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LABOR RELATIONS

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■ The commonly held concept that cost-of-living (COL) clauses in labor-management agreements cover the employees adequately and kept them abreast of the rising rate of inflation is proving to be illusion. Victor J. Sheifer of the staff of the Bureau of Labor Statistics discloses in a recent study (covering 1968 to 1977) that wage increases under these COL escalator provisions have generally lagged behind rising prices. (COL clauses provide average annual gains of about 57% of the increase in inflation.) There are several reasons for this shortfall in inflation protection: many escalator clauses are in and of themselves insufficient to produce full compensation catch-ups; some of the COL clauses contain caps or corridors that effectively limit the amount of an increase at any given time; adjustments called for lag behind price changes; and frequently, increases resulting from COL formulas are excluded from the computation of the employee's base rate of pay.

The present high rate of inflation is producing a series of far-reaching changes in escalator clauses that attempt to narrow the gap between pay increases and rising prices. For example, the trucking industry settlement changed the period for computing COL adjustments from an annual to a semiannual interval, although the 1¢ increase for every 0.3% point rise remained the same. The rubber workers and the Big Four tire manufacturers also agreed on a change in the basic formula for computing the COL increase: where the 1¢ for each 0.3% was formerly in use, the agreement now calls for 1¢ for each 0.26% rise in the Consumer Price Index. Other industries can probably expect similar demands when their contracts are open for negotiations this year and next. The new General Electric labor

contracts provide for a 1¢ increase for every 0.2% CPI rise. (Their previous contracts provided for an increase of 1¢ for every 0.3% increase in the CPI, with a corridor precluding any adjustments for CPI increases between 7 and 9%.) As inflation wreaks its havoc on incomes, we can look for newer approaches to resolve the issue of trying to keep up with that corrosive force.

■ The price of coffee in a company canteen is a condition of employment about which an employer can be forced to negotiate in contract bargaining. The U.S. Supreme Court so decided in a ruling that every justice at least partially supported, affirming the Seventh Circuit Court of Appeals in the case of *Ford Motor Co. v. NLRB*, 77-1806, decided May 14, 1979.

■ The issue of fair representation, or the duty of a union to fairly represent the members of a bargaining unit in handling the employees' grievances with management, is becoming an increasingly complex one. Decisions of the courts in recent years have greatly broadened the areas for concern for both labor and management. One of the critical areas for early decision making on the part of the union is whether the latter should proceed beyond the first step with a given grievance. The NLRB recently issued a directive to its field office personnel, saying that there must be an element of bad faith present on the part of the union in its handling or refusal of a grievance before the NLRB will proceed with an unfair labor practice charge filed by the grievant. The directive states, "The mere fact that the union is inept, negligent, unwise, insensitive, or ineffectual, will not, standing alone, establish a breach of the Union's duty to fairly represent the employee grievant." Union stewards are only volunteer rank-and-file

representatives of a union and not labor relations experts; therefore, says the NLRB, the mistakes made by a union steward are readily corrected by employees' electing a new steward or taking other action regarding their bargaining representatives if they are unhappy.

But ignorance in handling the grievance may not necessarily be the basis for a successful "unfair charge." The U.S. Courts of Appeals has not agreed with this interpretation in the past, and it will still be wise for management to put its best foot forward in handling any case in which it appears that the employee may be unhappy with the way the union is handling his or her grievance. A recent Ninth Circuit decision found that a union was exempt from further litigation in a lawsuit filed by an individual against a union and a company. The employee claimed unfair handling of his grievance. However, the court let stand the portion of the claim against the employer, thus making the latter responsible, in effect, for the union's conduct, when initially the case evolved only because of the employee's claim that the union had not fairly and fully represented him on a given grievance with management. Subsequently, the union was able to convince the court that the grieving employee had not fully utilized the internal appeals procedures that were available to him, and so the court severed the union from the case, leaving the employer standing alone as the target of the grievant's fair-representation claims. Whether such a decision will stand the tests of further appeals, which will most likely occur, is for time to tell. In any event, the case cited points out once again that fair-representation issues are not to be regarded by personnel staffs as the sole domain of the union; management must be keenly aware of its possible involvement and responsibility in this critical area of labor relations.



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