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Keeping Capital and Jobs at Home

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Abstract

The International Association of Machinists' (IAM) proposed New Technology Bill of Rights is a fine concept because it clearly addresses the key new technology issue for workers which is: Who will benefit from the new industrial revolution?

KEYWORDS: capital, jobs, home

Keeping Capital and Jobs at Home

Deborah Groban Olson*

The International Association of Machinists' (IAM) proposed New Technology Bill of Rights is a fine concept because it clearly addresses the key new technology issue for workers which is: Who will benefit from the new industrial revolution? How can workers gain control over the process instead of being its casualties, as they were of the first industrial revolution? Yet the proposed Bill of Rights, as a United States law, would only be applicable to technological changes being made in the United States. Workers' rights to negotiate over technological change, even under the proposed New Technology Bill of Rights, are limited by management and stockholder decisions regarding the allocation of capital. Crucial decisions about if and where to invest capital in new plants and equipment are not touched by this new Bill.

Various plant-closing bills¹ have been introduced which seek to require companies to give adequate notice, provide adequate reasons for closing plants, or to pay significant sums to aid workers and communities injured by plant closings. This legislation is intended to serve as a deterrent to such closings and to give workers and communities time to persuade the employer to stay, to find alternative uses for the facility and work for the displaced workers. Many European countries have such laws which they have used successfully to prevent unemployment while assisting industries changing to more modern methods of production.² In recent years the United States political climate has not been right for passage of such legislation. Politicians fear plant-closing legislation will create a bad business climate and cause more businesses to leave, despite the success of such legislation in Sweden, West Germany

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1. See W. SCHWEKE, *PLANT CLOSINGS: ISSUES, POLITICS AND LEGISLATION BRIEFING BOOK* (1980), for a description and comparison of the National Employment Priorities Act of 1979 and a variety of state laws and proposals.

2. See UNITED AUTO WORKERS, UNITED STEEL WORKERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF MACHINISTS, *JOINT REPORT OF THE LABOR UNION STUDY TOUR PARTICIPANTS: ECONOMIC DISLOCATION* (1979). See also Bellace, *An Update on European Economic Community Law*, 171 *Daily Labor Report* A-4, E-1-6 (Sept. 1, 1983) [hereinafter cited as Bellace].

and the United Kingdom.³ However, similar ideas are currently being circulated under the concept of “Industrial Policies.”⁴

Unless and until some legislation exists in the United States which makes it difficult for companies to move plants to lower wage areas, they will continue to do so.⁵ It is not simply that plants in the unionized frostbelt are moving to the lower wage, non-unionized sunbelt. Many sunbelt states have lost plants to overseas low wage countries.⁶ “Whereas labor costs might vary by ten percent between regions within the United States, the variation between the U.S. and the Third World might be eight or nine *hundred percent*.”⁷ “A General Motors (G.M.) employee in Kenya is paid \$102.00 per month, in South Africa, \$2.25

3. See generally *supra* note 2.

4.

The AFL-CIO urges the creation of a National Reindustrialization Board, consisting of representatives of the public, labor and industry, which would recommend the priority and magnitude of reindustrialization to be undertaken in various industrial sectors and geographic regions, in light of the national economic and security interests. . . . The Board should be empowered to direct the activities of a Reindustrialization Finance Corporation (RFC), which would make or guarantee loans or participate in loans made by private lenders to finance reindustrialization projects approved by the Board.

Statement by the AFL-CIO Executive Council on Reindustrialization, in Chicago, Illinois (Aug. 20, 1980).

5. B. BLUESTONE, B. HARRISON, AND L. BAKER, CORPORATE FLIGHT: THE CAUSES AND CONSEQUENCES OF ECONOMIC DISLOCATION (1981) [hereinafter cited as BLUESTONE].

6. *Id.*

[B]etween 1969 and 1976, frostbelt firms destroyed about 111 jobs through plant closings for every 100 new jobs they created, while companies in the South and West shut down 80 jobs while opening 100. . . but the Frostbelt-Sunbelt movement is not the whole story. In fact, there is now a great deal of evidence pointing to disinvestment from the *South as well*, jobs either lost or moved out of the country entirely. Surprisingly, the rate at which manufacturing plants have been closing is actually *higher* in the South than anywhere else; from 1969 to 1976, the odds that a plant which employed more than 100 workers in 1969 would be shut by 1976 were better than one in three in the South. Part of what is happening in the South, thanks to the international growth of corporations. . . is the continuing movement of capital outside the U.S. Southern states would seem to be experiencing—in a much more compressed time period—the same ‘turnover’ of capital. . . as the north has experienced.

Id. at 15-16 (emphasis in original).

7. *Id.* at 52 (emphasis in original).

per hour, and in Brazil (where GM fired 1,000 workers last year because they refused to give wage concessions), \$1.80 per hour.”⁸

Many previous concerns regarding plant location have been radically alleviated or eliminated due to the advances in telecommunications and computer technology which have occurred in the past ten to fifteen years. Ford Motor Company, for example, has just completed a new ten million dollar computer center in Dearborn, Michigan, a suburb of Detroit. During the day five thousand Ford engineers and technicians across North America plug into the system, and at night their counterparts in England, Germany, Switzerland and Spain have access to the same information and thus work on the same project. Responding to basic decisions made in Dearborn, Ford staffers throughout the world are able to relate to one another as if they were in the same room.⁹ Ford’s new “world” car is a product of this type of computer technology. Although Ford touts it as an “import fighter” in the United States the car’s parts are made in twelve countries throughout the world, from Yugoslavia to Brazil.

General Motors will be producing four-cylinder engines for their world cars in five countries, with no single country producing more than one or two of the three engine types involved. This type of production arrangement provides GM and Ford with considerable leverage should an unexpected strike or shutdown occur in any single country.¹⁰ In the event of a strike or work stoppage, the present state of computer technology allows GM and Ford to transfer work to another location, even in another country. Companies in the United States have already utilized this new technological capability to move work from a plant experiencing a work stoppage, “struck work,” to another plant.¹¹

8. G. Horn, *25 C.E.R.P. Newsletter 2* (Sept. 1983) (published for limited circulation by UAW C.E.R.P. Committee, Montrose, Michigan).

9. Address by H. Shaiker, Conference on the Auto Industry, Wayne State Univ. Weekend College (March 28, 1982).

10. Shaiken, *The New World Car, Detroit Downsized U.S. Jobs, The Nation*, Oct. 11, 1980.

11. Die work is the easiest for a company to move around and is facilitated by the organization of world car production. It allows manufacturers to bypass labor troubles. It is conceivable for a company to send a tape from a reprogrammable robot welder in Dearborn to a new plant in South America, which does not have skilled tradesmen, to aid in the set up of an offshore operation. NC machines doing machining or die-making can definitely transfer that more readily. Unbeknownst to UAW leadership at the time, in a 1976 tool and die strike GM took computer tapes from the Cadillac Seville striking unionized tool and die shops and, reportedly, sent them to other places, even into the GM Flint, Michigan die making program. Interview with Bob King, Pres-

Several studies have shown that prevailing wage levels, work force skill level and amenities of life for executives are important factors in plant location. Government regulations are less important except to the extent that they increase the "social wage," and tax incentives are not significant.¹² In the past it was necessary for a manufacturing company to balance these factors in some fashion and to locate someplace which accommodated all these needs. However, it is now possible to accommodate all these needs either in separate places or to obviate some of them by the use of new technology. Using systems such as Ford's Dearborn computer center, corporations can retain their executive, technical and management personnel in the United States while utilizing foreign labor.

Specifically, by use of computer controlled production processes and computer and telecommunication links between plants and management, the corporation can obtain most of the information and control it needs with very few managers or technicians at the production site. Computers can maintain records on a worker's attendance and time his work.¹³ Robots can be reprogrammed to do different work without any mechanical retooling,¹⁴ and many computer controlled sys-

ident of UAW Local 600 by Steve Babson (April 16, 1983) [hereinafter cited as King interview].

12. BLUESTONE, *supra* note 4, at 64-76.

13. This has been a major concern of the Communications Workers of America in their technology negotiations. See, e.g., C. Heckscher, Second Annual Summer School on Extending Workplace Democracy, University of Michigan (Aug. 1, 1981).

14. The Robot Institute of America, an industrial trade group, defines a robot as [a] reprogrammable, multifunctional manipulator designed to move material, parts, tools, or specialized devices through variable programmed motions for the performance of a variety of tasks.

Reprogrammable and multifunctional are the key words. Factories have long used automatic machines (like bottle cappers) to mass-produce goods, but these devices could only perform one task at a time. New work routines required new machinery or extensive retooling. The industrial robots now being installed have control and memory systems, often in the form of minicomputers. These enable them to be reprogrammed to carry out a number of work routines and, when necessary to be reprogrammed to carry out even more.

The Robot Revolution, Time, Oct. 8, 1980, at 72, 75.

Take a welding machine in the stamping plant. The fixed mechanical parts of that are not that adaptable, but the control system is tremendously adaptable. You can sit there and in 30 seconds or a minute you can reprogram in there a different sequence of welding operations, different heats and things like that. Whereas, before if you wanted to make some

tems can troubleshoot their own problems,¹⁵ eliminating the need for a skilled maintenance person. Unlike past automation which involved significant investment in hardware that became obsolete over time and was expensive to replace, a reprogrammable robot can be taught new tasks without major changes in its hardware. Its old function may be changed by a simple, inexpensive change in its computer program¹⁶—a

major changes you might have to do some rewiring or put some new controls in. You do not have to do that now.

King interview, *supra* note 11.

Flexible manufacturing systems—FMS. . . consist of computer controlled machining centers that sculpt complicated metal parts at high speed and with great reliability, robots that handle the parts, and remotely guided carts that deliver materials. The components are linked by electronic controls that dictate what will happen at each stage of the manufacturing sequence, even automatically replacing worn-out or broken drill bits and other implements.

Measured against some of the machinery they replace, flexible manufacturing systems seem expensive. A full-scale system encompassing computer controls, five or more machining centers, and the accompanying transfer robots, can cost \$25 million. Even a rudimentary system built around a single machine tool—say, a computer-controlled turning center—might cost about \$325,000, while a conventional numerically controlled turning tool would cost only about \$175,000.

But the direct comparison is a poor guide to the economies flexible automation offers, even taking into account the phenomenal productivity gains and asset utilization rates that come with virtually unmanned round the clock operation. Because an FMS can be instantly reprogrammed to make new parts or products, a single system can replace several different conventional machining lines, yielding huge savings in capital investment and plant size.

Bylinsky, *The Race to the Automatic Factory*, *Fortune*, Feb. 21, 1983 at 51, 53.

15. The maintenance done on robots would require less skill than the maintenance done in the past. Many of the computer systems now are designed to do a lot of their own troubleshooting. If something is wrong, you can ask the computer a question or ask the programmable controller a question and it will tell you an answer. Whereas, before you would have had to use your own brain to figure it out and to follow through a number of logical processes, now the computer can do that. In some cases, rather than repairing, say, some relays or changing some wires, you might go in and pull a whole computer board out, plug in another one and send the bad one to the manufacturer.

Now that the computer does its own troubleshooting, the computer repair person must be highly skilled but the machine operators and maintenance personnel need less skill. Therefore, fewer skilled workers are needed overall. King interview, *supra* note 12.

16. The Pragma A-3000 is a \$110,000 robot licensed by General Electric to as-

task which can be handled by telecommunication between computers and requires few on site skilled personnel.

If a wage differential is significant enough to offset the disadvantages of long distance, management can continue to enjoy the advantages of suburban life in the United States while running plants in Asia, Latin America or other low wage areas. Limited skill in foreign workforces can be overcome more readily by use of computer controlled processes and reprogrammable robots. Therefore, until there is a more uniform wage scale around the world, or until there is legislation limiting plant relocation or foreign investment, regulation of the introduction of new technology in the United States will have limited efficacy in preserving jobs in this country. The New Technology Bill of Rights proposal is important because it aims for greater worker control over technology. But in addition to proposals for control over technology, more attention must be paid to obtaining control over capital investment decisions.

Much has been done in the area of union control over investment of pension funds since Jeremy Rifkin and Randy Barber first wrote *The North Will Rise Again, Pension, Power and Politics in the 1980's*. Since its publication the AFL-CIO and many of its affiliates have adopted positions favoring increased union involvement in the investment and control of union pension funds.¹⁷ Yet the idea of employee ownership has generally been shunned by the United States labor movement,¹⁸ although there have been a number of recent union experiments with it. Unions have had some bad experiences with worker ownership, such as South Bend Lathe Corporation where workers gave up their pension rights to get one hundred percent of the stock in their company, but they did not receive voting control over the stock.¹⁹ Such cases show that worker ownership is a mechanism which can be used to limit rights gained by unions. However, with increased experience unions are learning how to use employee ownership mechanisms to give

semble a compressor valve unit from twelve separate parts. Its two arms do totally different jobs at once. It produces 320 units per hour without mistakes making it roughly the equivalent of ten human workers. It can easily be reprogrammed to assemble TV sets or electric motors or, theoretically, just about anything. Time, *supra* note 15, at 72.

17. See INDUSTRIAL UNION DEP'T, AFL-CIO, PENSIONS: A STUDY OF BENEFIT FUND POLICIES (1980).

18. Olson, *Union Experiences with Worker Ownership*, 5 WIS. L. REV. 729, 737-38 (1982) [hereinafter cited as Olson].

19. *Id.* at 747-752.

employees control over their workplaces commensurate with their investment and risk. Some examples of successful employee ownership efforts include Rath Packing Company,²⁰ Hyatt Clark Industries,²¹ Atlas Chain Company,²² O&O Markets,²³ and Eastern Airlines.²⁴

The European Economic Community (EEC or Common Market) is making serious efforts to maintain controls over multinational firms which operate in Europe by enacting in member states uniform or conforming legislation which covers many areas including labor relations. In the 1970s they enacted directives which were adopted by all member states concerning: equal pay for work of equal value; requirements that employers "consult" with worker representatives before any collective layoffs "with a view towards reaching agreement" on ways of avoiding or reducing the number of permanent layoffs and of mitigating the consequences of terminations; safeguarding employee rights by requiring consultation with employee representatives prior to any transfers or undertakings including acquisitions, mergers and takeovers of businesses or part of a business; as well as provisions on occupational safety and health.²⁵ There are two proposed EEC directives, the Vredling Initiative and the Fifth Draft Directive on Company Law which, if adopted by member states, will greatly expand worker representatives' knowledge and involvement in making major corporate decisions.

The Vredling Initiative would impose a duty on employers of companies with one thousand or more employees in any configuration within all the EEC countries to provide yearly information to their employees' representatives yearly without the need for a specific request for the information.²⁶ Where an employer proposes to take a decision which is liable to have serious consequences for the interests of its employees in the EEC, the employer will be required to forward precise

20. *Id.* at 753-759.

21. *Id.* at 760-763.

22. Collins, *Atlas Chain Employees Close to Plant Takeover*, *Scranton Times* (Sept. 11, 1983).

23. D. CLARK & M. GUBEN, *FUTURE BREAD: HOW RETAIL WORKERS RANSOMED THEIR JOBS AND LIVES* (1982) [hereinafter cited as D. CLARK & M. GUBEN].

24. Loeb, *Eastern Air Says 3 Unions Agree to Concessions*, *Wall St. J.*, Dec. 9, 1983; Salpukas, *Eastern's Unions Agree to Pay Cut and Accept Stock*, *N.Y. Times*, Dec. 9, 1983; Barber, *The Wage Investment and Union Role in Management Agreement At Eastern Air Lines* (IAM's press release background information, Dec. 1983) [hereinafter cited as Barber].

25. Bellace, *supra* note 2.

26. *Id.*

information to the subsidiaries concerned "in good time before the final decision is taken."²⁷ Local management must transmit the information to the worker representatives who are to be given at least thirty days to review it before the action can be taken. The worker representatives have a right to consult with local management regarding the information.²⁸ The recently revised Fifth Directive applies to public limited liability companies employing more than one thousand persons.²⁹ Member states can elect to have one or two-tier board structures. If a two-tier structure is used, the member state must provide that at least one-third and at most one-half of the seats on the supervisory board will be filled by employee representatives. In a one-tier board, nonexecutive members would appoint the executive members of the board. At least one-third and not more than one half of the nonexecutive members of the board would be employee directors. Two other alternative models are also permitted which would achieve the same type of participatory rights as these two proposed directives.³⁰

Labor law in the United States makes no attempt to control multinational firms in any of their actions outside the country and does not give workers any right to a voice in the types of decisions, such as plant closings and layoffs, on which European worker representatives are already consulted. There is no serious legislative effort underway to obtain anything like the Vredling or Fifth Directive rights for American workers. However, in the United States, collective bargaining has frequently been a stronger tool than in many European countries because under section 9(a) of the National Labor Relations Act³¹ a union here is recognized as "sole collective bargaining agent." Therefore, we must look to collective bargaining as the most promising immediate source for innovation in obtaining more employee control over investment and disinvestment decisions in the United States.

The recent pact between the IAM and Eastern Airlines is a very good example of an attempt to obtain many of the Vredling and Fifth Directive rights through collective bargaining. In December, 1983, Eastern Airlines entered into a precedent-setting agreement with its workers and their unions after the unions were allowed to make a com-

27. *Id.*

28. Bellace, *supra* note 2, at E-2, 3.

29. *Id.*

30. *Id.* at E-3, 4.

31. Summers, *Worker Participation in the U.S. and West Germany: A Comparative Study From An American Perspective*, 28 AM. J. COMP. L. 367 (1980).

prehensive analysis and audit of Eastern's financial conditions:

Eastern workers agreed to invest 18 percent of their wages (22 percent in the case of pilots) in return for one-quarter of the company's outstanding stock and a new form of 'profit sharing' preferred stock. In exchange, they secured a broad range of new rights to participate directly in management of Eastern: from membership on the Board of Directors, to unlimited access to financial information, to participation in decisions concerning the business plan and capital expenditures, to involvement in the design of new facilities, to innovations in a number of day-to-day issues affecting individual workers.³²

The parties refer to the one year agreement as a "trial partnership" between Eastern and its workers which was agreed to after six years of constant confrontations involving threats of bankruptcy, strike breaking, and default. If the union role in management provided by the agreement is effectively implemented, the unions and their members will have achieved an entirely new level of authority and a significantly expanded role in the operations of the company.

This agreement could represent a watershed event in the relationship between labor and management in the United States. At the least, this agreement provides unions a new threshold they can demand companies meet when approaching workers for financial relief. If a company is serious about obtaining this relief, it must be willing to give back something of value (like a significant ownership share in the company) and it must be willing to give over to its workers a range of powers, rights and responsibilities that have previously been strictly the prerogatives of management. Specifically, the Eastern agreement provides for: (1) employees to place eighteen percent of their salaries in a wage investment program to purchase twenty-five percent of Eastern's common stock and to purchase \$260 million in participating, preferred stock (which has a liquidation preference ahead of common stock and is convertible to common); (2) employees to provide increased productivity savings (however, all contractual work rules and benefits have been maintained); (3) Eastern to work with labor on revision of its business plan; (4) Eastern to work with labor on its financial restructuring program; (5) ongoing union review of business plans, major capital expenditures and expansions; (6) union right of appeal to Eastern's Board

32. Barber, *supra* note 24.

of Directors; (7) continuing unlimited access to Eastern's financial information; (8) IAM-designated member on Eastern's Board of Directors; (9) job security and reduction of outside work contracts; (10) joint review of labor-management relations; (11) participation of union in design of facilities; (12) joint review of supervisory and lead roles and functions; (13) implementation of effective employee involvement program; (14) joint board for IAM pension fund; (15) full disclosure of consultant hiring; (16) joint review of employee benefit plan administration.³³

While it is too early to tell if all of this will work as designed, this ambitious plan includes the types of disclosures required by the EEC's Vredling Initiative. The board representation is not as great as that required by the Fifth Directive, yet the ownership of twenty-five percent of the stock in a publicly traded company is a very significant interest. However, it is the vast array of other agreements which clearly show the value to the union of obtaining virtually total disclosure and of proposing a true partnership with an employer seeking concessions. Although when a union or group of unions is willing to get into the driver's seat of a company and help run it, it does take on some risks,³⁴ it also has much more control over decisions which affect job security. For example, in the Eastern agreement union representatives are involved in reviewing all consultants and outside contractors hired in order to determine if union members might be able to do that work and save both jobs and money.

In 1980, Wendell Young, President of United Food and Commercial Workers International Union (UFCW), Local 1357 in Philadelphia, began investigating employee ownership as one of several new approaches to the problem of plant closings and job security for his members. He found the lack of notice of plant closings to be the greatest obstacle to solving work loss problems. In their 1980 negotiations with Atlantic and Pacific Tea Company (A&P), UFCW locals 1357 and 56 gave up their cost of living allowances (COLAs) in exchange for an agreement by A&P to give twenty days advance notice of any proposed store closings and first right of refusal for employees to buy the stores.

In July of 1982, A&P announced the closing of twenty-two stores in the Philadelphia area. The union proposed an employee buyout of

33. *Id.*

34. Olson, *supra* note 18, at 780-814.

these stores.³⁵ A&P reconsidered, sold two of the stores to the employees and created a new subsidiary, Super Fresh, in the twenty others and in a total of fifty-six stores in the Philadelphia area. The Super Fresh stores have an extensive program of worker involvement in management, a reduced fixed wage package and a unique profit-sharing plan. Super Fresh contributes approximately one percent of the gross annual sales per store (which keeps its labor rate at nine to ten percent) to an employee controlled trust fund.³⁶ Sixty-five percent of the fund is distributed to employees as cash bonuses, and thirty-five percent is contributed to the employee owned and operated investment fund, to provide start-up capital loans for democratically controlled employee owned businesses in the Philadelphia area. The fund expects to receive \$400,000 from the Super Fresh profit-sharing plan in the fiscal year ending in July 1984. This fund will be augmented by leveraging in several ways. It is a member of the Small Business Administration's Philadelphia Small Business Investment Corporation through which it can obtain three to fourfold leveraging on money it invests in employee owned businesses. The fund is also seeking loan guarantees, rather than grants, from foundations and corporations.³⁷

The two A&P stores purchased by former A&P employees and members of Locals 1357 and 56, were reopened as employee-owned and operated. Each of the two is a separate cooperative. They work together and intend to form a service cooperative for themselves and any additional employee owned stores or businesses in the area.³⁸ All the employees in these stores are union members. They have negotiated a contract with the UFCW which is similar to that of other organized supermarkets in the area. Joe Osner, meat manager of one employee owned store, says:

We are doing better than we expected. We are competitive. We do not feel any conflict of interest with the union. If it were not for

35. Presentation by Wendell Young, President of UFCW Local 1357, the National Center for Employee Ownership (NCEO) and Coalition Against Plant Shutdowns (CAPS) Conference in Los Angeles (March 4, 1983). *See also* D. CLARK & M. GUBEN, *supra* note 23.

36. Telephone interview with Jay Guben, Director of O&O Investment Fund (July 20, 1983). Super Fresh Markets & UFCW Locals 56 and 1357 Collective Bargaining Agreements (Signed May 12, 1982).

37. Telephone interview with Jay Guben, *supra* note 36.

38. Telephone interview with Andrew Lamas, Staff Attorney, Philadelphia Association for Cooperative Enterprise (PACE) (July 26, 1983).

them, we would have no jobs. They got the consultants and negotiated with A&P for the sale to us. We are successful. The union is successful. We owe them a lot, and we work together well. I have heard the theoretical question raised, 'If the workers own the store, who needs the union? Won't they decertify?' But I have yet to hear one word on decertification from anyone here. We are out to prove that workers can run a successful business. The union has done nothing but help.³⁹

The O&O Markets model chosen by the UFCW is intended to translate the Mondragon, Spain industrial cooperative model into a unionized American context.⁴⁰ The UFCW's Wendell Young stated this goal as follows:

It would have been of no long term benefit to the Union to help create jobs that would undercut the jobs of other UFCW members in the same industry. This concern for continuity meant that the model that evolved would necessarily have to be sensitive to the presence and prerogatives of organized labor in whatever area of the economy in which it is applied.⁴¹

Rath Packing pioneered the concept of using employee stock ownership plan (ESOP) financing and a one vote per person voting trust to hold and vote the employees' controlling interest in a bloc. The initial goal was to preserve jobs and keep the business going, retaining the pension plan and master collective bargaining agreement wage standards, while taking temporary wage deferrals to be repaid through profit-sharing.⁴² However, in September 1982 Rath terminated its pension plans⁴³ and in 1983 filed a Chapter 11 petition seeking to renegotiate its collective bargaining agreement with the UFCW. Rath's later troubles were substantially caused, however, by having one of the oldest facilities in a seriously troubled industry, excess capacity, and the loss of a line of credit.⁴⁴ Thus, the Rath structural model should still be

39. Telephone interview with Joe Osner, Meat Manager, President of the Board of Directors of the Front Street O&O Market, and President of the Board of Directors of the O&O Fund (July 20, 1983).

40. D. CLARK & M. GUBEN, *supra* note 23.

41. *Id.* See introduction by Wendell Young, at iii.

42. Olson, *supra* note 18, at 753.

43. *Id.* at 759-60.

44. Warneke, *Rath: Reorganization May Save Iowa Plant*, Omaha World-Times, Nov. 10, 1983.

seen as a valuable model of a cooperative employee stock option plan.

In situations which are not employee buyouts, employee ownership is frequently used as a type of employee benefit because of the tax advantages available to employers. Employee ownership may be a limited tool for obtaining worker control over investment decisions and new technology, simply because workers do not have the capital to command an important voice in most corporations. However, since the tax laws first made employee stock ownership plans (ESOP) advantageous⁴⁵ to employers in 1973, their use has grown enormously. There are over 5,000 ESOP companies in the United States⁴⁶. Many large firms have some form of tax credit or tax-deductible ESOPs (General Motors, Ford, Chrysler, McLouth Steel, Wheeling-Pittsburgh Steel, Pan Am, Eastern, Western, and Republic Airlines, to name just a few). Most of these plans provide for a pass through of stock voting rights to the employees. The more traditional ones, such as the Ford and General Motors tax credit ESOPs, simply serve as another fringe benefit, and provide for individual members to vote their allocated stock.⁴⁷ Pan Am⁴⁸ and Eastern provide for union representation on the board of directors. The Chrysler plan⁴⁹ gives union members a fifteen to twenty percent interest in the company which is the largest single bloc of Chrysler stock, although it is not designed to be voted conveniently as a bloc. Douglas Fraser, retired United Auto Workers Union (UAW) president, sat on the Chrysler Board. So far the UAW has not convinced Chrysler to make that seat one which is appointed by the union, however the union has asked for more board representation in negotiations.⁵⁰ The above are important initial efforts to gain some permanent voice over crucial corporate decisions in exchange for union wage concessions. However, the examples of Eastern Airlines, the United Food Workers, and Rath Packing show that much more can be done to obtain worker and union control over corporate decisions. Stock ownership can be a useful tool especially if it can be voted as a bloc. First right of refusal to buy facilities, advance notice of proposed closings or sales, creation of an employee owned and operated investment fund,

45. Olson, *supra* note 18, at 732-737 nn.1-5, 15.

46. C. ROSEN, *EMPLOYEE OWNERSHIP: ISSUES, RESOURCES & LEGISLATION, A HANDBOOK FOR EMPLOYERS AND PUBLIC OFFICIALS* (1981).

47. Olson, *supra* note 18, at 773.

48. *Id.* at 778.

49. *Id.* at 775.

50. Interview with Douglas Fraser, former President UAW at Wayne State University, Detroit (Dec. 14, 1983).

and continuous information and input into corporate decisions aimed at decreasing contracting out are other useful tools.

In order to stem the tide of capital flight, more must be done to obtain local control over capital assets and investment decisions. It is on these decisions that job security ultimately depends, whether or not new technology is involved. Employee ownership is not the only way to significantly increase involvement in such decisions. Many other forms of codetermination or worker involvement in management exist. But most of those which involve worker participation in making investment decisions without ownership are mandated by legislation, as in the case in certain Western European countries.⁵¹ Since such laws do not yet exist in the United States, American workers and unions need to broaden bargaining horizons to protect themselves. They should utilize the concept of employee ownership and negotiate for other controls, such as those on contracting out, to preserve existing capital resources in this country before a significant amount of those resources are permanently invested overseas. Over the past fifteen years an enormous number of American firms have expanded overseas because low foreign wages are attractive and new technology made foreign expansion easy to do so. This trend is not likely to end unless it is curbed by legislation on plant closings, local content and tax laws which do not encourage foreign investment. The governments and labor organizations in the EEC countries have determined that labor involvement in making corporate decisions at the highest levels is essential to balance the needs of the worker population against the needs of the corporations. The same is true in the United States. However, the political process here has not advanced to such an understanding. Therefore, private action by American workers, unions, organizations, and concerned communities is necessary to preserve a viable capital base in this country since many United States-based corporations no longer need to produce their goods here.

51. INT'L LABOUR OFFICE (ILO), *WORKER PARTICIPATION IN DECISIONS WITHIN UNDERTAKINGS* (1976 and 1981). See also Bellace, *supra* note 2.