never put it through him that when he died I was out.

Mr. THOMPSON. Did he die a natural death?

Mrs. BELFIORE. Oh, yes, God love him. Now, this is what has been bugging us women. Now, let me give you another headache.

We have not mentioned the men that are living today or getting a pension, their wives are living, and when they die, they are not going to get anything. You understand what I mean? They are in the same category that I am, only they are still living.

Can you help them, that if their husbands die they could be picked up at least?

Boy, I am really giving you a job. Leave it to me.

Mr. THOMPSON. The only thing that we could do—and I think Mr. Kildee would agree with me, and Mr. Erlenborn if he were here—is to make it possible for the workingman to elect to provide for his widow. That is his choice.

Mrs. BELFIORE. Can I answer you, then?

Mr. THOMPSON. Sure.

Mrs. BELFIORE. When my husband married me I was an old maid of 39 years old. His wife had went through his money. When I married him, he didn't have nothing. So, in those 20 years that I was married to him, I couldn't save a dime. But we did raise two beautiful children—does that count—and a wonderful granddaughter.

Mr. THOMPSON. That is great.

Mrs. BELFIORE. Thank you.

Mr. THOMPSON. I bet they ate well, too.

Mrs. BELFIORE. Yes, they ate, but it all went on me.

Mr. Kildee and Mr. Thompson, I mean seriously, can't us women be helped? I mean, I don't want to ruin the young people. Remember one man says, I know, you know. No way. If I had to take from that young man over there a dollar from him, I am not a woman that I want to do it.

Mr. THOMPSON. You take it and we will split it.

Mrs. BELFIORE. No. If I have it, I will be glad to share with him because that is the future of tomorrow. My future, my people, we are done. For us to tell him what to do with this beautiful country, no. I stand back. But right now, there is a little loaf of bread that I love to get into, even if it is a smidgen, like my granddaughter says.

Mr. THOMPSON. I hope you get it. You are a lovely lady.

Mrs. BELFIORE. Thank you, and I was scared.

Mr. THOMPSON. Well, Kildee is frightening.

Mrs. BELFIORE. No, he is not. He is beautiful.

Mr. THOMPSON. You never know. Kildee—he is a revolutionary. Yesterday I thought he was going to throw a bomb.

Mrs. BELFIORE. No.

Mr. THOMPSON. You are lucky that you are Italo-American and not British.

Mrs. BELFIORE. No. I don't think so. He doesn't look like that. But a lot of women back home—with the medicine. Then another thing, when my husband retired. I asked the mill, all right, you don't give me a pension.

As God is my judge, I asked if they would only give me the Blue Cross and Blue Shield. They said no, you are done. That was it.

Mr. KILDEE. May I comment, Mr. Chairman. I certainly agree with you. Under the voluntary arrangement between General Motors and the UAW, my father retired in 1950, and the last contract, or the one before at least, very recently, the UAW in negotiation with GM picked up at least the Blue Cross-Blue Shield for the widows.

That has made my mother's life much easier. She had to carry it herself. So it was really a very good thing. But that is voluntary. GM unilaterally could withdraw that at any time now, when the new contract comes up.

But I certainly would feel if we made this a matter of negotiations then we could lock that part into law. We cannot lock any benefit into law, but we can lock the right to negotiate.

Mrs. BELFIORE. All right.

Now, let's go back to the men that are living, retirees from 10 years back. Is there any possible way that you can put a law in—you know, I have a sister-in-law. Me and her does not get along. But believe me, if she can get a dollar, God bless her. If her husband died, she is in the same boat I am. She will not get anything.

Is there any way that you can help the retirees that are living today—you understand what I mean—and they should die, that these women are out working because the husband isn't giving enough to them?

Like me. I had to go to work, too. I don't like to go to work. I love staying home, baking bread, baking pies, raising a family. Mr. Kildee, did you ever see anybody as crazy as me?

Now, you see, they wanted to make me a speech.

Mr. THOMPSON. I wish you brought some of your bread with you.

Mrs. BELFIORE. Come out and visit. You know, in 5 years since my husband died I never baked bread. My daughter said when will you make the little twists. I will make them for her now that I have been here.

Mr. KILDEE. You raise the whole question of the wife's right to her husband's earnings. I think that is a subject that should be addressed because often the woman has borne her share of the work by tending house and the husband has brought the wages.

There is the whole question of who really earns that wage. I myself feel that the wife has some claim upon all the benefits that the husband has accrued.

Mrs. BELFIORE. God bless you.

Mr. KILDEE. But that is outside the jurisdiction of this committee.

Mrs. BELFIORE. Thank you, Lord. For 10 years I have been fighting this. There is a man in Pittsburgh by the name of William James. Me and him has been battling. I would say, "Bill, some-

thing moved me, let's start." I would write to the paper, go to the radio, always by myself. Then I would say, "Lord, please let it be me."

I am not a fanatic religious person. I just believe the way I believe. Let me be, because I am not educated, it is too hard for me. I would tell Bill, "Bill, I am dropping it." God love him, he would say, "OK, we drop it."

Three months later in the middle of the night something would stir me and say, "Melina, you have to keep on going." The woman I live with, in fact I work for her, I would tell her, "Mrs. Bell, we are at it again. Something moved me last night, but I don't want to do it."

A couple of months ago I called Bill again. I said, "Bill, we are on it." I met this wonderful man, Gary Myers. He put the bill in for me and us, and I got to Gene, thank God, through him, and you, and the Lord, we are here.

Now it is up to you to give 'em hell.

Mr. THOMPSON. Thanks. We will do that. I want to thank all of you.

Mrs. BELFIORE. Thank you. And come visit me. Let me know and I will make you bread. But no wine. Since my husband died there is no booze in the house, just coffee. Bring your own booze.

Mr. THOMPSON. OK. That is a deal.

Mr. ATKINSON. Mr. Chairman, just for the record, the two daughters and grandchild are here.

Mrs. BELFIORE. Yes. They are in the back. Paulie? Where is Tracy? They are out. She is half dago and half German and my granddaughter always says, "Grandma, I wish I was pure." She means Italian.

Mr. THOMPSON. Well, thank you all very much.

Mrs. BELFIORE. Thank you, and God bless you all.

Mr. THOMPSON. I wish everybody would just send women witnesses.

Mrs. BELFIORE. And see, I was afraid.

Mr. THOMPSON. As they say in the old country, arrivederci.

She may have even moved the hearts of the NAM, provided of course they have any.

Our next witness is Mr. Arnold Mayer, director of government affairs of the United Food and Commercial Workers International Union. I am not yet used to that name. It is now the largest labor organization in the United States, if not the world, isn't it?

STATEMENT OF ARNOLD MAYER, DIRECTOR OF GOVERNMENT AFFAIRS, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

Mr. MAYER. It is the largest in the AFL-CIO.

Thank you, Mr. Chairman.

Mr. Chairman, the United Food and Commercial Workers Union is the result of a merger of the Amalgamated Meat Cutters and the Retail Clerks International Union. The merger took place 1 month ago, and that is why the name is unfamiliar.

Mr. Chairman, I would like to put my statement in the record, if I may. Mr. Thompson. Without objection.

[The prepared statement of Mr. Mayer follows:]

STATEMENT OF ARNOLD MAYER, DIRECTOR OF GOVERNMENT AFFAIRS, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

My name is Arnold Mayer. I am the Director of Government Affairs of the United Food and Commercial Workers International Union (AFL-CIO).

The UFCW is the result of the recent merger of the Amalgamated Meat Cutters and Butcher Workmen (AFL-CIO) and the Retail Clerks International Union (AFL-CIO). The UFCW has some 1.3 million members organized in 700 Local Unions throughout the United States and Canada.

The UFCW and its Local Union have contracts with tens of thousands of employers throughout the food processing, retail sales, leather and shoe manufacturing, fur and other industries.

Mr. Chairman and Gentlemen of the Committee, the bill before you H.R. 1145, is short and simple, but the need for it is great. The welfare of millions of retired workers depends upon it.

Men and women who worked long and hard for the benefit of their families, their communities and their nation are today in desperate need because of the meagerness of their pensions. They require food stamp benefits and other welfare aid to survive.

Their pensions—negotiated by the unions which they helped to build and maintain—was adequate when it first went into effect and when these men and women retired. But because of the massive inflation of recent decades and years, the pension benefits no longer permit a decent livelihood—and sometimes they do not even permit survival.

This situation is galling and frustrating to unions, such as ours. We recognize our deep responsibility to these men and women. They fought; they strove; they suffered to build the Union.

Our Union negotiators seek to improve retirement benefits in contract negotiations with management. However, management may—and often does—refuse to bargain on benefits for retirees.

It is perfectly legal for management to refuse. The Supreme Court decision in the *Pittsburgh Glass Company* case of 1971 provides their right to refuse. In fact, union action to force management to bargain on that issue may be considered illegal.

During your September, 1978 hearings, Marie Dulski, President of our Local 770 Retirement Club in Los Angeles, California and Secretary-Treasurer of our Southern California Council of Retirees Clubs, gave this Committee an important and significant letter from Kenneth Edwards, president of Local 770. Mr. Edwards, whose Local Union had just completed a five day strike with retail employers in the Los Angeles area, wrote:

“ * * * Even in the final hours of negotiations before the strike, we were pleading the cause of the retirees—to no avail.

“ * * * Since negotiations for retirees is not a mandatory bargaining issue, appealing to the employees to make an adjustment for retirees based on merit or morality alone was useless. But we tried until the 11th hour! And we’ll try the next time as well. Meanwhile, we must direct our efforts continuously to the legislatures to make this a mandatory bargaining issue.”

I have repeated parts of Mr. Edwards’ letter because it states succinctly and well the actual experience which a union faces when it attempts to improve benefits for retirees. Frankly, we need your help to solve these problems.

We need legislation, such as H.R. 1145 to make pensions and other retirement benefits a mandatory issue of labor-management bargaining. The UFCW therefore strongly supports H.R. 1145 and we respectfully urge speedy action on it.

Mr. MAYER. I would like to take a few minutes to discuss two points that have come up this morning. One was the issue of the analogy with ERISA. The issue was raised whether the retiree legislation could be troublesome in the future, like ERISA has been, and require remedial legislation.

I think the analogy with ERISA is not valid. ERISA set very specific rules about what pension funds could and could not do. The retiree legislation does something that is very simple. It makes it mandatory that if one party in the collective bargaining process raises the issue of retirement rights, then the other party does have to bargain on it. It does not set the rules about what has to be

bargained on, what has to be arrived at, or even that the issue itself has to come up in bargaining.

So it is a much simpler situation and one far less likely to involve specific problems, as the ERISA legislation has.

The other issue that was raised was whether a union faces a conflict of interest in dealing with retiree benefits in bargaining.

In the first place, I think when the issue was raised, there was the assumption that there is x amount, a specific amount, that can be spent on the new contract. The reality in collective bargaining is that there is a range that is available. And how far up or down the range the final agreement goes depends upon many factors, among them the skill of the two sides of negotiators, the militancy of the union membership and so forth.

However, another factor has to be considered if there is a belief that there is a conflict of interest. And that is that in any negotiations the union faces different interests among its membership. For example, should there be an across-the-board increase of a specific amount or a percentage increase? Each approach benefits one part of the work force or hurts another part of the work force. Should there be a differential for skilled employees, and if so, how much? Even the issue of retirement benefits for those still working helps some and doesn't immediately help others.

So there are differences of interest in the bargaining unit on issues that are under mandatory negotiations today.

What I am saying is, if this legislation were approved, and we certainly hope that it will be, it would not add any new factor to negotiation other than this new issue in negotiations.

The way a union deals with these different interests is it does hold meetings, the membership does vote, and of course the final agreement once it is reached is subject to ratification in most cases.

That, Mr. Chairman, completes what I would like to say.

As I say, I wanted to discuss the two points which came up this morning.

Mr. THOMPSON. Thank you very much. I might say with respect to ERISA that I am very certain that Mr. Erlenborn, who had to leave, didn't mean in any sense to misinterpret. I don't think anyone understands that legislation better than he does with respect to the conflict of interest.

Mr. MAYER. I didn't mean to imply that, either. I just did not want not to let that point hang.

Mr. THOMPSON. Really if the question did arise, probably the very word pension or pension funds gives rise to the thought relating to ERISA and the causes and effects of it. But I thank you very much for your support of this.

Mr. Kildee.

Mr. KILDEE. I have no questions.

Mr. THOMPSON. Mr. Kramer.

Mr. KRAMER. No questions.

Mr. THOMPSON. Thank you.

Mr. MAYER. Thank you.

Mr. THOMPSON. Our next witnesses are Mr. Harold T. Coxson, director of labor law for the Chamber of Commerce of the United States, and Mr. Robert Bohan, the director of labor relations of the National Association of Manufacturers.

STATEMENTS OF HAROLD P. COXSON, DIRECTOR OF LABOR LAW, CHAMBER OF COMMERCE OF THE UNITED STATES, AND ROBERT BOHAN, DIRECTOR OF LABOR RELATIONS, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. THOMPSON. Gentlemen, I hope you understand I didn't mean to be unkind to your organization in my remarks.

Mr. BOHAN. Mr. Chairman, I just want to say for the record that the NAM does have a heart.

Mr. THOMPSON. We will take judicial notice. Please proceed as you wish.

STATEMENT OF HAROLD P. COXSON, DIRECTOR OF LABOR LAW, CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. COXSON. Mr. Chairman, my name is Harold P. Coxson, Jr. I am the director of labor law for the Chamber of Commerce of the United States.

On behalf of the national chamber, I wish to thank the subcommittee for this opportunity to express opposition to H.R. 1145 which would amend section 8(d) of the National Labor Relations Act to expand the arena of collective bargaining negotiations by making retirement benefits for retired employees a mandatory subject of bargaining.

The national chamber submitted a brief *amicus curiae* with the National Labor Relations Board, the Sixth Circuit Court of Appeals and with the Supreme Court in the *Pittsburgh Plate Glass Co.* case, which, of course, this bill would overturn. Then, as now, the chamber believed that mandatory bargaining on retirement benefits for retirees, instead of promoting stable bargaining relationships and industrial harmony, would introduce into collective bargaining an entirely new dimension of instability and chaos, to the detriment of employers, current employees and their bargaining representatives, retirees and the public.

For these reasons, as more fully explained below, the national chamber urges this subcommittee to reject H.R. 1145.

Collective bargaining, as it has been traditionally understood since the inception of the National Labor Relations Act, is an ongoing process for determining the wages, hours and conditions under which workers are currently employed.

While the benefits workers are to receive upon retirement are encompassed in the scope of the bargaining obligation, these benefits are in the nature of deferred compensation for services being performed when the collective bargaining agreement is negotiated. In this manner, the determination of wages and benefits represents the mutually agreed upon value of an employee's services made at the time those services are being performed, in the context of the prevailing economic facts of the business and with regard to the general wage and benefit levels then prevailing. Once that determination has been mutually agreed upon, and retirement benefits have been bargained for, earned, and become payable, the contractual obligation is protected by the NLRA, as well as by the Employees' Retirement Income Security Act, ERISA.

The question is not so much whether retirement benefits are mandatory subjects of bargaining under the act. It was settled long

ago that employers are under a duty to bargain with respect to pensions and other retirement benefits for employees currently employed. The issue raised by this bill relates not necessarily to the subject matter of bargaining but to the identity or composition of the employee group or unit for which bargaining is mandated by section 8(a)(5) of the act.

Thus, although employers currently are required to bargain with active employees regarding benefits to be received upon retirement, H.R. 1145 would extend that bargaining obligation, as defined by section 8(d) of the NLRA, so as to follow a worker into retirement. In this manner, retirement benefits would continue, *ad infinitum*, to be subject to mandatory renegotiation. The result would be a wide-open contingent wage-cost liability for employers and a chaotic, unstable bargaining relationship with current employees and their representatives.

It is not at all certain that this approach would be in the best interests of the retirees, and this subcommittee should be cautious of an overexpansive view of advantages to retirees of inclusion in the bargaining process.

Some of the potential consequences of making bargaining for retirees mandatory are the following:

One, the bargaining representatives could demand mandatory bargaining with respect to upgrading or downgrading retirement benefits of past retirees and call a strike of the current employees to enforce such a demand.

Two, the bargaining representative would be the sole and exclusive representative of the retirees; and, since the obligation to deal with the exclusive representative includes the obligation to deal with no other, the employer could not move unilaterally to improve benefits for retirees, and retirees could not individually, or as a group apart from the union, deal with the employer to improve their benefits.

This is precisely the situation which existed in the *Pittsburgh Plate Glass* case. In his dissenting opinion which later prevailed in the Sixth Circuit and the Supreme Court, NLRB member Sam Zagoria observed that stripped to its essentials, this is a case where a union charges an employer unilaterally offers an additional benefit on its health plan for past pensions.

Three, the current bargaining representatives of current employees could enforce this exclusive right of representation as to retirees even where the representative was certified at a later date and never at any time represented the retirees when they were currently employed.

Mr. THOMPSON. Mr. Coxson, may I interrupt you. And I don't mean to be rude. But as I read your statement today and listen to it and look at last year's testimony, I find it virtually identical. I wonder if it would inconvenience you if you would add to it or summarize it.

Mr. COXSON. I will be glad to. The statement is virtually identical, Mr. Thompson. Of course, your bill is also identical, and there haven't been any changed circumstances since our testimony last September.

I will be pleased to summarize. Let me give an example of the third point which we raise. An example would be where the union

currently representing employees in a bargaining unit is not the same one chosen by the retirees when they were actively employed. This raises several questions. Which union is the appropriate representative of the retirees? In some situations the retirees may have earned their pension during a period in which the majority of employees rejected collective bargaining representation. Is the present bargaining agent obligated to represent these retirees? If it does represent them, what is the extent of its duty of fair representation? Do the retirees have access to the National Labor Relations Board or the courts if they feel they have been unfairly represented? May the bargaining agent require retirees to comply with union security obligations adopted by the active membership?

For example, the Landrum-Griffith Act with its bill of rights for union members was enacted precisely for the purpose of placing meaningful control over union affairs, including negotiation of agreements, in the hands of the membership. But that statute regulates the relations between the union and its active members. It did not visualize the situation where a union would be given representation rights for retirees no longer actively employed and no longer enjoying active membership status in the union.

Mr. THOMPSON. That is very true.

Mr. COXSON. I would just like to touch on three other points and then quickly summarize the rest of the statement.

The fourth point. The current bargaining representative could enforce its exclusive representation rights even though the retirees have no voice in union bargaining decisions, in the election of union officers, in the selection or rejection of their exclusive representative, or in the ratification of agreements. For example, retirees would not have the right to vote on whether to ratify or reject changes in their benefit program.

In short, the union need have no fear of the consequences of disaffection among retirees.

Fifth, the employer could never stabilize or finalize his legal commitments to retirees or arrive at any firm forecasts as to the agreed value of services rendered by employees since his obligations periodically to renegotiate benefits for various classes of retirees would be perpetual.

Sixth, the representative presumably could demand bargaining to renegotiate retirement benefits, such as life and health insurance, and other things, for persons who had retired early without pensions—that is, before vesting, or on reduced pensions—although the terms on which they retired were agreed upon between the employer and the bargaining representative or between the employer and employee when he elected to retire.

These are not exhaustive of the types of problems which we think should be addressed and considered in this subcommittee and which could arise as a result of H.R. 1145. Also left unsettled would be such questions as: The right of retirees to select a separate bargaining representative, to institute a rival union petition or a decertification petition; the status of retirees under a union-security agreement and their obligation to pay dues; and the right of retirees to participate in a strike vote to initiate, continue or end a strike by current employees.

These questions have far-reaching implications for retirees and for active employees.

For example, if retirees are required to compensate the union for their representation at the bargaining table through the payment of dues and assessment, such costs could erode the financial benefits gained, particularly when such benefits are represented by increased health insurance coverage rather than an increase in monthly income.

Departing from the statement, and returning to the question about a potential conflict of interest, there is indeed, we believe, an essential lack of community of interest between current employees and retirees which, as a practical matter, could rise to the level of an actual conflict of interest. Since the retiree is no longer concerned with current wages or other employment conditions, his or her interests are necessarily limited to pensions or other retirement benefits, while the primary interests of current employees are immediate wage increases and benefits and working conditions. Current employees are not likely to place retirement benefits for persons already retired ahead of or on a parity with immediate gains in wages or improved conditions of work for the active workers or for their own retirement benefits once they enter retirement.

Inasmuch as all these matters are the familiar grist of collective bargaining, and negotiating priorities must be set, and since the negotiated pie can be only so large, the potential conflict in priorities as between the two distinct groups is immediate and direct.

Moreover, since retirees as a group could exercise little influence on the negotiating decisions made by the union, and since the union's policies would be controlled by the active employees the interests of retirees would naturally be subordinated and submerged.

I would like to add at this point that the witness immediately preceding us did strike a sympathetic chord, and I don't want by our opposition to this bill to imply that the chamber of commerce or that employers in general are not cognizant of the economic pressures facing former employees who have retired on fixed incomes. For this reason many employers act unilaterally from time to time and within the limits of available resources to upgrade benefits for their retired employees. And, of course, some employers now negotiate benefits for retirees with unions representing current employees. These benefits are a valuable supplement to Government programs financed by the economy as a whole, such as social security, old age insurance, survivors, disability insurance, medicare, medicaid, and supplemental security income.

I would also like to address a point that was made earlier by a previous witness about the impact of negotiated benefits for retirees in which he stated that there are new cars and new consumers, and that therefore the increased costs of retirement benefits could be passed on. That is another one of our concerns.

Paul Jackson, who is an actuary, has estimated if General Motors were to provide automatic cost-of-living increases to existing pension plans, it would add to the cost of a new car by \$800 per car. It gets us back into the inflationary spiral that we have been wrestling with over these past several years. This aspect of H.R.

1145 should be a concern for retirees, for active employees, and for the public in general.

In conclusion, I would like to say that while the goal of greater economic security for retired persons is a laudable one, that goal should not be achieved at the cost of jeopardizing the stability of the collective bargaining process.

H.R. 1145 would introduce into the collective bargaining process, and labor-management relations in general, a new dimension of instability to the detriment of employers, active employees and their bargaining representatives, retirees and the public.

For this reason, the national chamber opposes enactment of H.R. 1145.

[The prepared statement of Mr. Coxson follows:]

STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

(By Harold P. Coxson, Jr.)

My name is Harold P. Coxson, Jr. I am the director of Labor Law for the Chamber of Commerce of the United States.

The National Chamber is the largest federation of business and professional organizations in the United States, and it is the principal spokesman for the American business community. The National Chamber represents more than 81,000 business firms, 2500 chambers of commerce in the United States and abroad, and 1200 trade and professional associations.

Over the years, the National Chamber has played an active role in presenting the views of its membership concerning proposed legislation in the field of labor management relations. It has also participated, either as a litigant or as *amicus curiae*, in significant labor law decisions of the courts and administrative agencies which have helped to develop our national labor policy.

On behalf of the National Chamber, I wish to thank the Subcommittee for this opportunity to express opposition to H.R. 1145 which would amend section 8(d) of the National Labor Relations Act to expand the arena of collective bargaining negotiations by making retirement benefits for retired employees a mandatory subject of bargaining. In this regard, H.R. 1145 is designed to overturn the Supreme Court decision in *Chemical Workers v. Pittsburgh Plate Glass Co.*, 404 U.S. 157 (1971), wherein the Court held that retirees are not "employees" within the meaning of the National Labor Relations Act, that retirement benefits for retirees is not a mandatory subject of bargaining, and that an employer does not violate his duty to bargain in good faith by making unilateral modifications in the benefits of retirees.

The National Chamber submitted a brief *amicus curiae* with the Sixth Circuit Court of Appeals and with the Supreme Court in the *Pittsburgh Plate Glass Co.* case. Then, as now, the Chamber believed that mandatory bargaining on retirement benefits for retirees, instead of promoting stable bargaining relationships and industrial harmony would introduce into collective bargaining an entirely new dimension of instability and chaos to the detriment of employers, current employees and their bargaining representatives, retirees, and the public.

For these reasons, as more fully explained below, the National Chamber urges this Subcommittee to reject H.R. 1145.

Effects of H.R. 1145 on collective bargaining

Collective bargaining, as it has been traditionally understood since the inception of the National Labor Relations Act (NLRA), is an on-going process for determining the wages, hours, and conditions under which workers are currently employed. While the benefits workers are to receive upon retirement are encompassed in the scope of the bargaining obligation, these benefits are in the nature of deferred compensation for services being performed when the collective bargaining agreement is negotiated. In this manner, the determination of wages and benefits represents the mutually agreed upon value of an employee's services made at the time those services are being performed, in the context of the prevailing economic facts of the business and with regard to the general wage and benefit levels then prevailing. Once that determination has been mutually agreed upon, and retirement benefits have been bargained for, earned, and become payable, the contractual obligation

is protected by the NLRA, as well as by the Employees' Retirement Income Security Act (ERISA).

Thus, although employers currently are required to bargain with active employees regarding benefits to be received upon retirement, H.R. 1145 would extend that bargaining obligation, as defined by Section 8(d) of the NLRA, so as to follow a worker into retirement. In this manner, retirement benefits would continue, *ad infinitum*, to be subject to mandatory renegotiation. The result would be a wide-open contingent wage cost liability for employers, and a chaotic, unstable bargaining relationship with current employees and their representatives.

Some of the potential consequences of making bargaining for retirees mandatory are the following:

(1) The bargaining representative could demand mandatory bargaining with respect to upgrading or downgrading retirement benefits of past retirees, and call a strike of the current employees to enforce such a demand.

(2) The bargaining representative would be the sole and exclusive representative of the retirees; and, since the obligation to deal with the exclusive representative includes the obligation to deal with no other, the employer could not move unilaterally to improve benefits for retirees, and retirees could not individually, or as a group apart from the union, deal with the employer to improve their benefits.

(3) The current bargaining representative of current employees could enforce this exclusive right of representation as to retirees even where the representative was certified at a later date and never at any time represented the retirees when they were currently employed.

(4) The current bargaining representative could enforce its exclusive representation rights even though the retirees have no voice in union bargaining decisions, in the election of union officers, in the selection or rejection of their exclusive representative, or in the ratification of agreements. For example, retirees would not have the right to vote on whether to ratify or reject changes in their benefit program.

(5) The employer could never stabilize or finalize his legal commitments to retirees or arrive at any firm forecasts as to the agreed value of services rendered by employees since his obligations periodically to renegotiate benefits for various classes of retirees would be perpetual.

(6) The representative presumably could demand bargaining to renegotiate retirement benefits (such as life and health insurance, and other things) for persons who had retired early without pensions (i.e., before vesting) or on reduced pensions, although the terms on which they retired were agreed upon between the employer and the bargaining representative or between the employer and employee when he elected to retire.

The foregoing examples, although not exhaustive of the types of problems which could arise as a result of H.R. 1145, clearly would have an adverse affect on the stability and finality of labor agreements. Also left unsettled would be questions such as: the right of retirees to select a separate bargaining representative, to institute a rival union petition or a decertification petition; the status of retirees under a union-security agreement and their obligation to pay dues; and the right of retirees to participate in a strike vote to initiate, continue or end a strike by current employees. These questions have far-reaching implications for retirees. For example, if retirees are required to compensate the union for their representation at the bargaining table through the payment of dues and assessments, such costs could erode the financial benefits gained—particularly when such benefits are represented by increased health insurance coverage, rather than an increase in monthly income.

Many of these problems stem from what would be, if H.R. 1145 were enacted, a clear departure from the "unit" bargaining principle which has applied since the inception of the National Labor Relations Act. Simply stated, retirees are not "employees" within the definition of section 2(3) of the Act and do not share a "community of interest" with active employees. Since retirees have severed permanently their employment relationship, have no expectations of recall, perform no services and are paid no wages, and are in no way under the control of the employer nor under any restrictions as to other employment or activities, most of the threads which once bound them to a bargaining unit are severed. In fact, as the Supreme Court observed in *Pittsburgh Plate Glass Co.*, their interests extend only to retirement benefits to the exclusion of wage rates, hours, working conditions, and all other terms of active employment. (404 U.S. at 173) Speaking for the Court, Justice Brennan noted: "Incorporation of such a limited-purpose constituency in the bargaining unit would create the potential for severe internal conflicts that would impair the unit's ability to function and would disrupt the processes of collective bargaining. Moreover, the risk cannot be overlooked that union representatives on

occasion might see fit to bargain for improved wages or other conditions favoring active employees at the expense of retirees' benefits." (404 U.S. at 173)

H.R. 1145, therefore, would complicate unduly the process of collective bargaining by injecting a topic—retirement benefits for retirees—having only a remote and attenuated connection with the on-going employment relationship.

As Justice Brennan envisioned, unions would be in the unfortunate position of representing possibly opposing interests of current employees, their dues paying members, versus those of non-dues paying retirees. While we do not suggest that current employees would inevitably act in opposition to the interests of retired employees, it is apparent that H.R. 1145 would establish a structure which would institutionalize the contrary interests of retirees and current employees in the disposition of funds available for wages and employee benefit programs and which would greatly enhance the potential for conflict. As Justice Brennan further noted in the *Pittsburgh Plate Glass Co.* case: "*Moreover, retirees given the bargaining power would lose their economic security, for just as surely as an employer may increase benefits, in bargaining, he may take them away. Even if retirees were given the statutory power to periodically renegotiate pension benefits previously earned, the union would be an inappropriate bargaining vehicle. It is not at all unlikely that a union negotiator, presented with the opportunity to advance employees' wages at the expense of retirees' pensions would choose to favor his constituents at the expense of the honorary union members, who retain no voting power.*" (emphasis added)

Moreover, by extending the bargaining obligation to retirement benefits for retirees, H.R. 1145 increases the potential for industrial strife. This potential stems from the vital distinction between "permissive" and "mandatory" bargaining subjects. A mandatory subject is one which can be pressed to an impasse, followed by a union strike or employer lockout to enforce the demand. A permissive subject, on the other hand, is one in which a proposal can be made and a voluntary agreement reached, but which cannot be pressed by the proposing party to an impasse or used to justify a strike or lockout.

As noted earlier, future retirement benefits is a mandatory subject within the bargaining obligation for current employees; yet retroactive changes in retirement benefits for retirees is merely a permissive subject for bargaining. Thus, if bargaining becomes mandatory for retirees, as it would if H.R. 1145 were enacted, all matters pertaining to retroactive changes in retirement benefits must be bargained and the issue can be used to deadlock agreement overall and lead to strikes and lockouts. This means that even after an employee has retired with the bundle of benefits which have been previously negotiated on his behalf, and no longer is performing any work or services for this former employer, his benefits can be renegotiated again and again, without limitation. And these demands for renegotiation can be backed up by strikes and threats of strikes by the current employees. In this regard, H.R. 1145 is contrary to the fundamental purposes of collective bargaining which are to encourage the making of stabilizing agreements and to minimize strikes and lockouts which would burden interstate commerce.

Effects of H.R. 1145 on retirement income security

Employers are cognizant of the economic pressures facing former employees who have retired on fixed incomes. For this reason, many employers act unilaterally from time to time, and within the limits of available resources, to upgrade benefits for their retired employees. And, of course, some employers negotiable benefits for retirees with unions representing current employees. These private benefits are valuable supplements to governmental programs financed by the economy as a whole, such as Social Security, Old Age Insurance, Survivors and Disability Insurance, Medicare, Medicaid, and Supplemental Security Income.

It must be recognized, however, that there are limits to the ability of a private employer—and particularly a small employer—to escalate indefinitely retirement programs to provide protection against inflation, while at the same time continuing to negotiate wage and benefit increases for current employees.

As the Sixth Circuit Court of Appeals stated in the *Pittsburgh Plate Glass Co.* case: "Changing economic facts relating to the employer's business or the general economy occurring after an employee retires cannot enhance or depreciate the value of his prior services or justify periodic post-retirement negotiations. The employer cannot retroactively increase his prices to compensate for these increased benefits, or fund expenses which are, as these would be, open-ended."

And, yet, H.R. 1145 would subject employers to such open-ended wage cost liability through retroactive renegotiation of retirement benefits. A union's enforceable demand to upgrade benefits for retired employees would destroy an employer's ability to finalize current wage costs, the same as if a union were able to renegotiate

and retroactively adjust past wage settlements. As a result, the employer could respond only by limiting wage costs for current employees, or by dramatically increasing prices to offset these higher wage costs, or by simply going out of business.

The goal of greater economic security for retired persons is laudable, and one which the National Chamber fully supports. However, if it is questionable whether H.R. 1145 would advance that goal. In fact, it could have the opposite effect.

Perhaps the most significant repercussion would be a chilling impact on pension plans. Undoubtedly, the chief demand of most retired employees would be for protecting their pensions against inflation by adding a cost-of-living index to the pension.

Very few pension plans now provide for an automatic cost-of-living escalator. The reason is quite simple. Built in cost-of-living adjustments can raise pension costs sharply. Moreover, "underwriting" future-inflation after retirement creates a variable, open-ended liability that few private pension plan sponsors are willing, or able, to assume. The result could be an increase in private pension plan terminations, especially among small businesses.

Many industries are party to several pension and employees benefits plans, and thus come under the "multi-employer" provisions of the Employees Retirement Income Security Act (ERISA). Since the contingent liability provisions of ERISA impose economic liabilities on employer provision of the Act subject employers up to 30 percent of their net worth, the multi-employers provision of the Act subject employees to potential liability exceeding 100 percent of corporate net worth. Thus, H.R. 1145 would impose the potential for further instability in funding pension plans, as well as greatly increasing an employer's liability in this regard.

CONCLUSION

While the goal of greater economic security for retired persons is a laudable one, the goal should not be achieved at the cost of jeopardizing the stability of the collective bargaining process.

H.R. 1145 would introduce into the collective bargaining process—and labor-management relations in general—a new dimension in instability to the detriment of employers, active employees and their bargaining representatives, retirees and the public. For the reason, the National Chamber opposes enactment of H.R. 1145.

Mr. COXSON. Mr. Thompson, you referred to the vehement opposition of the chamber to last year's bill.

I hope this statement has not been taken as being vehement. I didn't feel that we were vehemently opposed in the last Congress. We are merely pointing out some of the potential legal and practical problems which would arise should H.R. 1145 be enacted.

Mr. THOMPSON. I don't consider it vehement. Besides, that really doesn't matter anyway. We know each other. We respect each other's points of view.

Mr. Bohan.

STATEMENT OF ROBERT BOHAN, DIRECTOR OF LABOR RELATIONS, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. BOHAN. Thank you very much. My name is Bob Bohan. I am the director of labor relations for the National Association of Manufacturers. Prior to that time I was the director of employee benefits. So I overlap in both of these areas, in the pension field and labor relations generally.

I would just like to add a few comments, rather than even trying to summarize my statement, because the two statements of the chamber and NAM here do touch pretty much the same issues. There are, however, a couple of issues that it seems appropriate for the committee to consider in addition to our written comments.

As Hal has talked about, it seems to us one of the major problems with this bill is cost. For benefit packages generally, there are a finite number of dollars. As the chamber in its most recent study

indicates, benefits today are approximately 35 or more percent of payroll. We don't know for sure exactly how much this bill would add as a practical matter to that benefit package. At some point these costs will become too high. The result is either a reduction of other benefits or an increased cost passthrough to consumers.

The second point I would like to reemphasize, and it has been mentioned by some of the members of this committee, is the need to analyze the relationship of this bill with ERISA. It seems to me there are potential problems that the committee needs to identify.

For example, as a practical matter if in a negotiation process a company and a union agree to make some kind of supplemental payment in the benefits area for retirees, I am not really sure currently that would be legal under ERISA.

Those kinds of problems it seems to me will escalate with the passage of this act.

Mr. THOMPSON. I think you are correct that we have to look at the problems you have mentioned. And from the line of questioning and comments earlier by Mr. Erlenborn and myself and others, we are very aware of that. We recognize ERISA is an extremely complicated piece of business. We are looking into it with great care.

Mr. BOHAN. Mr. Chairman, I just would add one thing to that. This again involves practical problems we face once a bill is passed.

It was less than 18 months ago when this Congress passed the Mandatory Retirement Act. At that time I think there was no clear indication of the problems that were going to evolve as a result of that. The chamber and NAM and the Round Table and other groups have spent many hours involved with the Department of Labor over an interpretative bulletin affecting benefits generally as a result of the passage of that act. The Department of Labor approximately 6 weeks ago issued that interpretative bulletin some 6 months after the bill's effective date. Now the Equal Employment Opportunity Commission has indicated that it does not necessarily feel it is going to be bound by what DOL has said.

These are the kinds of problems we would hope this committee would keep in mind as it goes through the discussion of the philosophy and need of this act.

Thank you very much.

[The prepared statement of Mr. Bohan follows:]

STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

SUMMARY OF STATEMENT ON H.R. 1145

Introduction

The National Association of Manufacturers opposes H.R. 1145, a bill that would amend the National Labor Relations Act to make the subject of retirement benefits for retired employees a mandatory topic of collective bargaining. The NAM shares the concerns of the sponsors of this legislation over the adverse impact inflation is having on retiree benefits. Those living on fixed incomes are, in many instances, affected most directly by inflation.

However, we believe that enactment of legislation mandating bargaining for retiree benefits will undermine the collective bargaining process, create instability in labor-management relations, and leave unsettled various legal issues which will result in confusion and uncertainty in such relations. Rather than "protecting" retirees from inflation, H.R. 1145 will adversely affect development of pension and

benefit programs in the private sector to the detriment of employees, both current and retired. For these reasons, we urge the Committee not to report this bill.

Statement

I am Robert Bohan, Director of Labor Relations for the National Association of Manufacturers.

The National Association of Manufacturers represents 12,400 member firms which employ a majority of the country's industrial labor force and which produce over 75 percent of the nation's manufactured goods. Another 158,000 firms are represented by the National Industrial Council which is affiliated with the National Association of Manufacturers.

We appreciate this opportunity to be here today and to comment on H.R. 1145 which would make retirement benefits for retired employees a mandatory subject of collective bargaining under the National Labor Relations Act. H.R. 1145 would reverse the U.S. Supreme Court ruling in *Chemical Workers v. Pittsburgh Plate Glass Co.* 404 U.S. 157 (1971), which held that benefits for retired employees do not constitute a mandatory subject of bargaining and that the employer did not violate his duty to bargain by making unilateral modifications in the benefits of retired employees.

Certainly, no one would disagree that inflation has had damaging effects on fixed income retirement benefits in recent years. This bill is a natural expression of concern for retirees caught in the vise of rising prices on the one hand and fixed benefits on the other. However, the NAM opposes H.R. 1145 as both inappropriate and ineffective in addressing this problem. We do not believe that passage of H.R. 1145 will protect retirees from inflation, but rather it will undermine the collective bargaining process and result in restriction of development of benefit programs generally.

H.R. 1145 WILL UNDERMINE COLLECTIVE BARGAINING

Retirees would have an anomalous status under the bill, being unconnected to the active work force and having no membership in the bargaining unit. If a union were required to negotiate for these retirees, the potential for conflict with the priorities of current members is a major problem. Retirees do not possess the same "community of interests" as active employees do, and it is unreasonable to expect those current members of the work force to sacrifice their benefits for those of retirees in most cases.

Justice Brennan recognized this inherent conflict when he wrote in the majority opinion in *Pittsburgh Plate Glass*: "Incorporation of such a limited-purpose constituency in the bargaining unit would create the potential for severe internal conflicts that would impair the unit's ability to function and would disrupt the processes of collective bargaining. Moreover, the risk cannot be overlooked that union representatives on occasion might see fit to bargain for improved wages or other conditions favoring active employees at the expense of retirees' benefits." (404 US at 173)

Thus, we may wonder how vociferously union negotiators would bargain on behalf of former employees when negotiations inevitably will require choices between benefits for current dues-paying members who elect union officials and for retirees. While we do not suggest that retirees would always be less protected in such negotiations, it is reasonable to assume that pressures for increased wages and other benefits by current employees will carry more weight than retiree benefits.

In addition to the potential for such internal conflict between current and retired employees' interests, H.R. 1145 leaves unresolved numerous questions concerning the relationships of retirees to unions and negotiators. If, for example, completed negotiations were unsatisfactory to a group of retirees, it is not clear what recourse they may have against union representatives. Since retirees are not members of the bargaining unit under the NLRA, unresolved questions also include the voting rights, obligations involving dues, and rights in selection of bargaining representatives. Such problems are indicative of the types of issues which would be injected into labor relations by passage of this bill and which, we believe, will result in confusion, uncertainty, and ultimately increased litigation.

H.R. 1145 WILL NOT PROTECT RETIREES BUT WILL JEOPARDIZE BENEFIT PROGRAM DEVELOPMENT

The expressed purpose of H.R. 1145 is to "protect" retirees from inflation. It is our belief that H.R. 1145 will not achieve that result but will, in many cases, adversely

affect the benefit programs of both retirees and current employees by restriction of employers' unilateral actions and imposition of new costs.

Since the issue of retiree benefits is a permissive subject of bargaining currently, some employers and unions already engage in collective bargaining on the subject. One such example involves the negotiations begun this week between the UAW and the auto manufacturers. Moreover, other employers unilaterally have provided increases in retiree benefits in order to upgrade the benefits of retired employees. While H.R. 1145 is not necessary to affect the activities of those already bargaining over retiree benefits, it will preclude any unilateral activities regardless of demands by retirees since the employer has the obligations to deal exclusively with the bargaining representative. Even more serious consequences for benefit programs, however, are the adverse cost affects that H.R. 1145 would have on employers generally.

If retiree benefits are subject to continual negotiation, it will preclude employers from making effective plans for long-range, stable development of wage and benefit programs. Such programs are developed on the basis that a finite amount of benefit dollars are expendable for the work force, but open-ended pension benefits will inevitably drain the funds used to pay for such benefits.

For pension plans, automatic cost-of-living adjustments today are so costly that few private plans are able to provide for them. Mandating retiree benefits in the bargaining process will subject such plans to demands for cost of living escalators. Since many employers do not have the resources to provide such COLA's for pension plans, the result will be a decrease in the number of plans in existence or restriction in benefits of current employers. This would come at a time when Congress is seeking ways to develop and encourage formation of private pension plans in industry.

Summary

American industry believes H.R. 1145 will result in undermining the nature of the bargaining process and will restrict development of pension and benefits programs in the private sector. Protection of retiree benefits will not be achieved by mandating collective bargaining but must in the end be achieved through sound fiscal and monetary policies that will reduce inflation. For these reasons, we cannot support the passage of H.R. 1145.

Mr. THOMPSON. Thank you.

Mr. Erlenborn.

Mr. ERLBORN. Thank you, Mr. Chairman. I don't believe I have any questions. I want to thank you for your testimony.

Let me just make a comment.

I think we have to realize if we are going to allow the bureaucracy and the Government here to expand constantly, we need controversies like this between DOL and EEOC, we have to foster and perpetuate that or we won't be the greatest growth industry in the world. [Laughter.]

Thank you, Mr. Chairman.

Mr. THOMPSON. Mr. Kildee.

Mr. KILDEE. What was the position of the Chamber of Commerce for the United States and the National Association of Manufacturers when the NLRA was first passed in 1935.

Mr. COXSON. Speaking for the chamber, I do not recall. Obviously I was not there. I can tell you what our position—

Mr. KILDEE. I will tell you what it was. Both were opposed to the NLRA when it first passed in 1935. I just bring that up to indicate your two organizations really have not wanted collective bargaining for anyone historically. And you have the right to have that position. So it is not really surprising to this committee that you would object to having collective bargaining for retirees. You were opposed to collective bargaining for my dad back in 1935.

Mr. COXSON. I would disagree with that. Assuming that to be the case, that we expressed opposition to the original Wagner Act, once the Wagner Act was passed, our policy statements then supported

and encouraged collective bargaining which they continue to do. So we are not opposed to collective bargaining. We were opposed to labor law reform last year because we thought that would reduce the opportunity of employees to make a reasonable choice. But once the employees make that choice and vote in a union, then our policy is very supportive and encouraging of the process of collective bargaining.

Mr. KILDEE. Well, I recognize that. I do recognize, though, that traditionally your organizations have not really been in the vanguard of collective bargaining. You have been opposed to it. And I understand that. I understand you have a position that you take. I just want to put in the record here it is no surprise that you would be opposed to extending the range of collective bargaining, inasmuch as far back as 1935 when the Wagner Act was passed there was opposition from both of your organizations.

Mr. THOMPSON. Mr. Kildee, I think we can derive some hope from Mr. Coxson's answer, because in the event that this passes, they will move in and support it, like they did the others.

Mr. KILDEE. I always believe in the perfectability of man, Mr. Chairman.

Mr. THOMPSON. Mr. Kramer.

Mr. KRAMER. Thank you, Mr. Chairman.

Would it be possible for you to put together an analysis for us regarding the impact of this particular proposed legislation on ERISA?

Mr. BOHAN. I believe we could attempt it. I am not sure exactly how long it would take us through our committee process. But certainly we could take a shot at that.

Mr. KRAMER. The chairman has indicated perhaps we might have a markup on this after the August recess. So that I think ought to be perhaps a guide.

Mr. BOHAN. We would like to further supplement our comments in that area.

Mr. THOMPSON. The record will be open until following the August recess—or could we say until Labor Day.

Mr. KRAMER. Somebody told me prior to 1971 it was generally believed by both industry and labor alike that negotiation over retiree benefits was taken for granted. Is that true or untrue?

Mr. COXSON. You mean negotiations over retirement benefits earned by active employees to be paid after retirement?

Mr. KRAMER. No. The issue here; that before the Supreme Court case it was assumed that labor unions could as a mandatory subject of collective bargaining bargain for the retired packages of already retired employees.

Mr. COXSON. I don't know that to be the case.

Mr. BOHAN. I don't know that to be the case, either.

Mr. KRAMER. Could you look into that for us. I would be interested in whether or not indeed that is the situation and if in fact it was what was the experience prior to 1971 in terms of that kind of negotiation.

Mr. COXSON. There were negotiations that took place prior to 1971, just as there are negotiations today concerning retirement benefits for those already retired. The UAW and General Motors is

involved in that now, on a voluntary basis. That experience occurred also prior to 1971.

Mr. KRAMER. OK. I have been advised it was considered by most people to be a mandatory subject of collective bargaining prior to 1971. In other words, the court case in effect reversed existing practice. And I would like to have your comment on that. And if that is indeed the case, the experience that came about as a result of that prior to 1971.

I think that is about all I have, Mr. Chairman.

Mr. THOMPSON. Thank you very much. Gentlemen, thank you. We really have enjoyed these hearings this morning. They have been very constructive.

The committee will adjourn until 10 a.m. tomorrow in room 2261.

[Whereupon at 12:55 p.m. the hearing was adjourned to reconvene at 10 a.m., Thursday, July 19, 1979, in room 2261, Rayburn Building.]

[Material submitted for inclusion in the record follows:]

PREPARED STATEMENT OF HON. JULIAN C. DIXON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Mr. Chairman: H.R. 1145, a bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees, is a crucially needed piece of legislation which has my total support.

The bill, if enacted in its present form, would overrule the Supreme Court decision in the Pittsburgh Plate Glass case by requiring discussion of retirees' benefits when raised as a collective bargaining issue.

With a steadily increasing cost of living, it is essential that retired individuals, living on fixed incomes, be provided the mechanism necessary to ensure that their concerns will be adequately addressed at the bargaining table. H.R. 1145 will do just that.

Presently, bargaining on behalf of retired employees is left totally to the discretion of the unions which could refuse to discuss the issue with no adverse legal consequences.

H.R. 1145 would ensure retired employees adequate representation at the bargaining table. This assurance, I believe, is a necessary gesture on behalf of those employees who have served in various capacities and are now in the position to enjoy their retirement.

The Committee has heard testimony of the possible adverse affect H.R. 1145 will have on the development of pension and benefit programs in the private sector to the detriment of both current and retired employees. However, if the intent of this bill is strictly adhered to by those responsible for bargaining on behalf of its members, I believe that the positive aspect will far outweigh the negative. For that reason, I support H.R. 1145 and urge its passage.

INTERNATIONAL UNION OF ELECTRICAL,
RADIO & MACHINE WORKERS,
Pittsfield, Mass., July 25, 1979.

Attorney FRED FEINSTEIN,
Committee on Education and Labor Management Relations,
House Office Building, Washington, D.C.

DEAR ATTORNEY FEINSTEIN: These are our reasons why H.R. 1145 should be enacted into law.

I worked for the Pittsfield General Electric company for 43 years and 10 months until I retired on December 31, 1969. I served as chief shop steward from 1940 to 1944 and as vice president of my union from 1946 to 1950.

During the years from 1938 to 1950, I was a member of the National U.E. Conference Board and also served on Local 255's Local Grievance Committee which met with the local G.E. management.

Today I represent I.U.E. Locals 255 & 254 Retired Members Council, a post I have held for the past 8 years. In my contacts with other Local's union retired workers in

Schenectady, Lynn, Syracuse, Fort Edwards and Louisville, I find that problems of retirees are the same. Those who retired prior to 1970 averaged in 1979, about \$100 per month from G.E. pensions and about \$230 a month from Social Security.

At first, G.E. made adjustments in the pension plan and both the pensioner and worker received the same. This held true until 1966. Since then G.E. has been making adjustments periodically to the retirees. These adjustments have amounted to about 40 percent, while the cost of living has gone up about 115 percent.

All federal, state and local government employees receive cost-of-living increases in their pensions. These monies come out of increased taxes. Adjustments equal to the cost of living should be made a part of the G.E. plan.

Other reasons for this are; inflation is rapidly increasing. G.E. passes their increased costs on to the public in the form of higher prices for their product. Prices of goods, services and repairs are 2½ times as costly as they were in 1967. Property taxes and insurance on cars and homes have more than doubled. Lawyers and doctor's fees are 3 times what they were in 1967. The style setters for 1979 used the phrase "narrow as an arrow". With food prices rising astronomically, we will all become "narrow as an arrow".

Inflation in the medical field has raised havoc with us who are retired. The two G.E. insurance plans for pensioners are not much help in abating the costs not covered by Medicare. Retirees would have to spend \$700 to \$1,000 trying to obtain health insurance which would protect them as well as they were protected while working.

Then, there is the energy situation. No one knows what effect this will have on inflation, but retirees believe it will be close to 15 percent this year. Increases in the cost of energy will cause increases in the price of every product we buy.

In 1946 the company and union negotiated a pension plan. Contributions by both company and workers were made into the pension plan. We feel, because of our contributions from the start of the pension plan on September 1, 1946 until the day we retired, our former union, the I.U.E. should represent us in pension discussions.

The working people who produced goods for the world market, enable the existence and the flow of profits for whomsoever they worked.

In recognition, the former employees of General Electric, who are now retired, should not be forgotten. We need, we really need our union to speak for us!

Sincerely,

LEO RODGERS,
President, Local 254 & 255,
Retired Members Council.

PREPARED TESTIMONY OF EUGENE ERWAY, EXECUTIVE DIRECTOR, PENNSYLVANIA COUNCIL ON AGING

My name is Eugene Erway, Executive Director of the Pennsylvania Council on Aging and I would like to state my support, on behalf of the Pennsylvania Council on Aging, to H.R. 3149 as introduced by Congressman Atkinson in his attempt to amend the National Labor Relations Act. We feel that this will help to alleviate the problem by forcing both sides to at least negotiate with each other. Although this is a step in the right direction, we feel consideration should be given to amending the Act to allow all living spouses to be included in the Pension Reform Act retroactive prior to December 31, 1975. Our interest is based on the fact that we have received over one hundred letters and telephone calls from elderly widows whose husbands died before December 31, 1975 and presently are not entitled to the survivor benefits. We feel that this is a clear indication that these elderly widows are suffering undue financial and emotional hardship in their lives. We are committed to all elderly widowed persons, but have a specific commitment to the elderly persons in Pennsylvania who have entrusted in us to advocate in their behalf.

Thank you.

STATEMENT OF CAPT. JACK C. PITTS, PRESIDENT, RETIRED AIRLINE PILOTS ASSOCIATION

INTRODUCTION

I am Captain Jack C. Pitts, an airline pilot who was forced to retire in 1972. I was one of the founders of the Retired Airline Pilots Association (RAPA) and have served as its President since 1973. RAPA is dedicated to fostering and supporting

legislation that would protect and improve the social and economic welfare of the retired airline pilot.

IDENTIFICATION

The retired airline pilot was relatively new on the scene, beginning with the nineteen sixties. He was the first generation of airline pilots to reach the "Era of the Golden Years". The retired airline pilot is unique in that he was "regulated" into forced early retirement, at age sixty, by a federal agency. This distinction has deprived him of many benefits enjoyed by other retired professionals. He was denied the right, by his own government, to his last five most productive years' income. The result of this unilateral action was a greatly reduced private pension and social security benefits.

The retired airline pilot continues to embrace the philosophy that the present is a product of the past, so is the profitability of a company the result of the labors of its retired employees. It follows that the present zenith and success of a union or association emanates from the labors of its retired members.

Today's retired airline pilot pioneered and established the sophisticated systems of world airlines.

THE NEED

The plight of the early retired airline pilot ranges from poor to fair when viewed from today's economic perch. When the Employees Retirement Income Security Act (ERISA) came into being, the pension payments to the retired pilots of one major airline ranged from \$200 to \$1300 per month. A further analysis revealed that 8% of these pilots were receiving less than \$300 per month, 26% less than \$500, 64% less than \$1000, and 100% less than \$1300 per month.

During one two year period (1973 and 1974) the variable portion of the pilots' pension pay actually declined as much as 45 to 57 percent while the cost of living went up more than 25 percent during this same two years.

The social and economic changes have had a profound effect on this group of individuals during the past decade. The cost of living and health care have more than doubled while the total taxes have increased an incredible 165 percent. These retirees are contributing, through increased taxes, to salary and pension pay increases for their government employees and retirees at all levels, local through federal. Even though his own pension pay is steadily inequitable contributions.

The discrimination, originated by an agency of his own government, against this group of individuals is unprecedented in the annals of this great nation.

THE PROBLEM

The problem of keeping the retirees' benefits abreast of today's rate of inflation is becoming more urgent with the passing of each day. However, it is not likely to be addressed unless those who are most affected are allowed some voice into the changes required in negotiated pension plans. And yet, these retired airline pilots, along with their unions and associations, are now denied that voice.

PRIOR REMEDIES

The National Labor Relations Board ruled that employees' pension plans are included within the term "wages" and are therefore a mandatory subject of bargaining. In the Pittsburgh Plate Glass Company, 177 NLRB 911 (1969) the Board extended this concept by defining "employees" to include retirees for the purpose of bargaining about changes in retirement benefits. This meant that retirement benefits of an employee were a mandatory subject of collective bargaining both before and after retirement.

The Supreme Court, in *Allied Chemical and Alkali Workers of America Local Union No. 1 v. Pittsburgh Plate Glass Company*, 404 U.S. 157 S. Ct. 383 (1971) overturned the NLRB's decision and held that retirees were neither employees nor members of the bargaining unit and therefore bargaining about their retirement benefits was not mandatory.

RESULTS

Since the Pittsburgh Plate Glass ruling, retirement benefits under collective bargaining agreements have been a permissive rather than a mandatory subject of bargaining. Some employers and unions have voluntarily continued their practice of including retirees' benefits in their bargaining process. Others have stopped any serious bargaining in this subject area and some have made unilateral changes (usually negative) in retiree benefits. By and large, the retired airline pilots fit into the latter category.

THE DESIRED RESULTS

If the desired subject of retiree benefits were a mandatory subject of bargaining, then the union could condition agreement upon agreeing on the retiree benefits just as they can now do for other mandatory subject of bargaining.

Pension plans, to be meaningful over the retirees' life span, must contain cost of living escalators. Without this guaranteed protection, the pensioner's purchasing power will be continuously reduced.

PROPOSED REMEDY

The purpose of the amendments proposed by HR-1145 is to overturn the Supreme Court's decision in the Pittsburgh Plate Glass case. The proposed amendments to the National Labor Relations Act, Sections 8(d) and 8(d)(4) would make retiree benefits mandatory subjects of bargaining as "terms and conditions of employment", and would protect collectively bargained retirees' benefits against unilateral changes or termination by the employer. One of the reasons for the retiree's dilemma is the inability of either the retiree or the active worker to force employers to consider the plight of the retiree. The proposed amendments fail to obligate the union or the employer to raise the issue of retirees' benefits. If a union's active membership decides that retirees' benefits are to be sacrificed in favor of greater pension benefits for the active employees, the retirees are left withering on the vine.

SUGGESTED REVISIONS

The proposed amendments of HR-1145 do not address the Supreme Court's other two holdings in the Pittsburgh Plate Glass case, that retirees are not employees and that retirees are not members of a bargaining unit. It would appear that two additional revisions must be made to insure that the purpose of the amendments of HR-1145 is achieved. First, the definition of "employee" in Section 2(3) of the Act could be revised to specifically include retirees. Second, the limitation contained in Section 9(a) could be revised so that retirement benefits for the retired employees would specifically be included among the subjects about which the bargaining unit can collectively bargain. These revisions should prevent future judicial determinations from circumventing the purpose of the proposed amendments of HR-1145.

RECOMMENDATION

Year after year bills with this and similar amendments are introduced into Congress and die in committee. It would appear that company lobbyists, up to now, have carried more weight in Congress than the plight of millions of retirees.

I personally, and as President of the Retired Airline Pilots Association, urge this committee to use its influence in Congress to strive for the enactment of this piece of legislation. At this time, I believe that it is clear to you that the enactment of this legislation is crucial to the well-being of the retirees of this country.

Gentlemen, your reward will be the heartfelt thanks of the millions of retirees.

CONCLUSION

The Pittsburgh Plate Glass case, to say the least, was a dubious decision on technical statutory grounds. It was an odious decision for the retirees of this country. Human compassion and common sense dictate that Congress should reverse this pernicious decision by the Supreme Court.

This nation's retirees are getting older and it is becoming more difficult for them to supplement their paltry private pensions. At the same time, unbridled inflation further erodes the purchasing power of their pension benefit. Most of them are gallantly trying to live out their lives in dignity. Can we deny them this God given right?

DALTON, OHIO, August 24, 1979.

COMMITTEE ON EDUCATION AND LABOR,
Subcommittee on Labor-Management Relations,
Rayburn House Office Building, Washington, D.C.

DEAR SIR: My name is Howard Kaufman. I was to attend the subcommittee on Labor, Management Relations Meeting, but was not notified; therefore I am submitting my statement in writing.

I have been retired from Packaging Corporation of America for eleven years with thirty-four years of active service.

At the time of my retirement in 1968, I began receiving \$74.83. I am still receiving that amount! Social Security has kept in line with inflation' continuous upswing, and it has been adequate. However, my pension has shrunk to the point where it will barely pay for my gasoline!

Employees retiring from Packaging Corporation of America today are receiving \$400 per month with the same service I have given. It costs them the same to live as it costs me. This seems very unfair!

I am one of the endangered species of Americans that would like to continue to live without Government Aid. The decision of this committee could give me this right.

Respectfully yours,

HOWARD E. KAUFMAN.

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