a member. Del Casal was therefore entitled to recover against the union the fees which he had paid to his attorney. But he lost his claim for review of the decision upholding his discharge. That was, the court said, a decision by an impartial arbitral tribunal. The members of the System Board were obligated to determine disputes before it in an independent, impartial manner. There being no specific showing of partiality or bias on the part of the individual members of the System Board, the court would not disturb its conclusions.

Del Casal may, indeed, have been incompetent as a pilot. But I will leave to the members of the panel who will discuss airline system boards the question of whether it can really be said that he had a fair hearing on that question before the Board.

II. TEAMSTER JOINT COMMITTEES: THE LEGAL EQUIVALENT OF ARBITRATION

GERRY M. MILLER*

I approach this assignment with trepidation for two reasons: (1) co-panelists include two renowned labor law professors who are already on record as in disagreement with what I am about to say. Worse yet, the one who will rebut, Clyde Summers, taught my classes on the subject over 20 years ago; (2) this is a distinguished assemblage of professional neutrals, so I feel a little like the dissident union member is supposed to feel who is about to have his discharge grievance heard before what he believes is a stacked committee selected from a hostile audience.

Teamster joint committees come in many sizes, shapes, and varieties. Some decide grievances under the multi-employer or industry collective bargaining agreements such as the National Master Freight Agreement; others under companywide contracts such as the United Parcel Service agreement. Some are "open-ended" procedures, meaning that the parties are permitted economic recourse if the joint committee deadlocks at the final stage of the grievance procedure; others provide for arbitration by a neutral in some or all cases if the joint committee cannot reach a majority decision. Some operate in tiers, at local or state, area, and national levels; others decide, if they can, all

*Goldberg, Previant, Uelmen, Gratz, Miller & Brueggeman s.c., Milwaukee, Wisconsin.

cases that cannot be settled at the local level, without further review.

All, or almost all joint committees share certain characteristics. First, they provide for hearings before, as well as final and binding decisions by majority vote of, a committee which consists of an equal number of employer and union appointees. Most have written rules of procedure which contain regulations covering such matters as docketing deadlines, postponements, substitutions, reporting procedures, and rehearings. Second, officials of the local union and representatives of the company involved (or, under companywide agreements, the facility at which the grievance arose) do not sit on any of their own cases. Rather, they will present and advocate their respective positions to the committee. Substitute members are appointed as necessary by the committee's union or employer co-chair. Third, the proceedings before the committee are transcribed, tape-recorded, or summarized in detail by the committee's secretary, and the panel announces its decision on each case immediately after holding an executive session at the close of the hearing. Typically, written minutes of the decisions are distributed later to the parties. Fourth, committee members are not paid for their services. Fifth, the committees meet on a regular basis, usually monthly or quarterly, and a written agenda, which briefly describes the nature of each case, is circulated in advance. In my experience committee members from both sides are active, and often revealing, in their questioning of the parties and the grievant concerning facts and positions. Sixth, although live witnesses may be heard, exhibits presented, and prehearing written arguments filed, in most cases representatives of the parties orally present the facts, and only rarely do they disagree on what they are. Signed statements from witnesses will normally be accepted. Seventh, attorneys for the parties and the grievant may be present and advise their clients but do not present the cases. And, last, the grievant is notified of the hearing and given the right to appear and be heard in his own behalf.

The National Master Freight Agreement (NMFA) contains the most highly developed joint committee procedure in the Teamsters. That contract, of course, covers hundreds of thousands of members working for hundreds of freight companies coast to coast. Although it is one contract covering a multi-employer bargaining unit, there are area or regional supplements and numerous local or company riders. In the thirteen-state Cen-

tral Conference area, for example, there are over-the-road and local cartage supplements covering highway as well as city and dock employees, and an iron and steel and truckload rider covering drivers who haul solid loads directly from the shipper to the consignee. The first 39 articles, known as the "national master," as well as the monetary package are negotiated nationally by a committee representing the Teamster freight locals with representatives of an employer association authorized to bargain on behalf of the industry nationally. The area supplements, conferencewide except in the East, are negotiated by representatives of the freight locals in that geographical area. State and local riders are negotiated at those levels.

The NMFA joint committees are structured along the same lines as the contract is negotiated. All grievances that cannot be settled at a "local level" meeting of company and union officials may be referred to and heard before a state or multi-state joint committee, which in most cases meets monthly.[1] A majority decision there is final and binding. However, cases deadlocked at the state or multi-state committee are referred to a joint area committee, which is established for each of the four Teamster conference areas, meets for several days quarterly at a central location, and conducts de novo hearings. The term joint area committee is something of a misnomer since it actually consists of between three and five separate committees.[2] In the Central Conference area there are: (1) the local cartage committee which hears grievances arising under the national master provisions and local cartage supplement; (2) the over-the-road committee which considers cases that involve the national master and over-the-road supplement; (3) the iron and steel committee, which has comparable jurisdiction over the iron, steel, and truckload rider; and (4) a change of operations committee which hears employer requests for changes of operations within the conference area arising under Article 8, Section 6 of the national master.[3] In the Central Conference area a fifth committee

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[1]Under a number of the 13 Eastern Conference supplements, the bottom tier committee is termed a "joint area" rather than a state committee but must be distinguished from the Eastern Conference Joint Area Committee, which hears deadlocked cases under all ECT supplements.

[2]The Eastern Conference JAC has three subcommittees; local cartage, over-the-road, and miscellaneous. The Joint Western Area Committee has five; over-the-road, pick-up and delivery (local cartage), change of operations, discharge, and "main" (cases under the national master).

[3]Under this section "present terminals, breaking points or domiciles" cannot be transferred or changed without approval of the change of operations committee, which is authorized to "determine the seniority of the employees affected" but must "observe

exists, largely for historical reasons, that hears all grievances involving companies that belong to a particular employer association. Majority decisions of the joint area committees are also final and binding and cannot be appealed.

Most cases deadlocked at the joint area committee level[4] and all questions of interpretation of the national master provisions are referred to the national grievance committee, which sits as the "supreme court" of the system and meets quarterly, usually in Washington, D.C. Unlike its subordinate committees, the national tribunal does not hold hearings. Rather, as an appellate body the national grievance committee decides cases on the basis of the record made at the joint area committee level or made before a specially designated hearing panel. Cases involving particularly sensitive issues—respecting picket lines, subcontracting and wildcat strikes—can be promptly moved to the national committee or must be initiated there. Interpretations of the NMFA made by the national grievance committee are binding on all subordinate committees. Contract guides or files containing article by article summaries of significant national and joint area committee rulings are maintained by the parties. If the national committee deadlocks, the contract provides that "either party shall be entitled to all lawful economic recourse to support its position in the matter," except that by majority vote the national committee may refer a discharge or suspension case to arbitration by a neutral.

The NMFA joint committee procedure disposes of a very large volume of grievances. For example, in the Central Conference, the largest of the Teamster conferences, 555 cases were on the Central States' JAC docket for its March 1984 three-day session and 142 decisions rendered (exclusive of 117 "change of operations" rulings). Of the 142, 87 or 62 percent upheld the union's position and the company prevailed in 55 or 38 percent of the cases. Most of the rest were "settled and/or withdrawn" or "held/pending"; many in the latter group involved companies in

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the Employer's right to designate home domiciles and the operational requirements of the business." Changes involving more than one conference area are heard by a multi-conference committee. Change of operations cases, unlike grievances, do not involve violations of the collective bargaining agreement. *See Kirkland v. Arkansas Best Freight Sys., Inc.*, 629 F.2d 538, 105 LRRM 2875 (8th Cir. 1980), where the Eighth Circuit reversed a damage judgment entered by one of its own judges (Heaney, J.) because the change, although irregularly approved, did not violate the contract.

[4]Discharge cases deadlocked at the Joint Western Area Committee are referred to arbitration rather than the national committee. Only one such case, however, has been deadlocked in the last two years.

bankruptcy where the automatic stay had not been lifted.[5] Only 22 cases were deadlocked. In the June 1983 Central States' JAC sessions, 804 cases were docketed, 194 decisions rendered, and 86 or 44 percent upheld the union's position. Only 13 cases were deadlocked. Strikes over grievances or interpretation matters deadlocked at the national level have been rare because that committee rarely deadlocks. For example, at its sessions last August, the national committee deadlocked on only one of 61 cases. Deadlocks and resulting strikes or lockouts do occur, however, and are an impetus to make the system work.

The basic advantages of the NMFA joint committee procedure seem rather plain. First, grievances are decided promptly, frequently within a month at the state committee level and within another three months at the joint area committee level. This compares quite favorably with the results of the FMCS survey in 1975 showing that in a representative sample of cases, the average elapsed time between the filing of a grievance and the issuance of the arbitration award was over seven months. Second, there are significant cost advantages. Participation in the joint committee procedure costs the parties little more than the time and expenses of its officials. In contrast, the FMCS survey showed that the arbitrator's fees and expenses averaged $621 per case, and, of course, those charges have increased substantially since then. More important, those charges most likely resemble the tip of the iceberg when, as has become all too prevalent, attorneys and court reporter fees, lost time expense, and preparation costs must be paid. If it is important that grievances be resolved promptly and inexpensively, the joint committee procedure must be given quite high marks.

Another significant advantage relates to the nature of the collective bargaining agreement in question and the employers, or employer, it covers. Where a complex agreement covers an entire industry or a large multi-facility company, grievance decisions by those who participate in the negotiations, who are familiar with the past practices, and who know the industry are likely to reflect an expertise and fidelity to the bargainers' intent

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[5]289 were "hold/pending." This category includes cases not decided or postponed for any of a number of reasons. 117 of this unusually high number were a backlog of cases accumulated over many sessions because the companies were in bankruptcy and the automatic stay provisions of the bankruptcy code had not been lifted. Many others were "held" at the request of one party, concurred in by the other, to permit further settlement discussions.

that an ad hoc arbitrator or even a permanent umpire will not have. For example, in the 1940s one of the most eminent of your brethren was permanent umpire under the Teamsters' Central States area freight agreement for several years. I am authoritatively advised that it was the employers that insisted upon returning to the open-ended procedure after Professor Feinsinger issued an award interpreting certain complicated pay provisions of the contract in a manner they thought contrary to the negotiators' understanding.[6] No permanent umpire, no matter how renowned, has fared well under the Teamster freight agreements. Arbitrator Sam Kagel served as permanent umpire to resolve deadlocked grievances under the Western Conference freight agreement from 1958 to 1961. The parties eliminated the umpire system from their next agreement in part because of its cost.[7]

There is also an element of responsiveness or accountability to the employees that comes from the fact that elected officials participate in making the decisions, albeit not in their own cases. Union officers, even those who are elected or appointed by those elected at higher union echelons, must live with the grievance decisions they make or, and this can sometimes be even worse, with others who must live with those decisions. I believe a similar set of checks and balances applies to employer committee members. Committee members are not free, as an ad hoc arbitrator is, to make an award that one side or the other cannot live with and just walk away.

Critics of the procedure dwell principally upon its claimed potential for sacrificing individual rights; for example, the possibility that committee members will trade off one grievance for another. On this point, of course, not even professional arbitrators have been immune from criticism.[8] More importantly, the same potential exists in virtually all grievance screening and settlement procedures above the local level where numbers of grievances must be resolved and the consequences of deadlock to the parties are expensive, risky, or both. Compromise is the essence of collective bargaining. If you accept the

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[6]The source is my partner David Previant who was a close friend of Professor Feinsinger until his death and counsel to the Central States Drivers Council at the time.

[7]The source is George R. Rohrer, Western Master Freight Division Chairman, who serves as Union Chairman of the Joint Western Area Committee.

[8]Hays, Labor Arbitration: A Dissenting View (New Haven: Yale Univ. Press, 1966), 61.

Trilogy view that the grievance procedure including arbitration is part and parcel of the collective bargaining process itself,[9] and if you *trust* the process, the possibility that there will be an occasional unremedied or even unremediable injustice in this respect will not be disturbing.[10] Arguably, and Professor Summers has made the argument, indiscriminate horse trading violates the union's duty of fair representation.[11] Nevertheless we have found no reported case involving joint committees where this claim has been judicially sustained. In their critique of Hoffa and the Teamsters, Professors Ralph and Estelle James nonetheless acknowledged that Hoffa's grievance decisions were seldom arbitrary or capricious, that he generally "call[ed] the shots as he s[aw] them, and because of his intelligence and because he thoroughly underst[ood] the problems of the industry and the contract, his decisions [were] likely to be more sensible than those of an impartial but less well informed outside arbitrator."[12]

Critics have also charged that the joint committee procedure can be manipulated to punish dissident members and disfavored or small employers. Again, however, the opportunity to retaliate against dissidents is not at all unique to the joint committee system; it exists whenever union officials control the grievance procedure and must sift through a large number of cases. Indeed, it becomes more difficult to prove the more the screening process is shrouded at higher levels in bureaucracy and paperwork rather than conducted in open and recorded hearings. Imagine the potential for covert retaliation that exists where, as in several unions, a few national office staffers decide which of over 7000 grievances will be referred to neutral arbitration each year.[13] Again, the disfavored employer as well

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[9]*United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 578, 46 LRRM 2416 (1960).

[10]Joint committees have been deciding grievances under the national contract since 1964 and under many of its predecessor area or local agreements since 1944 at the latest. Any neutral arbitrator, no matter how scrupulous and talented, will misfire occasionally. Obviously a few misfires by joint committees over 40 years of operation do not suggest any basic unsoundness in the procedure.

[11]Summers, *The Individual Employee's Rights Under the Collective Agreement: What Constitutes Fair Representation*, 126 U. Pa. L. Rev. 251, 270–272 (1977).

[12]James and James, Hoffa and the Teamsters: A Study of Union Power (New York: Van Nostrand, 1965), 182.

[13]*Bowen v. United States Postal Service*, 459 U.S. 212, 112 LRRM 2281 (1983), illustrates the problem but not the particular abuse. Bowen, apparently not a dissident, was indefinitely suspended for assaulting a co-worker during an altercation. Arbitration was recommended by local and regional union officials but a national office staffer, undoubt-

as the dissident member have legal recourse where joint committee decisions have been retaliatory and our research has unearthed no reported joint committee cases where such claims have been upheld.[14] Indeed, because litigation can be expected in these cases, dissident grievances may be handled more gingerly or indulgently than others, although preferential treatment is hardly their due.

The joint committee system has also been criticized because *ex parte* contacts with, or lobbying of, the members can occur. That this often happens is doubtful; it has been found in only one reported case. But assume that it does for purposes of argument. In my view this is not a significant criticism of the institution. People lobby decision-makers, i.e., inform them of their views on issues of importance, at most levels of our society without undermining the acceptability of their decisions. With respect to grievances in particular, informed discussion in advance with a knowledgeable committee member as to the prospects of a successful decision at once promotes the settlement process in much the same manner as grievance mediation does and serves to inform decision-makers of the kinds of noncontractual considerations that the Trilogy indicates an arbitrator should take into

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edly while screening numerous grievances for arbitration, dropped the case after a half-hour review of a 67 page and cassette-tape file simply because he thought from prior experience an arbitrator would uphold the discharge. Obviously, the union carefully investigated the grievance and made a decision on the merits in what probably was a close case involving delicate credibility determinations, although the jury found the union to have acted in "reckless and callous disregard" of Bowen's rights. If the alleged union breach in *Bowen* stretches the duty beyond all reasonable bounds as I think it does, it also shows how the grievance screening process can be used to mask retaliation against a dissident. The union gave perfectly plausible reasons for not taking Bowen's case to arbitration, reasons that could have been given had he been a dissident and which normally are acceptable. Had Bowen's grievance been aired before a NMFA state or joint area committee, the transcript would likely show the reasons for the decision with substantially more particularity than his union's national office gave.

[14] In *Hines v. Anchor Motor Freight, Inc.*, 424 U.S. 554, 91 LRRM 2481 (1976), the unfair representation claim against the local union was remanded for trial and the lawsuit eventually settled. In *Banyard v. NLRB*, 424 F.2d 342, 87 LRRM 2001 (D.C. Cir. 1974), the joint committee rulings were not deferred to because contrary to perceived public policy, not because of the grievants' dissidency. Unquestionably, the stringent terms of the NMFA's discharge and suspension provisions (progressive discipline from a written warning for most offenses; written warnings expire after nine months; and strict procedural safeguards) make it difficult to manipulate the rules in the kind of cases that are of paramount individual concern. The Central States JAC's recent track record in such cases is indicated by the results of a special hearing on July 22, 1981 limited to discharge cases. Of the 12 cases heard, five grievants were reinstated, three cases were settled and withdrawn (which usually means return to work), two were deadlocked, one held, and one denied. Since all of these cases had been deadlocked at the state level, they were presumably among the more troublesome. From the individual member's perspective this record compares favorably, I estimate, with the results reached by most neutrals in a similar number of difficult discharge cases.

account.[15] And what is the discussion at a pre-decisional meeting of a tripartite arbitration panel if not lobbying of the neutral? Joint committee members, like arbitrators, are third parties who decide grievances under a collectively bargained agreement; they do not wear black robes.

Lastly, joint committees have been criticized for the brevity, some say obscurity, of their rulings. We know from the Trilogy that arbitrators have no obligation to the court to give their reasons for an award although well-reasoned opinions may engender confidence in the integrity of the process and aid in clarifying the underlying agreement.[16] In other words, the contents of a grievance decision, although not the definiteness of the award, are left to the arbitrator's discretion if not spelled out in the collective bargaining agreement; they are not dictated by law. In this regard practicalities are important of course. Joint committee members, like appellate judges and even Supreme Court Justices, may find it easier to agree on a result than on the reasons for it. Moreover, it would be physically impossible for members to write full-dress opinions explaining 150 decisions and perform their other functions in the several days that the committees are assembled. Another practicality worthy of note is that, when challenged judicially, there are times when a terse decision will be less vulnerable than a neutral's fully articulated opinion.[17] Since grievance decisions are part of the collective bargaining process rather than creatures of law, they must be written in language that communicates to working people, not philosopher kings. Although joint committee rulings are typically terse and, unless formal interpretations, not particularly useful as precedents, neutrals' awards too, to say nothing of Labor Board rulings these days, are often of very limited precedential value if any. Like the parties, arbitrators and even courts

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[15] *United Steelworkers v. Warrior & Gulf*, 363 U.S. at 582.

[16] *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 598, 46 LRRM 2423 (1960). Indeed, nothing in the Trilogy implies that the quality of arbitral justice turns on the length of the award, or for that matter on the length of the hearing that precedes it. One of the advantages of the joint committee procedure is that committee members bring with them expertise in the industry and the contract that permits them to reach the essential facts and issues in much less time than an outsider normally requires. To suggest that committee hearings or rulings must be as lengthy as increasingly attenuated NLRB hearings and decisions to be worthy of deference is as arbitrary a measure of justice as the length of a chancellor's foot would be of distance.

[17] The Sixth Circuit in particular is inclined to flyspeck neutral opinions for lack of evidentiary support and, resurrecting the *Cutler-Hammer* doctrine, for departures from the "plain meaning" of contract language. *See, e.g., Detroit Coil Co. v. International Ass'n of Machinists*, 594 F.2d 575, 100 LRRM 3138 (6th Cir. 1979).

make decisions that say they are not to be used as precedents. If the parties, as appears to be the case where joint committees decide grievances, have confidence in the integrity of that process and largely agree on how the contract should be interpreted, brief rulings are sufficient.

Professor Aaron has accurately compared the American system of labor-management dispute adjustment with those in other countries as emphasizing self-determination:

> "In the USA . . . what the collective bargaining parties prize most about their prevailing system of private voluntary arbitration is its inherent diversity; each employer and union can, by mutual agreement, fashion a disputes settlement mechanism that meets their particular needs. This system works, however, because so many aspects of the employment relations are established, not by statute, but by collective agreement. Statutory rights, which for the most part simply protect employees against various types of employment discrimination, rather than conferring employment benefits, must necessarily be enforced by administrative agencies such as the NLRB and by the courts. The chief criticism of the system is not its diversity, but its failure to provide adequate statutory protection in respect of basic conditions of employment for the great majority of workers who are unorganized."[18]

This is not merely Professor Aaron's perception of what we Americans value, it is federal labor policy as declared in our basic labor statute. Section 203(d) of Taft-Hartley provides:

> "Final adjustment by a method agreed upon by the parties is hereby declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement."

Note that Section 203(d) says nothing about arbitration, with or without a neutral. It refers to the method of final adjustment agreed upon by the parties. With all respect, I believe the succession of Court opinions described this morning by Professor Feller, including the Trilogy, are founded on the agreed-upon method of final adjustment rather than arbitration as such.[19]

In the Trilogy, arbitration with neutrals was the method; in *Humphrey,* it was the joint committee. But I thought the Court in *Hines* made it clear that federal labor policy treated one as it treated the other, despite PROD's exhortation amicus to treat joint committee rulings as mere grievance settlements warrant-

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[18]Aaron, *Arbitration and the Role of Courts,* Recht der Arbeit, 1978 Heft 5, 274 at 291.
[19]*United Steelworkers v. American Mfg. Co.,* 363 U.S. 564, 566, 46 LRRM 2414 (1960).

ing less judicial respect than the awards of neutral arbitrators.[20] Moreover, I think that question *was* squarely put in *Hines* and Mr. Justice White, speaking for the entire Court, ruled that the joint committee's decision would have no less finality than an award by any arbitrator in this hall unless tainted by the union's breach of duty. Finally, I do not believe that this question was squarely put in *DelCostello*, where it concededly did not make any difference whether the committee's ruling was or was not the legal equivalent of a neutral's award, and in all candor I submit that the Court's minor variation in descriptive language does not suggest that it will veer from its steady course on this issue.[21]

Turning to the subsidiary questions posed in Professor Feller's presentation, at least two circuits, the Third and Seventh,[22] have held that the same statute of limitations governs the enforcement of joint committee decisions as of neutral awards, and no significant conflict has developed to date on that point. The same is true of the standard to be applied in *Vaca*-type actions or in enforcement proceedings after an award or committee decision has issued; I believe *Hines* and its precursors *Riss* and *Humphrey* control on those issues, since they unequivocally apply Trilogy standards to joint committee decisions. I agree with Professor Feller that the Labor Board is unlikely to change its views on this question, and may even give less weight to individual rights unless equatable to employer interests than it has previously. The matters of *ex parte* contact and active partisanship by committee members have already been covered. With respect to the contention that joint committee rulings are merely grievance settlements, the parties to the grievance dispute, i.e., officials from the grievants' local union and employer officials directly involved, do not sit on their own cases. Conversely, it is the local union, not the joint council, conference, or national union bodies which appoint union members to the committees, that is chargeable with the duty of fair representation in administering the NMFA; higher union bodies have been

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[20]Brief of Amici Curiae, PROD et al., at 18: "[Joint committee rulings] at most represent only a decision not to process the members' breach of contract claim."

[21]One can also find mute support for the opposing view in another Court opinion last term. Five months before *DelCostello* issued, both the majority and dissenting opinions in *Bowen* characterized the joint committee's decision in *Hines* as arbitration: "arbitral decision," 74 L.Ed.2d at 413; "the arbitrator had upheld the discharge," *id.* at 420. More significantly, no conflict exists on this point in the courts of appeals.

[22]*Service Employees Int'l U. v. Office Center Servs., Inc.*, 670 F.2d 404 (3d Cir. 1982); *Local 135, Teamsters v. Jefferson Trucking Co.*, 628 F.2d 1023 (7th Cir. 1981).

held only to the duty to assure that contractual procedures are observed.[23] Finally, the reported court decisions have accorded joint committees and their members the same immunities as neutrals to the extent these issues have been litigated.[24]

In sum, despite some critical scholarship and a pre-*Hines* Eighth Circuit footnote dubitante,[25] the Teamsters' joint committee procedure is the legal equivalent of arbitration because, where the system exists, it is the agreed-upon method of final adjustment. Even in the frame of reference of today's topic, "arbitration" does not require a neutral. Webster's, like the courts, defines it as the "hearing and determination of a case between parties in controversy by a person or persons chosen by the parties." The joint committee procedure, like arbitration before a neutral, is an agreed-upon method of grievance adjustment because it involves the hearing and final determination of a case by third persons chosen by the parties to the dispute, that is, the union representing the grievant and his employer. It is *not* a settlement of the grievance agreed upon by those parties or necessarily an interpretation of the labor agreement agreed upon by the parties that negotiated it. It is certainly not a decision to drop the grievance short of agreed-upon resolution by a third party.

In closing, it is my thesis that

> "The joint labor-management committees created under the collective bargaining agreements between the Teamsters and the freight industry reflect a mature and enlightened method to resolve industrial disputes. These institutions implement the national labor policy as mandated by Congress and will be given maximum respect by the courts."

Those are not my words; they are the words of the United States Court of Appeals for the Third Circuit.[26]

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[23]*Walters v. Roadway Express, Inc.*, 400 F. Supp. 6, 16, 91 LRRM 2184 (S.D. Miss. 1975), *aff'd*, 557 F.2d 521, 96 LRRM 2006 (5th Cir. 1977); *Berry v. Pacific Int'l Express Co.*, 85 LRRM 2408, 2410 (D.N.M. 1974); *Brooks v. Southwestern Transp. Co.*, 85 LRRM 2071 (C.D. Calif. 1973); *Difini v. Spector Freight Syss., Inc.*, 101 LRRM 3055 (E.D.N.Y. 1979); *Warren v. International Bhd. of Teamsters*, 90 LRRM 2241, 2247 (E.D. Mo. 1975), *aff'd*, 544 F.2d 334, 93 LRRM 2734 (8th Cir. 1976). *Cf. Kirkland v. Arkansas Best Freight Syss.*, 629 F.2d at 543.

[24]*DeVries v. Interstate Motor Freight Sys.*, 91 LRRM 2764, 2769 (N.D. Ohio 1976); *aff'd without opinion*, 620 F.2d 302 (6th Cir. 1980); *Shropshire v. Local 957, Teamsters*, 102 LRRM 2751, 2752 (S.D. Ohio 1979); *Yates v. Yellow Freight Sys.*, 106 LRRM 2438 (S.D. Ohio 1980); *Novakovich v. McNicholas Transp. Co.*, 107 LRRM 2857 (N.D. Ohio 1981); *Difini v. Spector Freight Syss.*, 101 LRRM 3055 (E.D.N.Y. 1979).

[25]*Local 554, Teamsters v. Young & Hay Transp. Co.*, 522 F.2d 562, n.5 (Heaney, J).

[26]*Local 30, Teamsters v. Helms Express, Inc.*, 591 F.2d 211, 218 (3d Cir. 1979).