Therefore, the grievant was reinstated with all the pay lost, except for the three-day suspension.

As you can see, justice and dignity is subject to many strange twists, especially during the transition period during which the bugs are being worked out in arbitration.

Conclusion

To conclude, I will discuss the basic steel industry clause briefly. A justice and dignity clause was agreed to on an experimental basis in the recently negotiated basic steel agreements. One interesting aspect of the steel provision is that the parties agreed that the justice and dignity provision would be installed by option of the local union at plants presently or hereafter covered by the Labor Management Participation Team (LMPT) program. By August 1, 1985, subject to the right of individual locals to opt out, the justice and dignity procedure shall be installed at one-third of all steel-producing plants of each company.

I believe that this is a very significant development. As we see more quality circle, LMPT, or productivity committees in plants, there is a strong possibility that a justice and dignity clause will be negotiated as a companion provision. For the people who are saying that the time has arrived for labor and management to work together more closely, justice and dignity provisions may be another big step in that direction.

The securing of justice and dignity clauses in our agreements was part of President McBride's election platform, and he has given great support to the chairmen of various negotiating committees in their pursuit of such clauses.

II. THE MANAGEMENT VIEW

T. S. HOFFMAN, JR.*

More than 30 years ago, Continental established a master agreement bargaining arrangement with the United Steelworkers of America (USWA) during a period of dramatic growth. This relationship was mutually beneficial to the Steelworkers

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and the company since a major concern was providing uninterrupted support to our customers with an experienced, predictable work force.

By 1970, USWA representation in Continental grew to nearly 18,000 employees. During the 1970s, major changes occurred in market conditions, including self-manufacture, new product development, and material and process changes which put both Continental and the can-making industry as a whole at a comparative disadvantage with competing materials and processes. In what had become a mature business with significant cost differences, a labor cost disadvantage became a major concern. In this environment we were forced to try to regain a competitive advantage in the marketplace, and this required a major effort and understanding on the part of all employees, including those represented by the Steelworkers.

Our union-management relationship has been good over the years, although I will admit to having enjoyed the company of Mr. Gilliam and his associates more on some occasions than on others. It became evident to Continental that while the traditional labor relations approach had served us well, the new circumstances would necessitate changes in the basic relationship.

The desire to succeed and our need for competitive excellence resulted in a number of alternatives in the employee relations area, all of which would require the commitment of *all* employees. Thus, we had to build on our relationship internally and externally and demonstrate through *actions,* not just words, that we desired involvement and trust as we proceeded into the future. Equitable treatment, with the full recognition of the innate decency of every individual, was key to *all* our futures.

With this background, we arrived at the can industry negotiations in 1981 with concern and optimism.

To set the stage for you, the 1981 master agreement negotiations with the Steelworkers included the four major can manufacturers: Continental Can Company, American Can Company, National Can Company, and Crown, Cork and Seal. As you would expect, there were a number of committees established to address (a) issues related to individual companies, (b) noneconomic issues including language clarification and development, and, of course (c) economics.

Mr. Gilliam and I had what I can only call the experience of negotiating can industry *language* issues which, during the final state, included continuous dialogue from 10 P.M. one evening

through 8 A.M. the next morning. It was during that time period that the concept of justice and dignity emerged and developed into a reality.

Simply stated, justice and dignity provides that persons who are disciplined or discharged for routine or administrative reasons will be retained at work, if a grievance is filed, until such grievance is resolved.

Now, while the concept of justice and dignity was introduced early in the negotiating process, as is often the case with new provisions proposed by either party, there was, after this protracted session referenced above, agreement on intent without specifics as to language or implementation. Discussions continued between the parties, even after the conclusion of negotiations, concerning exclusions, inclusions, application, rules, procedures, and so on and so forth. What exactly did we mean?

It was finally concluded that the language would remain as you see it today with the final sentence added to provide the flexibility necessary for implementing justice and dignity. That sentence reads: "The above references to suspensions, discharges, and terminations are examples and are not intended to be all-inclusive but indicate how various types of issues will be handled." As I stated, it is this sentence that enables the company and the union to address situations that occur which are not provided for in the body of the clause. This exclusionary sentence allows the flexibility to address unforeseen circumstances. As an example, we subsequently concluded that a person refusing to perform assigned duties should not be retained in the plant. This was an issue that was resolved sometime after formal negotiations were completed.

The obvious question is: Why did we (the company) agree to this type of what might appear to be an open-ended provision?

First, as I have said previously, there was the realization that the collective bargaining process was evolving toward problem-solving rather than adversary relationships because of the change in the economic environment, market conditions, and a philosophical redirection by both parties. Since we all know that you cannot be what you wish to be by being what you are, it is evident that management would have to demonstrate a change before we gained renewed credibility in the bargaining process.

Second, our work force demographics reflected an average age of 45–50 and an average length of service of 15–20 years.

Thus, with this mature, experienced, committed, and capable group of employees, the necessity for disciplinary actions had diminished from what it had been in the past and certainly was much less than it would have been in a high-growth business with a high turnover of unknown employees, for example.

Third, our agreement contained a vehicle to insure quick resolution of disciplinary issues—that process being expedited arbitration. This method of handling disputes allows for justice in a timely fashion, minimizing the company's liability and the employee's loss if it is shown that management was in error.

It will come as no surprise to you that management was extremely apprehensive about an apparently open-ended commitment to an untested and undefined concept of justice and dignity. What exactly were we committing ourselves to?

Management comments included: (1) "It is confusing and ambiguous." It was even suggested that this clause was so confusing that an arbitrator must have written it! (2) Reinstated employees will create problems and undermine supervisory authority. (3) Expedited arbitration may result in endless challenges of action taken. (4) Justice and dignity will adversely impact well-established, progressive discipline procedures resulting in more severe actions by management and increased grievance filing by the union, with a greater reluctance to settle issues.

I could go on, but the point, I am sure, is made. We overcame management hesitation, and then demonstrated our support through the implementation process.

Quite honestly, my personal difficulty with justice and dignity was the title—since we, at Continental, have inculcated, over the years, an attitude in each of our operations which provides for everyone to be treated fairly and with dignity. As I communicated this attitude and policy during the negotiating process, the response I received was "We understand, but . . . ." It was then that I realized that there are many reasons why our approach may not be clear to everyone.

I remembered the story of the man who came to breakfast one morning and found his wife very upset because he had not completed projects he had promised to finish. Rather than becoming involved in an argument, he began to whistle a song that he had heard, which immediately caused his wife to become very calm and agreeable. Reflecting back on the breakfast, he concluded that if he could expose the world leaders to this song, we would

have peace among all countries. Prior to exposing the public to his solution to world problems, he went to the jungle to determine whether or not this would have the same effect on animals. To his amazement, it did, and even the most ferocious became docile when they heard this song. With his confidence at an all-time high, he approached the lion, king of the jungle. As he drew close, the lion attacked and killed the man, at which point the other animals were upset and asked the lion why he had done this to a man who was making beautiful music and bringing peace to the jungle—to which the lion responded, "Aye?"

Thus, regardless of how hard we try, we cannot be certain that we are reaching everyone.

A quick review of our company's venture into this uncharted territory reveals some expected as well as some surprising results. Local management has become accustomed to this provision and has not experienced a loss of authority to administer discipline as required. Statistically, comparing disciplinary actions taken, grievances filed, and number of cases arbitrated during the year immediately preceding justice and dignity versus the two years of experience with justice and dignity, we find that (1) a comparable number of actions have been initiated by management in each year since the installation of justice and dignity, which is approximately 30 more than the number of actions initiated in 1980; (2) the number of grievances resolved prior to arbitration was virtually the same in all three years analyzed; (3) the number of cases actually arbitrated was constant throughout the review period.

These results would indicate that the majority of our concerns were unfounded and, in general, the process is working as it was intended. The Steelworkers tried to assure me that this would be the case.

However, I responded to the union's comments in much the same manner as the mountain climber did when he found himself hanging from a small branch beneath a ledge at the top of the mountain. Realizing that if he did not receive help immediately he would fall to his death, he called out, "Help! Is anyone up there?" The response was, "Yes, I am here. However, if you expect me to help you, you must believe in me and let go of the branch." The stranded climber thought for a moment and then called out, "Help! Is there anyone else up there?"

In all sincerity, in considering this type of provision, evaluate your union-management relationship, review your work force

demographics to estimate the level of disciplinary activity, and make certain that the grievance machinery of your labor agreement will accommodate this type of provision.

I will close by suggesting that collective bargaining, if the parties are successful, will continue to evolve toward problem-solving and opportunity bargaining, including new and creative provisions, thus becoming a greater part of desired organizational change and human resources planning of the future.