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Recent Decisions of the Supreme Court in Labor Law

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A large proportion of the opinions of the Supreme Court during the past two terms have involved the employment relationship. This statistic suggests that the Supreme Court is eager to interpret federal labor law and is encouraging litigation. Analysis, however, demonstrates that the suggestion is one more example of the adage that statistics lie. Almost half the cases involve employment discrimination where the general tenor of Court de-

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cisions is to increase the difficulties of plaintiff's suits. In the more traditional area of labor relations, the plethora of opinions reveal great deference to the National Labor Relations Board which in turn should discourage appeals from Board orders and reduce the conflicts between the Board and the Circuit Courts. Thus, the Court's decisions should result in keeping business out of the federal courts.

LABOR DECISIONS IN THE PRIVATE SECTOR

It is only fitting that the foundations for this analysis should be laid by the construction unions. In the past few years they have suffered a number of legislative and judicial setbacks. For many years the construction unions have criticized the Supreme Court's decision in *Denver Building*[1] where the Court found it was an unfair labor practice for a union to picket a general contractor to protest his use of a non-union subcontractor. In 1975 they sought to overturn that decision by legislation (HR5900), but the legislation was vetoed by President Ford. In 1977 their democratic friends in Congress double-crossed them and failed to pass the bill. Now the Supreme Court in two decisions has undercut construction union expectations in another area. In the *Pipefitters*[2] case the Court adopted the board's "right of control" standard. It held that unions committed an unfair labor practice by striking to force an employer to honor its contractual agreement not to use pre-finished products where the use of pre-finished products was mandated by someone other than that employer. The dissent argued that the union was only trying to force the subcontractor to abide by its agreement with the union and would be satisfied if the subcontractor entirely terminated work even if the general contractor hired another subcontractor who would use pre-finished goods on that job. Justice White for the majority saw that an object of the refusal to work was to force the general contractor to retract its requirement that pre-finished goods be used. Thus the refusal to work for the subcontractor was done with an eye for its effect on the general contractor. The legality of the collective bargaining agreement provision did not insulate the strike to enforce it from the strictures of section 8(b)(4)(B) of the National Labor Relations Act.

Although the Court's analysis seemed to make the general contractor the primary employer, the spectre of *Denver Bldg.* must haunt construction unions if they attempt to picket the general contractor to force it to cease doing business with firms making pre-finished goods. The impact of picketing the general contractor to compel it to allow all piping to be done on site is not to preserve work for the general contractor's employees but for the employees of independent subcontractors. *Denver Bldg.* suggests that picketing is secondary where an object is not the working conditions of the picketed employer's employees but the relationship of that employer with another employer. Indeed, allowing such picketing leads to the anomoly of employees of the subcontractor picketing the general contractor at the job site and refusing to cross their own picket line so that the refusal to work prohibited in *Pipefitters* is protected under the proviso to 8(b)(4) permitting employees to honor a lawful picket line. Even stranger would be the spectacle of a general contractor establishing separate gates so that unionized employees of the subcontractor would enter the job while picketing it at another entrance. The Board specifically left open the issue of whether the general contractor or the manufacturer of the prefabricated material were primary employers. The Chamber of Commerce amicus brief argued that a primary employer would exist only where right of control coincided with a bargaining relationship.

The possibility that no primary employer exists influenced the D.C. court of appeals in the decision which was overturned by the Court. If the Court eventually finds that picketing the general contractor to preserve work for employees of a subcontractor is also secondary, it will have sharply restricted the application of the work preservation exception to 8(b)(4)(B) and 8(e).

Meanwhile Justice White was so entranced by the notion that a strike to enforce a lawful collective bargaining agreement provision might be an unfair labor practice that this term he did it again to the construction industry. In the *Iron Workers* case,[3] he wrote the majority opinion which held that picketing to enforce a lawful prehire agreement with a general contractor was a violation of section 8(b)(7) if the union did not secure a majority in the eventual work force hired by the general.

Although Brennan and Marshall had led the dissenters in the *Pipefitters* case, their concern to protect the individual worker from being forced to live under a union contract despite majority non-union sentiment led them into White's camp in *Iron Workers.* This time it was Justices Blackmun and Stevens who joined with Stewart in dissent to argue that picketing to enforce an agreement permitted by §8(f) was not picketing for organizational or recognitional purpose.

Justice White minimizes the impact of the prohibition on picketing to enforce 8(f) agreements by noting that voluntary observance of such agreements is "the normal course of events"; but with increasing numbers of open shop construction firms striving to avoid the inefficiency of jurisdictional work rules, the decision here, as in *Pipefitters,* may encourage the trend against unionization.

Unions suffered another setback in the *Writers Guild*[4] case. The guild attempted to discipline its members who crossed a picket line in order to perform their regular supervisory duties. The Supreme Court affirmed the Board's decision that the guild had violated section 8(b)(1)(B) in that such discipline restrained or coerced the employer "in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances." The dissent of Justice Stewart joined by Justices Brennan, Marshall and Stevens argued that labor unions should be able to enforce their members' agreement to honor a picket line where the union does not attempt to dictate how its supervisor members perform their duties when the duties are performed. The dissenters point out that an employer can protect itself by preventing supervisory employees from joining the union. The majority, while acknowledging union power to discipline supervisory members who cross the picket line to perform rank and file work, affirmed the Board's decision that it was an unfair labor practice to discipline employees for performing their supervisory duties during the strike.

Unions have not always lost recently. Two cases this past term resulted in support for union claims of organizational rights. In *Eastex Corporation*[5], the employer prohibited dis-

tribution of a union newsletter that encouraged members to write their legislators to oppose incorporation of the state "right to work" statute into the state constitution and urged workers to register to vote so they could work to defeat President Nixon who had vetoed a bill to increase the minimum wage. The employer argued that these portions of the newsletter did not deal with the relationship between the employer and its employees so it was not protected activity under section 7 of the Act. The Supreme Court, however, upheld the Board's determination that the newsletter was protected because it was for "mutual aid and protection" even though it did not involve action directed against the employer. Since the employer failed to show any harm to its managerial interests in the distribution of the newsletter, the attempt to suppress it was an impermissible interference with employee's Section 7 rights. Justices Burger and Rehnquist dissented, arguing that employer property rights should give way only where necessary to protect rights of self-organization and collective bargaining which were not involved in this case. The majority, however, found that the Act protected attempts to improve the position of workers through channels outside the immediate employer-employee relationship.

The union was victorious again in *Beth Israel Hospital*[6] where the Board ordered the hospital to permit solicitation and distribution of union materials in the hospital cafeteria. The Supreme Court affirmed this order, pointing out that most of the patrons of the cafeteria were employees and that the hospital failed to produce any evidence that distribution in the cafeteria was harmful to patient care.

The unions also had some success in the 1976 term of the Court. In *Nolde Brothers,*[7] the Court upheld a Court of Appeals' order compelling arbitration of a dispute which arose after the contract had been terminated. Nolde Brothers had a collective bargaining agreement with a union representing its employees which provided, *inter alia,* for severance pay and for arbitration. The contract provided that after its expiration date the terms would remain in effect until either party gave seven days' notice to terminate. After bargaining unsuccessfully for a new agreement, the union gave notice to terminate. A few days after the contract terminated, Nolde hoisted the Union by its own petard—closing the plant and claiming that since the contract had expired, it was no longer under any duty to pay severance pay. The union screamed that the right to severance pay accrued during the term of the agreement and thus applied whenever an employee was terminated thereafter. It then sued for severance pay asking that the arbitrator interpret the contract. The contract did not specifically state whether the arbitration provision survived for questions of interpretation involving events occurring after the termination of the contract. Justice Burger, citing the many cases beginning with the *Warrior and Gulf*[8] which favored arbitration upheld the Court of Appeals' order to arbitrate the dispute.

Stewart and Rehnquist dissented, pointing out that the basic reasons behind the presumption of arbitrability did not exist here. With the termination of the contract, the union was no longer under any obligation to forego a strike. In this context arbitration did not serve as the quid pro quo for giving up the right to strike. Further, arbitration would not prevent disruption of the business because there was no longer a continuing business relationship. Thus the dissenters found no agreement to arbitrate the issue of post contract severence pay.

One reason underlying arbitration to resolve disputes did apply here and it provides a common theme with the *Pipefitters, Iron Workers, Writers Guild, Eastex,* and *Beth Israel* cases. Ever since the Court held that federal law governed contract interpretation in §301 cases, it has been anxious to avoid the flood of cases in the federal courts that such a holding would seem to engender. Instead it has thrust the burden on the arbitrators and avoided any serious review of their decisions. Consequently, even while taking a large number of labor cases these past terms, the message of the Court has been that the federal courts will not be a helpful forum. In *Nolde* the dispute is referred to arbitration, while in all the other cases previously discussed, the Supreme Court indicated that the circuit courts should defer to the Board's determination.

Deference to the Board was the keynote of a unanimous court in upholding the Board's determination in *Bayside Enterprises*[9] that truckers delivering feed from a mill to farmers were not agricultural workers for purposes of exemption under the act. Deference to the administrative agency was also apparent under the LMRDA. In *Steelworkers Local 3489,* the Court's invalidation of union office eligibility criteria which prevented over 95% of the membership from running for office leaned on the special role of the Secretary of Labor in administration of the act.[10] Indeed, in *Robbins Tire & Rubber Co.* this term, the Court even supported the National Labor Relations Board's refusal to give copies of statements of potential witnesses to an employer charged with an unfair labor practice.[11] The Court held that the Board satisfied its burden of showing that such disclosure would interfere with enforcement proceeding and therefore it was exempted from the Freedom of Information Act.

Although the Supreme Court's deference to federal administrative agencies should diminish litigation in federal courts, the Court was willing to let the state courts take on more business. In *Farmer v. United Brotherhood,*[12] a unanimous Court held that state law on intentional infliction of emotional distress even during a labor dispute is not preempted by the NLRA. Justice Powell refused to review the delicate preemption adjustments of prior cases, but reversed a Court of Appeals decision which held that federal labor law preempted such state law. He noted that state law did not turn on the existence of a labor dispute and that the intentional infliction of emotional distress was not protected by labor law. Nevertheless he did note that a threat to act either in a manner protected by the act or forbidden by the act would be preempted and cited *Linn*[13] for the proposition that the infliction of emotional distress must be for "outrageous" conduct and that normally robust language in labor disputes would not be covered.

No preemption was also the message of two cases this past term. In *White Motor Company,*[14] the Court found that federal labor law did not preempt state regulation of pension plans, although the Court held in a subsequent case that the same state pension regulation as applied to pension plans established prior to the date of the statute was invalid under the contract clause of the constitution.[15]

Finally, in *Sears, Roebuck and Co. v. San Diego Co. Dist. Council of Carpenters,*[16] the Court held that federal labor law did not preempt state trespass laws despite arguments that the trespassory conduct was either prohibited or protected by the National Labor Relations Act. The Court pointed out that the state trespass law focused on the location of the activity, while the federal prohibitions did not. The more significant preemption problem was posed by the possibility that trespassory picketing could be protected by section 7 of the National Labor Relations Act. The Court noted that the employer has no relief under federal law for trespass by union organizers, so preemption of state court jurisdiction would permit an unprotected infringement of his property rights to go unremedied. On the other hand, unions could secure adequate protection of their rights by invoking the Board processes against an employer who violates the Act. "Because the assertion of state jurisdiction in cases of this kind does not create a significant risk of prohibition of protected conduct, we are unwilling to presume that Congress intended ... to deprive the California courts of jurisdiction."

Accommodation to the state was a theme of the last traditional case to be discussed: *Walsh* v. *Schlecht.*[17] The Court affirmed a state court decision requiring a general contractor to make contribution on behalf of employees of subcontractors to various funds in which a union not representing those employees was a trustee. The LMRA prohibits payments by an employer to a union except under specific conditions in which the union is a trustee and represents the beneficiaries. Although the contract was to be construed pursuant to federal law, Justice Brennan found that the appropriate way to construe the contract was to avoid statutory violation. Thus he approved the Oregon courts' construction which found the general contractor obligated to contribute to funds measured by hours subcontractor's employees worked although the funds were not available to such employees.

In sum, the Court's decisions in the traditional labor law area over the past two terms have demonstrated great deference to federal administrative agencies and to state law. If this hint is taken by the circuit courts, the result should reduce the cases brought in the federal courts.

PUBLIC SECTOR

Two recent decisions involved the relationship between the Government and the public sector union. The appearance of such cases on the Supreme Court level reflects increasing organization and activity by public sector unions at local governmental levels. Indeed, the cases may be more important as symbols of the growing importance of public sector unionism than for what they held.

The first, *City of Madison* v. *Wis. Emp. Rel. Com'n*[18] was not difficult for the Court to decide. The Wisconsin Employment Relations Commission had found that a school board committed an unfair labor practice by permitting a teacher to speak against an agency shop proposal at a public meeting. Justice Burger for the Court noted that merely presenting views at a public meeting was not negotiation. Negotiation may properly be limited to private sessions between the government management and union. However, singling out employees of government and excluding them from the speech rights afforded all other citizens at an open meeting violates the First Amendment. Brennan, Marshall and Stewart all concurred. Stewart emphasized the lack of a legitimate state interest in prohibiting the teacher's speech under these circumstances while Brennan and Marshall focused on the implications of discrimination in a public forum.

While the Court had no trouble affirming the right to oppose the agency shop, it had a little more difficulty with the agency shop itself. In *Abood* v. *Detroit Bd. of Education,*[19] teachers in Detroit sought to invalidate an agency shop provision as an abridgement of their rights of freedom of speech and association. The Court held that *Hanson*[20] and *Street*[21] applied as a constitutional matter to public employment, so that the agency shop could be required of all public employees, but funds collected could not be used to support ideological causes to which the teacher was opposed.

Insofar as the service charge is used to finance expenditures by the union for the purposes of collective bargaining, contract administration, and grievance adjustment" wrote Justice Stewart, the agency shop is valid. But, he continued, contributions may not be compelled for "ideological activities unrelated to collective bargaining." At this point, where a line might be drawn to disentangle public sector bargaining and union political activity, Justice Stewart draws instead attention to the problems of drawing a line.

> *The process of establishing a written collective bargaining agreement prescribing terms and conditions of public employment may require not merely concord at the bargaining table, but subsequent approval by other public authorities; related budgetary and appropriations decisions might be seen as an integral part of the bargaining process.*

He then refuses to draw a line in this case because the specific activities have not been spelled out—thus suggesting that the problem of agency shop will reappear in the court.

Justices Powell, Burger and Blackmun have no difficulty drawing that line—they would find the agency shop in the public sector a violation of the First Amendment in that the existence of the union bargaining is inherently political. Thus the agency shop means that government, not a private employer, is forcing persons to pay money to support ideas which they oppose. If the dissent had prevailed, the case might have significantly affected both public sector union growth and possibly raised questions about agency shop in the private sector. The majority, however, maintains the status quo and postpones for another day the tough questions of drawing lines in the public sector.

CIVIL RIGHTS CASES

By far the largest group of cases involving the employment relationship both this term and last are those involving the laws against discrimination. Here again, as in the traditional cases, a theme of discouraging cases in federal court exists. Unlike the traditional cases, however, in the civil rights area, resort to federal courts is discouraged by substantive or procedural decisions rather than deference to administrative or state bodies.

While Stewart seemed a lonely dissenter in many traditional cases, he has become the spokesman for the court in most of the civil rights cases. In *Dothard* v. *Rawlinson*[22] he reaffirmed the application of *Griggs*[23] in Title VII cases to permit a *prima facie* case to be made out by showing a

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neutral employment practice had a disproportionate racial or sexual effect. In *Rawlinson* a height and weight requirement for correctional officers had a disproportionate impact on women and no attempt was made to justify it. Indeed, three justices concurred on grounds that while such requirements could be justified by showing a need for the "appearance of strength," the prison system made no such argument.

Lest plaintiff's counsel be carried away, Stewart's decision in *Hazelwood* v. *U.S.*[24] made it clear that the use of statistics to demonstrate a prima facie case would be carefully scrutinized. The relevant statistics are not just a comparison of the work force to the available pool of workers, but the work force hired after the Act became applicable (in *Hazelwood*, the 1972 extension to governmental units). Further, the remand contained directions to make a careful review of factors to determine the appropriate applicable pool of workers.

Defendants' ability to rebut a prima facie case was enhanced in *Furnco.*[25] The Court agreed with the Seventh Circuit that plaintiffs had made a prima facie showing of discrimination by proving they had done everything within their power to apply for employment and that they were qualified. The Court, however, noted that the *prima facie* case raises the inference that the job denial was based on race. Consequently, proof of the racial composition of the work force can be used to rebut the inference of improper intent.

Defense counsel in civil rights actions could even find comfort in Stewart's opinion in *Rawlinson*. He upheld the refusal to employ women in contact correctional positions (75% of the jobs) as a *bona fide* occupational qualification, saying that guards of the opposite sex would lead to a greater likelihood of violence. Marshall and Brennan dissented on the grounds that proof of such greater likelihood was wholly inadequate and based on sex stereotyping. Further, "to deprive women of job opportunities because of threatened behavior of convicted criminals is to turn social priorities upside down."

The greater latitude in justifying employer action was reflected in *TWA* v. *Hardison*[26] in which the Court over another dissent by Brennan and Marshall held that to require an employer to bear more than a *de minimus* cost to accommodate an employee's religious beliefs would be an "undue hardship."

Plaintiffs in Title VII suits had even worse news in the *Teamsters*[27] case which overturned the fairly consistent determinations of lower courts. The Court held that a departmental seniority system which was racially neutral except for its effect to perpetuate pre-Act discrimination in assigning to departments was insulated by section 703(h) of Title VIII so that seniority expectations of existing employees should not be disturbed. While approving the *Franks*[28] determination that failure to apply for a job did not bar individuals from a compensatory fictional seniority remedy, Justice Stewart said that the burden was on the plaintiffs to prove they would have applied but for the discrimination and that a showing that the employee was in the less remunerative department and that the policy of discrimination was well known was insufficient to discharge the burden.

The integrity of the seniority system was the keynote of another decision of the 1976 term. In *United Air Lines* v. *Evans*,[29] Justice Stevens wrote that where an individual's claim for unlawful discharge was time barred, it should have no impact on an attack on the seniority system. Consequently, failure to grant seniority for the previous employment was still protected by 703(h).

The time bar became a more likely occurrence as a result of the Court's decision in *Robbins & Meyers*[30] which stated that attempts to pursue a discharge through the grievance procedure would not toll the time limits for filing with EEOC.

Title VII plaintiffs' attorneys may also be concerned with the *East Texas Motor Freight*[31] case which found that the district court appropriately failed to find a class action where the named plaintiffs would not have been eligible for the jobs in which discrimination was alleged.

A final discouraging note for plaintiff suits is found this term in *Christianburg Garment*[32] where the Court said it was appropriate to award defendant attorney fees for frivolous or unreasonable Title VII suits even if the plaintiff acted in subjective good faith.

The net effect of these cases is to make recovery in civil rights suits less likely for individual plaintiffs be-

cause the Court will scrutinize more closely evidence of discrimination to make a *prima facie* case, and will uphold employers' justifications in such suits more readily than the lower courts.

The scene then shifts to the Equal Employment Opportunity Commission where Stewart's opinion in *Occidental Life*[33] states that the EEOC is not barred by the time limits for individual suits when it files suit for pattern or practice violations. Even the state statutes of limitation are inapplicable. Thus, the time barred individual can still hope that the EEOC will take her situation as part of a pattern or practice and obtain for her fictional seniority and back pay which she could not get by her own suit under Title VII.

The plaintiff is more and more likely to be a female. The struggle for recognition of a proper role for women in the labor marketplace is proceeding on many fronts simultaneously. The major substantive problem for the Court has been the treatment of pregnancy. In *General Electric* v. *Gilbert*,[34] the Court applied the standards of the Fourteenth Amendment to Title VII in holding that *Geduldig* v. *Aiello*[35] controlled, and it was lawful for an employer to exclude pregnancy and its complications from compensable disabilities. The Court noted again that "there is no risk from which women are protected and men are not." The dissenters Brennan and Marshall took issue with this point, noting that prostatectomies, vasectomies and circumcision are sex specific and covered. However, these sex specific procedures do have feminine counterparts in hysterectomies, tubal ligation and other operations on the female reproductive system. There is simply no male counterpart for pregnancy.

"The determinative question," in the words of Justice Brennan's dissent "must be whether the social policies and aims to be furthered by Title VII and filtered through the phrase to 'discriminate' contained in §703(a)(1) fairly forbid an ultimate pattern of coverage that insured all risks except a commonplace one that is applicable to women but not to men." The majority viewed this question as a conundrum in which an employer is damned if he does and damned if he doesn't, for coverage would give women a benefit not afforded men. Their reply is to allow either choice so long as the choice itself is not shown to be rooted in a desire to disadvantage a particular sex.

The Court may have been influenced by three factors which they do not mention. First, the impact of the denial of disability benefits commonly falls not on the woman alone but on the whole family—husband and wife—whose combined income is diminished by the decision to bear a child. Second, while most workers will return to the job as soon as their disability ceases, a substantial number of women may choose to remain home to care for an infant so that the pregnancy is a prelude to termination of employment and reluctance to return to work may make computation of the period of actual disability difficult. Third, the nature of disability coverage for pregnancy means that all workers, male and female alike, must share in the costs of some women's decision to raise a family. While this may be good social policy, it is not a clear policy of Title VII.

Perhaps the most important factor in the Court's decision in *Gilbert* was uncovered this term in *Nashville Gas* v. *Satty*.[36] The Court reaffirmed its position in *Gilbert* that exclusion of pregnancy from disability coverage was lawful absent a motive to discriminate against members of one sex, but held that denial of accumulated competitive seniority to women returning from pregnancy leave when it was not denied to others returning from sick leave was a violation of Title VII. The Court emphasized that the denial of competitive seniority here deprived women of employment opportunities because of their sex. Justice Rehnquist's opinion draws a distinction between benefits and burdens. He said that denial of disability pay was merely a refusal to extend a benefit to one class which would not be applicable to the other class. He then argued that the denial of competitive seniority was a burden which was imposed on one sex. Justice Stevens' dissent pointed out the manipulation involved in this characterization. "The grant of seniority is a benefit which is not shared by the burdened class [of women not allowed to retain seniority after leave]; conversely, the denial of sick pay is a burden which the benefited class need not bear." He finds the distinction "in terms of whether the employer has a policy which adversely effects a woman beyond the term of her pregnancy leave." He gives no justification for this distinction, for as his dissent in *Gilbert* indicates, he disagrees with it. The grounds, however, may be found in the perceived social policy of Title VII reflected in §703(a)(2) to prevent deprivation of employment opportunities because of sex.

The act on its face indicates no clear policy on payments to one sex for a sex related cause, but it is designed to provide an equal opportunity to work regardless of sex. If a man wishes to raise a family, his job will be unaffected, but unless a woman retains her seniority, the decision to bear a child may foreclose her from work. When, as in *Satty*, the employer does not show a significant adverse effect to his business as a result of retaining seniority, the Court finds a violation.

While the emphasis in *Satty* was on lost employment opportunities, the Court also dealt with differences in benefit payments last term. In *Los Angeles* v. *Manhart*,[37] the Court held that a pension plan which required women to contribute more than men violated the Title VII prohibition against discrimination with respect to compensation because of such individual's sex. The city argued that different levels of contribution were not discriminatory because women have a longer life expectancy. The Court responded that "individual risks, like individual performance, may not be predicted by resort to classifications proscribed by Title VII."

The Court distinguished *Gilbert* by noting that pregnancy is sex specific while longevity is not. Only women become pregnant so pregnancy benefits are given to only one sex (and their denial is a denial to one sex). On the other hand, some women have short life spans while some men have long ones. Thus a classification based on sex will result in all women receiving less take-home pay than men during their working years while the amount each individual receives in pension benefits over his or her life span will vary widely depending on their individual longevity.

The result of the Court's labor decisions in the last two terms should be a decrease in the traditional labor decisions in the federal courts and a diminution in race discrimination actions. But increasing public sector labor activity, disputes over the rights of women and the problems of affirmative action will provide a substantial number of cases to keep the Court

busy in the coming years. □

Footnotes:

[1]N.L.R.B. v. Denver Building & Construction Trades Council, 341 U.S. 675 (1951).

[2]N.L.R.B. v. Enterprise Ass'n. of Steam Pipefitters, 429 U.S. 507 (1977).

[3]N.L.R.B. v. Local U. No. 103, Intern. Ass'n. of Bridge, Structural and Ornamental Iron Workers, AFL-CIO, 434 U.S. 335 (1978).

[4]American Broadcasting Co. v. Writers Guild, ____ U.S. ____, 98 S.Ct. 2423 (1978).

[5]Eastex, Inc. v. N.L.R.B., 98 S.Ct. 2505 (1978).

[6]Beth Israel Hospital v. N.L.R.B., ____ U.S. ____, 98 S.Ct. 2463 (1978).

[7]Nolde Brothers, Inc. v. Local No. 358, Bak. & Conf. Wkrs. U., 430 U.S. 243 (1977).

[8]United Steelworkers of America v. Warrior and Gulf Navigation Co., 363 U.S. 574 (1960).

[9]Bayside Enterprises, Inc. v. N.L.R.B., 429 U.S. 298 (1977).

[10]Local 3489, United Steelworkers of America, AFL-CIO v. Usery, 429 U.S. 305 (1977).

[11]N.L.R.B. v. Robbins Tire and Rubber Co. U.S., 98 S.Ct. 2311 (1978).

[12]Farmer v. United Broth. of C. & J. of America, Local 25, 430 U.S. 290 (1977).

[13]Linn v. Plant Guard Workers, 383 U.S. 53 (1966).

[14]Malone v. White Motor Co., ____ U.S. ____, 98 S.Ct. 1185 (1978).

[15]Allied Struc. Steel v. Spannaus, ____ U.S. ____, 98 S.Ct. 2716 (1978).

[16]____ U.S. ____, 98 S.Ct. 1745 (1978).

[17]Walsh v. Schlecht, 429 U.S. 401 (1977).

[18]429 U.S. 167 (1976).

[19]431 U.S. 209 (1977).

[20]Railway Employees' Department v. Hanson, 351 U.S. 225 (1956).

[21]International Association of Machinists v. Street, 367 U.S. 740 (1961).

[22]433 U.S. 321 (1977).

[23]Griggs v. Duke Power Co., 401 U.S. 424 (1971).

[24]Hazelwood School Dist. v. U.S. 437 U.S. 299 (1977).

[25]Furnco Construction Co. v. Waters, ____ U.S. ____, 98 S.Ct. 2943 (1978).

[26]432 U.S. 63 (1977).

[27]International Bro. of Teamsters v. U.S., 431 U.S. 324 (1977).

[28]Franks v. Bowman Transportation Co., 424 U.S. 747 (1976).

[29]431 U.S. 553 (1977).

[30]International U. of Elec. Wkrs. v. Robbins & Myers, 429 U.S. 229 (1976).

[31]East Texas Motor Freight System, Inc. v. Rodriguez, 431 U.S. 395 (1977).

[32]Christianburg Garment Co. v. E.E.O.C., 434 U.S. 412 (1978).

[33]Occidental Life Ins. Co. v. E.E.O.C., 432 U.S. 355 (1977).

[34]429 U.S. 125 (1976).

[35]417 U.S. 484 (1974).

[36]434 U.S. 136 (1977).

[37]City of Los Angeles v. Manhart, ____ U.S. ____, 98 S.Ct. 1370 (1978).