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Robert Harry Beener

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THE IMPLICATIONS OF THE SEX DISCRIMINATION PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964 UPON SENIORITY AT THE RATH PACKING COMPANY, WATERLOO, IOWA

An Abstract of a Thesis

Submitted

In Partial Fulfillment

of the Requirements for the Degree

Master of Arts

UNIVERSITY OF NORTHERN IOWA

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by

Robert Harry Beener

July 1967

ABSTRACT

Title VII of the Civil Rights Act of 1964 was a controversial law making discrimination by sex unlawful. Compliance with Title VII presented problems for The Rath Packing Company as well as the meat packing industry in general. Use of separate seniority lists for assigning males and females to jobs had been a long time practice in the meat packing industry, but such lists became unlawful July 2, 1965. The problem of merging separate seniority lists into one list for both sexes, and then using the new single seniority list to assign jobs to those being discriminated against, was difficult due to the complicated plant seniority, department seniority, and job classification practices in use at Rath's. The problem was further complicated by Rath's declining production and unfavorable marketing situation.

To trace the development of the Rath problem, it was necessary to understand the perspectives of both the Company and the Union. Local 46 "Union Bulletins" from January, 1964, to January, 1967, chronologically presented the development of the Union's viewpoint. Documents compiled by the Industrial Relations Departments at Rath's revealed how the Company worked to solve the matter. Personal interviews with involved officials from both the Company and Union further revealed the complexity of the issues as both sides interacted.

It took many Company-Union meetings, lawsuits, and conciliation sessions with members of the Equal Employment Opportunity Commission before a solution was found. The task of returning laid off women to work on jobs they could perform was accomplished by using the

ABC Agreement, which was basically the same as the Swift & Company concept adopted by the International U.P.W.A. and its affiliates.

The conclusions and implications that can be drawn from this study are summarized as follows:

1. The Swift & Company Agreement seems to be working in the meat packing industry in general.

2. The basic Swift & Company Agreement was worked out through collective bargaining prior to any guidelines from the government, the courts, or the International Union.

3. The Swift & Company Agreement should be regarded as tentative and open to recurrent negotiations, and will serve as a guideline for new agreements.

4. The ABC Agreement negotiated at Rath's, which is basically the Swift & Company Agreement, has not completely fulfilled its intended purpose of returning females to jobs where sex discrimination is not a recurring issue.

5. A recurring excessive margin transfer of employees is actually perpetuated by the ABC Agreement.

6. Specifically, the ABC Agreement has permitted Local 46 to use seniority in such a manner to cause additional economic costs to Rath's.

7. Rath's unique position as an independent meat packer in which production has been declining, has meant the ABC Agreement as presently negotiated, has produced undue financial obligation on the Company.

8. The clear implication is that any company in a similar declining production and unfavorable marketing situation may find the ABC Agreement unacceptable.

In conclusion, if conditions continue to remain the same at The Rath Packing Company, a revision of the ABC Agreement seems imminent.

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Entitled: THE IMPLICATIONS OF THE SEX DISCRIMINATION PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964 UPON SENIORITY AT THE RATH PACKING COMPANY, WATERLOO, IOWA

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ACKNOWLEDGMENTS

I would like to express my thanks and appreciation to a number of people for their kind assistance in the writing of this paper. Dr. Gordon Rhum gave me encouragement in the selection of the topic. The members of my thesis committee, Dr. Robert Frank, Dr. William Elster, and Dr. Robert Claus, were most helpful and understanding.

Many people associated with The Rath Packing Company were very considerate and supplied or made available the factual material necessary for this study. A special thanks goes to Morris Kinne, Lee Davis, Le Roy Grittmann, and Charles Mueller for their contributions.

Finally, I am indebted to my wife, Shelda, for typing this paper and providing me with scholarly assistance and inspiration throughout.

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CHAPTER I

INTRODUCTION AND IMPORTANCE OF THE PROBLEM

Job security has long been a hope and expectation of the working man. In the United States the importance of job security as a bargaining issue has changed according to various managerial philosophies. During the business development of 1870-1900, the prevailing industrial principle did not require the employer to provide work for the rank and file. Labor was looked upon as a commodity to be retained or discharged at will. Retention, transfer, and promotion of employees were strictly in the hands of the management and a supervisor was unlimited in the strategies used to manipulate manpower. The only protection against the whims of management was in government employment.[1]

The rise of a professional managerial class gave way to a new breed of managers characterized as paternalists. This paternalism was a carry-over from the feudal tradition that the lord of the manor owed some social responsibility to his subordinates. He cared for the worker but in return the worker was obligated to be loyal. The employer would often provide housing, food, medical care and social services for him and because of this treatment, the worker was expected to be appreciative and productive. The worker was dependent on the employer for job security and welfare. This fatherly approach was considered a

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[1]Lawrence Stessin, The Practice of Personnel and Industrial Relations (New York: Pitman Publishing Corporation, 1964), p. 269.

sound investment in employee morale and the worker so treated would respond by turning out a good day's work.[2]

Paternalism went out in the 1930's and big changes came in job security with the rise of labor unions. The founding of the American Federation of Labor in 1887 ushered in a new kind of unionism called "bread-and-butter" unionism. Under the leadership of Samuel Gompers, its first President, the A.F.L. developed a set of principles of which job security was the most important. The philosophy of Samuel Gompers that society is built on property rights and that unions should establish a system of property rights also, became the battle cry. Job rights, job security, and the right to strike should not be dependent on the employer's largesse, but should be stated in a union contract in which length of service on a job or with a company determines the extent of an employee's benefits.[3]

Job security provisions have been strong collective bargaining issues between The Rath Packing Company and United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O., Local 46 since union recognition when the first contract was negotiated March 14, 1944. Since June 8, 1950, a combination of job classification, departmental and plant seniority has been the rule for placement of employees on available jobs.[4]

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[2] _Ibid._, p. 270.

[3] _Ibid._

[4] United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O., Local 46, and The Rath Packing Company, Agreement between, September 1, 1964-August 31, 1967, p. 39.

Seniority is established through length of service in a job classification, a department, and the plant. Separate seniority lists had been used to place men and women on jobs that were designated as male or female.

These separate seniority lists were declared illegal by Title VII of the Civil Rights Act of 1964 which makes discrimination by sex unlawful. The Company and the Union have been in the process of correcting the problem of sex discrimination among workers at Rath's. This thesis is a systematic study of the problem and solution of sex discrimination at The Rath Packing Company, Waterloo, Iowa.

Definition of Terms

The Rath Packing Company. A pork slaughtering house that specializes in processing bacon, ham, and sausage. The main plant is located in Waterloo, Iowa. Hereinafter this business will be known as Rath's or "the Company."

Local 46, United Packinghouse, Food and Allied Workers, American Federation of Labor and the Congress of Industrial Organization. The only collective bargaining agency that represents the rank and file at Rath's. Its jurisdiction is confined to the Waterloo plant where the first contract was negotiated March 14, 1944. Hereinafter this labor organization will be known as Local 46 or "the Union."

Equal Employment Opportunity Commission (E.E.O.C.). Created in Section 705(a) of Title VII of the Civil Rights Act of 1964, it is

composed of five members, not more than three of whom are members of the same political party, who are appointed by the President by and with the advice of the Senate. Its duty is to see that the provisions of the Civil Rights Act of 1964, under which falls the process of negotiating a correction of sex discrimination at Rath's, are carried out.

In order that the many terms used in this paper have a consistent meaning to all who read it, the remainder of definitions, which are extensive in number, will be stated verbatim as defined by the United States Department of Labor in Appendix A.

Factors Indicating a Need for Research

Title VII is a controversial law. "At best, it is a compromise that was not even in the Administration's original civil rights bill."[5]

> Nowhere does the new law promise more trouble than its ruling against sex discrimination - in everything from help-wanted ads to promotions within firms. . . . Now women can apply for jobs from stevedore to sewer cleaner - though one exception of Title VII permits employers to disqualify women where sex is a bona fide 'occupational qualification'. The Title nowhere defines what such a disqualification might be.[6]

Interpretation of Title VII, which became effective July 2, 1965, has had important implications for workers at Rath's as is noted in this article from the local newspaper.

> Kenneth Holbert of Washington left Waterloo Friday afternoon January 14, 1966, after meetings with representatives of the Rath

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[5]B. L. Masse, "Highlights of Title VII," America, 113:23, July, 1965.

[6]"Sex and VII Equal Employment Opportunity Section," Time, 86:62, July, 1965.

> Packing Company, Local 46 of the U.P.W.A. and a number of women who have filed complaints with the E.E.O.C. (Equal Employment Opportunities Commission) charging Rath's with discrimination. . . . He said, "Title VII represents new problems in collective bargaining for both union and company. Because of the possible wide application (of a settlement here) considerable interest and effort has been expended here." . . . He pointed out that the packing plant complaints may be unique among complaints received by the E.E.O.C. because of "a number of problems" in the industry "not relating to discrimination because of sex." He said the industry's special problems have a "connectity with the sex discrimination complaints."[7]

A brief statement of the problems within the meat packing industry will assist in understanding the specific situation at Rath's. The volume of production in the packing industry fluctuates with the seasonal supply of animals ready for slaughter and this causes readjustments periodically in the work force through layoffs and recalls or callbacks. Regular market supply and demand for meat products also causes fluctuations in the work force and this is often on a weekly basis. Since the major problems involving discrimination by sex arise with job placement as the result of layoffs and callbacks, Title VII has created difficult problems requiring changes in the interpretation of the present contract at Rath's. With more women entering the labor scene and demanding equal rights with men, it is possible that the ultimate solution of compliance with Title VII at Rath's as well as the other packing plants, will be of great importance to other industries in the United States.

Outlook for the Working Woman

Since this study is primarily concerned with the problem of

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[7]News item in the Waterloo Daily Courier, January 14, 1966.

working women at Rath's, it is important to know something about the history and projected future of the woman as a worker. During and since World War II the number of women working in the United States increased as part of a longterm trend. Since 1870 it is estimated that the number of women working has increased more than tenfold and their numerical increase has been about fourfold.[8] Changing marriage patterns have resulted in younger marriages with early establishment of families. This allows more years after families are raised for women to find employment.[9] The proportion of married women in the labor force has grown faster than that of the single women. In 1840, slightly more than a tenth of all working women were married but in 1960 over half of them were married and this was due to not only a general aging of the population but also a growing proportion of married women and their younger age of marriage.[10]

> The rising number of women workers and their expanding job opportunities testifies to their growing contribution to economic activity. Between 1963 and 1970, the number of women in the labor force is expected to rise from about 25 million to 30 million (1 worker in every 3). About three-fourths of all employed women (about 17 million) were fulltime workers in March 1963; part-time women workers accounted for about three-fifths of all part-time workers. Three out of every five women who worked part-time were married.[11]

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[8]Delbert C. Miller and William H. Form, Industrial Sociology (New York: Harper & Row Publishers, 1964), p. 59.

[9] Henry Borow, Man in a World at Work (Boston: Houghton Mifflin Company, 1964), p. 17.

[10] Miller and Form, loc. cit.

[11] U. S. Department of Labor, Bureau of Labor Statistics, Counselor's Guide to Occupational and Other Manpower Information, Bulletin 1421, (Washington: Government Printing Office, 1964), p. 36.

Meat consumption through 1970 is expected to continue its gradual rise but employment will continue to decline at a gradual rate. Meat production will continue rising at a moderate rate with processing and fabrication within the industry gradually increasing. Processed meats which totaled between one-third and one-half of all the meat produced in 1964 is in greater demand. Livestock slaughtering plants are continuing to move westward and at the present time, Iowa is first in the amount of cattle slaughtered.[12]

Automatic equipment has reduced jobs occupied mainly by women in meat packing and processing. The employment of women in meat packing, sausage and prepared meats has declined about 1.8 per cent annually between 1958 and 1964. "Women account for nearly one-third of all employees in sausage and prepared meats plants, and about a seventh of the employees in meat packing (slaughtering) plants."[13] In the meat packing industry (meat slaughtering and processing) production workers numbered 131,965 in November, 1963; of that number 114,770 were men and 17,195 were women. Of the total, 73,446 worked in establishments employing over 500 workers and 109,860 of them were covered by labor-management contracts.[14]

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[12]U. S. Department of Labor, Bureau of Labor Statistics, Technological Trends in Major American Industries, Bulletin 1474, (Washington: Government Printing Office, 1966), p. 114.

[13]Ibid., p. 118.

[14]U. S. Department of Labor, Bureau of Labor Statistics, Industry and Wage Survey Meat Products, Bulletin 1415, (Washington: Government Printing Office, 1964), p. 12.

Statement of the Problem

The purpose of this study is to analyse the problems in transition from the present contract[15] to an amended contract that will comply with Title VII of the Civil Rights Act of 1964. This paper will explore the problems of converting a separate seniority system for male and female into only one seniority system for both in which there is equal opportunity and no discrimination according to sex.

Organization of the Remainder of the Paper

In Chapter II the law and its implications are explored along with a discussion on seniority with particular emphasis on Rath's seniority. Chapter III presents material from Local 46 "Union Bulletins" which show the development of the sex discrimination problem from the Union's viewpoint. Chapter IV discusses the development of the problem from The Rath Packing Company's viewpoint and traces it through to the current solution. The final chapter, Chapter V, will assimilate some new material with that discussed in the first four chapters and summarize the conclusions and implications of the Title VII sex discrimination problem at Rath's.

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[15] United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O., Local 46, and The Rath Packing Company, Agreement between, September 1, 1964-August 31, 1967.

CHAPTER II

THE LAW AND ITS IMPLICATIONS

Sex discrimination as outlined in Title VII has been a controversial subject. It was an issue when Congress was working on passage of the Civil Rights Act of 1964. After passage, Title VII became a particular problem because no interpretations or guidelines were issued with the law. As a result, many complaints of alleged sex discrimination were filed with the E.E.O.C.

The meat packing industry had particularly difficult problems to solve in complying with Title VII since separate male and female seniority systems have been in use for many years. The Rath Packing Company had much difficulty in working out a solution to sex discrimination because of complicated seniority practices used to place employees on jobs. To understand the Rath problem, one must have some background knowledge of the seniority practices used in the past and the changes necessary to provide equal job opportunities in the future.

The Civil Rights Act of 1964 and Title VII

> An Act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.[1]

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[1]U. S. Public Law 88-352, 88th Congress, H. R. 7152, July 2, 1964.

This law consists of eleven titles and the Equal Employment Opportunity portion of it is Title VII. The legislative history is as follows.

> January 31; February 1, 3-8: Considered in House.
> February 10: Considered and passed House.
> February 26: Senate placed bill on calendar.
> March 9-14, 16-21, 23-25: Senate debated motion to consider bill.
> March 26: Senate agreed to motion to consider bill.
> March 30, 31; April 1-3, 6-11, 13-18, 20-25, 27-30; May 1, 2, 4-8, 11-16, 18-22, 25-28; June 1-6: Considered in Senate.
> June 8: Motion for cloture filed in Senate.
> June 9: Considered in Senate.
> June 10: Senate adopted motion for cloture.
> June 11-13, 15-18: Considered in Senate.
> June 19: Considered and passed Senate, amended.
> July 2: House concurred in Senate amendments.[2]

The sex provision was slipped into the bill by Virginia's Representative Howard Smith in an attempt to delay voting on the measure. He presumably hoped his fellow male Congressmen would boggle at granting equal employment rights to women. There was some opposition. New York's Representative Emanuel Celler was concerned that to give women equal rights might affect much of the legal dealing between men and women from divorce and property settlements to statutory rape. Smith's delaying action failed because Congress recognized that equal employment status does not mean equal rights.[3]

> President Kennedy thought he would have a hard enough time selling Congress on equal treatment of Negroes in education, public accommodations and Federally assisted programs, without adding the tender issue of jobs. It was the House of Representatives, surged

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[2]Donald B. King and Charles W. Quick, _Legal Aspects of the Civil Rights Movement_ (Detroit: Wayne State University Press, 1965), p. 375.

[3]"Sex and VII Equal Employment Opportunity Section," _Time_, 86:62, July, 1965.

on by a strong coalition of civil rights, church and labor forces, that added Title VII to the bill.[4]

Title VII, Equal Employment Opportunity, is divided into sixteen sections of which Sections 701, 703, 705, and 708 are more relative to this study. Most important is Section 703, Discrimination because of Race, Color, Religion, Sex or National Origin. The following parts of Section 703 have been the most difficult for labor, management, and the E.E.O.C. to find workable solutions.

> Sec. 703. Discrimination because of Race, Color, Religion, Sex, or National Origin.
>
> (a) It shall be an unlawful employment practice for an employer
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
>
> . . . .
>
> (c) It shall be an unlawful employment practice for a labor organization
> (1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;
> (2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an

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[4]B. L. Masse, "Highlights of Title VII," _America_, 113:23, July, 1965.

employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or
(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

. . . .

(e) Notwithstanding any other provision of this title,
(1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and
(2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution, or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.[5]

Implications of Title VII--E.E.O.C. Guidelines

The ban on discrimination was a problem because Congress failed to spell out its intentions through House committee hearings and debate in the House and Senate. The Equal Employment Opportunity Commission, with Franklin D. Roosevelt, Jr. as Chairman (since resigned), issued guideline interpretations on the sex discrimination provisions of Title VII on November 22, 1965. In the guideline introduction it

[5]U. S. Public Law 88-352, 88th Congress, H. R. 7152, July 2, 1964.

states:

> The Commission has proceeded with caution in interpreting the scope and application of Title VII's prohibition of discrimination in employment on account of sex. We are mindful that there is little relevant legislative history to serve as a guide to the intent of Congress in this area. Also, there is little light in the experience with state statutes.[6]

They cautioned that an overly literal interpretation of the prohibition might upset longtime practices without achieving progress toward equal opportunity. These guidelines were an effort to temper the bare language of the law with common sense and a sympathetic understanding of the position and needs of women workers. Where the plain command of the statute is for no artificial segregation of male and female jobs, the Commission felt bound to follow it.[7]

> Probably the most difficult area considered in these guidelines is the relation of Title VII to state legislation designed originally to protect women workers. . . . Yet our study demonstrates that some of this legislation is irrelevant to present day needs of women, and much of this legislation is capable, in particular application, of denying effective equality of opportunity to women.[8]

Since Title VII makes suspect any sex distinction in employment, and state protective legislation, which requires special treatment for women, represent competing value judgments which can not easily be harmonized, clarification and improvements should be made.

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[6]Equal Employment Opportunity Commission, Guidelines--Title VII (Washington: Government Printing Office, 1965), pp. 2-5.

[7]Ibid.

[8]Ibid.

State legislatures and Congress both will have laws that need reinterpretation. The Commission on the Status of Women can make recommendations to state legislatures and the Women's Bureau of the Department of Labor will soon have a definite analysis with special emphasis on the relevance of these laws to current technology and woman's increasingly important role in society.[9]

The E.E.O.C. Guidelines for Title VII are summarized by the writer as follows:

I. Sex as a Bona fide Occupational Qualification. The Commission feels the bona fide occupational qualification exception as to sex should be interpreted narrowly. Labels such as "men's jobs" or "women's jobs" tend to deny employment opportunities to one sex or the other.

A. The following actions based on bona fide occupational qualifications will not be accepted by the Commission.

1. Refusal to hire a woman because of her sex on assumption of the comparative employment characteristics of women as a group. An example would be the belief that the turnover rate among women is higher than that of men.

2. Refusal to hire an individual using stereotyped characterizations of the sexes. An example is that women are less capable of aggressive salesmanship. Nondiscrimination requires that individuals be considered on the

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[9] Ibid.

basis of individual capabilities.

3. Refusal to hire an individual because of preferences of co-workers, the employer, clients or customers except where sex is to be a bona fide occupational qualification such as actor or actress.

4. Refusal to provide separate facilities for a person of the opposite sex will not be justified unless the expense would clearly be unreasonable.

B. The Commission will consider sex a bona fide occupational qualification when it is necessary for the purpose of authenticity such as an actor or actress.

1. Most states have laws or administrative regulations with respect to the employment of women and they fall into two general categories:

    a. Laws that demand that certain benefits be provided for female employees such as minimum wages, rest periods or physical facilities;

    b. Laws that prohibit the employment of women in some hazardous occupations such as jobs requiring heavy lifting, working certain night hours or more than a specific number of hours a day.

The Commission feels some state laws and regulations with respect to employment of women cease to be relevant and will work to have them adjusted to give equal

opportunity in employment.

2. The Commission does not feel Congress intended to disturb laws and regulations intended to protect women against exploitation and hazard. However, where the clear effect of the law is not to protect the women but to discriminate against them, the law will not be considered justified. An example would be having a restriction on lifting weights when the limit is extremely low.

3. An employer will not be engaging in unlawful employment practice when he refuses to employ a woman in a job legally prohibited for women or in a job that involves duties a woman may not legally be permitted to perform because of hazards involved.

4. An employer will be considered in an unlawful employment practice if he refuses to employ or promote a woman in order to avoid providing a benefit for her required by law such as premium overtime pay.

5. The Commission will expect an employer asserting a bona fide occupational qualification in compliance to this paragraph to have attempted to obtain an exception from the agency administering the state law or regulations.

II. Separate Lines of Progression and Seniority Systems.

A. It is an unlawful employment practice to classify jobs as

"male" or "female" or to maintain separate lines of progression or separate seniority lists using sex as a base where this would adversely affect any employee unless sex is a bona fide occupational qualification for the job. Employment practices are unlawful that arbitrarily classify jobs so that:

1. A female is prevented from applying for a job labeled "male" or for a job in a "male" line of progression; and the converse.
2. A male scheduled for layoff is prohibited from bumping a less senior female on a "female" seniority list; and the converse.

B. A seniority system of line of progression which makes a distinction between "light" and "heavy" jobs constitutes an unlawful practice of employment if it operates as a disguised form of classification by sex, or creates unreasonable obstacles to the advancement of either sex into jobs which members of that sex could reasonably be expected to perform.

III. Discrimination Against Married Women.

A. An employer cannot restrict employment of married women unless the same restriction is applicable to married men.

IV. Job Opportunities Advertising.

A. Help wanted advertising cannot indicate a preference for one sex or the other unless a bona fide occupational

qualification makes it lawful to do so.

V. Employment Agencies.

A. It is unlawful for an employment agency to discriminate against an individual because of sex unless sex is a bona fide occupational qualification.

B. An employment agency can be held responsible for unlawful sex specifications concerning jobs in some instances.

VI. Pre-employment Inquiries as to Sex.

A. A pre-employment inquiry may ask Male, Female, Mr., Mrs., or Miss, provided the inquiry is made in good faith for a nondiscriminatory purpose.

VII. Relationship to Equal Pay Act.

A. Section 703(h) is interpreted to mean that standards of "equal pay for equal work" set forth in the Equal Pay Act for determining what is lawful discrimination in compensation are applicable to Title VII. The Commissioner will consult with the Administrator of the Wage and Hour Division, Department of Labor, before issuing an opinion on any matter covered both by Title VII and the Equal Pay Act.[10]

Initial Problems of Interpretation

It was no longer legal to "separate the boys from the girls" in these traditional areas: help wanted ads, seniority, married women,

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[10]Equal Employment Opportunity Commission, Guidelines--Title VII (Washington: Government Printing Office, 1965), pp. 2-5.

dependents, relatives, facilities, maternity, job classification, insurance, health insurance, profit sharing, training programs and retirement. Many clauses of state protective legislation now in effect are outdated and since many of them were passed in the 1920's, they actually encourage discrimination. States without "fair employment practice laws" will probably pass them to prevent federal intervention and stricter enforcement than in states with fair employment laws. The nine states where sex discrimination is regulated by laws similar to Title VII are Arizona, Hawaii, Maryland, Massachusetts, Missouri, New York, Utah, Wisconsin, and Wyoming. In other states, Title VII means formal discrimination charges can be filed with the E.E.O.C., Washington, D. C., or with local state fair employment practices agencies. Title VII became effective July 2, 1965, for all employers having over 100 workers and each successive year the coverage will be extended to companies with 75 to 99 workers, 50 to 74 workers, and finally 25 to 49 workers in 1968.[11]

At the start there were more questions than answers about women's job rights. Employers asked if they were required to hire male "bunnies," male secretaries, or female locomotive engineers at the White House Conference on Equal Employment Opportunity

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[11]Vivian E. Lunardi, "Sex Discrimination in Industry: How Will Title VII Affect You?" Factory, 124:112-116, April, 1966.

August 19-20, 1965.[12] Personnel executives were more confounded by discrimination by sex than by race. It is now against the law to deny a qualified woman a job as an airline pilot or night watchman. A man cannot be denied a job as a baby nurse or telephone operator. Exempt jobs where sex is bona fide could possibly be a belly dancer or professional football player.[13]

Current Violation Score

The E.E.O.C. is now operating on the assumption of voluntary compliance with Title VII and only companies known to be violators stand a chance of possible investigation (two out of five) by the compliance committee. Charges of violations may come from any of the five Commissioners making up the E.E.O.C. or from the person discriminated against. Complaints are then given to state fair employment practice agencies for investigation and conciliation and where no such agencies exist, the E.E.O.C. itself investigates. Neither the E.E.O.C. nor state agencies have the authority to secure a court order to enjoin discriminatory employment practices but they can recommend the aggrieved party sue in Federal Court. If the charge against the employer is found to be valid, a court can order the discontinuance of discriminatory practices, payment of

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[12]"Problems on Job Rights of Women," U. S. News, 59:77, August 30, 1965.

[13]"Sex and the Job," Newsweek, 66:72, July 12, 1965.

back wages, reinstatement and hiring.[14]

What is industry's violation score so far? The E.E.O.C. reports 3263 complaints filed with 551 (17 per cent) based on sex discrimination. The greatest numbers of complaints are about layoff, recall, and seniority problems, with fringe benefits, hiring, wage differential, promotions, and state laws accounting for most of the rest. Most of the complaints are from blue collar workers. However, this is not the total score since states with fair employment practices add an unreported number. Cases resolved to date by the E.E.O.C. number 54 settlements by mediation.[15]

Recent Suits Charging Discrimination

A suit was filed in U. S. District Court in Des Moines, April 8, 1966, by 20 female employees of John Morrell and Company alleging that the women had or soon would be fired and their jobs given to men in violation of the Civil Rights Act of 1964.[16]

Sixty women who formerly worked at the Dubuque Packing Company in Dubuque have filed suit in U. S. District Court at Cedar Rapids, Iowa, contending they were being deprived of employment through company discrimination against them because of their sex.

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[14]Lunardi, *op. cit.*, p. 115.

[15]*Ibid.*

[16]*Couch* v. *John Morrell & Company*, 7-1823-C-1 (1966).

They claim they were laid off since July 2, 1965, because the company is employing men with less seniority than they have.[17]

Mrs. Alicia Jackson, 32, the wife of an electrical engineer at the Collins Radio Company was involved in a strange case of sex discrimination in Cedar Rapids, Iowa. She was twice rejected for membership in the Board of Realtors at Cedar Rapids but finally won membership after a three-year campaign. The board members were fearful of a woman whose husband had a well paying job and who did not need a job, working part time in competition with men who had families to support.[18]

Arbitrator Ralph R. Williams ruled the International Paper Company, Springhill, La., with a contract providing no opportunity could be closed to any employee because of his or her sex, was not justified in laying off five senior female employees as a class, rather than five males with less seniority. Notwithstanding the fact that the job required physical ability and muscle, layoffs should have been made on the basis of individual employee qualifications including his or her physical ability. Female employees must be considered individually and not as a group for the job in question.[19]

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[17]Sixty Women v. Dubuque Packing Company, 66-C-1009-ED (1966).

[18]Editorial in the _Des Moines Register_, January 23, 1967.

[19]Bureau of National Affairs, "International Paper Company," _Labor Relations Reporter_, 64:896, January 11, 1967.

Commission Chairman Stephen N. Schulman said in a recent address that the E.E.O.C.'s primary road to progress is through the complaint procedure. "Achievement of justice for the individual is the measure of progress for the society," said Schulman before the Arkansas Council on Human Relations. He also noted that as discriminatory practices are identified in individual cases, a guideline emerges for more general application.[20]

Selected Paragraphs of the 1964 Contract

A review of some paragraphs of the present contract at Rath's will show where collective bargaining has erred or possibly compensated for the intent of Title VII. The following summary will give some of the paragraphs in actual form and others condensed to convey the general meaning content. Each paragraph is numbered as it appears in the 1964 Contract Book. The interpretation is followed by the date the paragraph was first negotiated into the contract. Since a contract is subject to revision and particularly when a new contract is drawn up, it will not be possible to show how each paragraph has changed over the years to its present form.

The Management Clause, Paragraph 11, spells out the rights of management such as direction of the work force and the right to hire. It also states the Company will not use these rights for purposes of discrimination against any employee. (Negotiated 3-14-44).

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[20]Bureau of National Affairs, "Defense on E.E.O.C. Stress on Complaint Processing," Labor Relations Reporter, 64:60, January 23, 1967.

The Policy Clause, Paragraph 12, states, "The Company and Union agree that they will not discriminate against any employee or applicant because of race, sex, color, creed, nationality, education, and/or because employees choose to exercise their rights as Union members, except where sex or education is a bona fide occupational qualification necessary to the operation of the business." (Negotiated 3-14-44).

It is of interest to note that a check of the Labor-Management Contracts of some of the other packers such as Swift, Armour, Wilson, Morrell, Oscar Mayor and others also indicates that they have similar Management and Policy nondiscrimination clauses.

In Paragraph 47, Rath agrees that the same rate will be paid women that is paid to men, provided quality and quantity of work performed is substantially the same. (Negotiated 3-14-44).

A statement of seniority at Rath's begins with Paragraph 96 which declares that seniority will operate on a combination job classification, departmental, and plant basis. (Negotiated 3-14-44). (See seniority in Appendix A). Briefly the remainder of the Seniority Clauses (Paragraphs 97-118) can be summarized as follows:

Paragraph 97. Layoffs and re-employment will be on a plant basis for employees with over one year's seniority and on a departmental basis for those with less than one year's seniority.

Paragraph 98. Employees will not acquire seniority rights during a 30 day probationary period. However, after 30 days their seniority starts from the date of hire. (Negotiated 3-14-44).

Paragraph 99. An employee laid off due to lack of work will retain his seniority for three years. If called back to work, an employee with more than one year's seniority may elect to take a voluntary layoff if the department in which he holds department rights is not open to him because of reduced operation. He must return to work when the department in which he holds rights calls him back or he forfeits his job with the Company. He may sign off voluntary layoff by noon of the day of transfer any week and either take what department jobs are open to him or request another voluntary layoff. When the department in which he holds department seniority is open, he may return or refuse to return if he is called back. If he refuses to return, the department where he is working then becomes his department seniority department. (Negotiated 3-14-44).

Paragraph 100. Any employee with one year's seniority may make a request for a 90-day transfer to another department which may have openings if said employee has sufficient plant rights to accept a transfer to that department. He may stay in such a department up to 90 days and then must choose to remain in said department or return to his original department. If he remains over 90 days or relinquishes rights in his original department in writing, he then builds up seniority in the new department dating from the day of the original transfer. Ninety-day requests can be applied for each week. (Negotiated 3-14-44).

Paragraph 101. When a department is reduced, those with the

least department seniority will be transferred out. (Negotiated 3-14-44).

Paragraph 102. An employee transferred from one department to another at the direction of the Company for a period not to exceed 90 days shall, in the event he is laid off, have the option to select which department he wishes to be called back to, the department of transfer or his original department. (Negotiated 3-14-44).

Paragraph 103. Employees transferred to a new department can, upon closing of the new department, return to their previous seniority departments. (Negotiated 3-14-44).

Paragraph 104. Employees transferred to jobs outside the bargaining unit shall retain seniority up to 90 days. (Negotiated 1-10-47).

Paragraph 105. No transfer from the plant to the plant cafeteria or from the plant cafeteria to the plant shall be made.

Paragraph 106a, 106b. Plant cafeteria provisions.

Paragraph 107. Laid off employees, when recalled to work, shall have a maximum of six days to return or forfeit their rights. (Negotiated 3-14-44).

Paragraph 108. Employees laid off out of turn or discharged without cause shall be returned and compensation made provided a written complaint is filed within 72 hours after discharge or layoff. (Negotiated 3-14-44).

Paragraph 109. An employee who is discharged for just cause or

who voluntarily leaves his job will forfeit all seniority rights. (Negotiated 3-14-44).

Paragraph 110. An employee who fails to return to work or from layoff for three days will be considered as having voluntarily quit. (Negotiated 3-14-44).

Paragraph 111. All job openings in a department shall be posted for three days and filled according to department seniority. If an employee going to a new job cannot qualify for the job or elects to give it up, he may return to his former job, within a stated time, and the next higher bidder will have the opportunity to try the new job. If the job cannot be filled, other provisions can be made by the Company.

Paragraph 112. Employees returning from layoff, sick leave, leaves of absence, and vacations shall have the opportunity within seven calendar days to bid on jobs posted in their absence. (Negotiated 11-12-56).

Paragraph 113. When rearrangements within a department are required, employees will be moved in accordance with seniority within the particular job classification on that shift. Employees so moved will return to their previous jobs, if they are within the same department. In case of shift operations, the oldest in department seniority will be asked and the youngest forced between shifts. (Negotiated 3-14-44).

Paragraph 114. When an increase in the number of employees

on a job occurs, the persons will be moved up on the job in accordance with job classification seniority on that shift, provided they have sufficient department seniority to remain on that shift. (Negotiated 12-16-48).

Paragraph 115. Referral is made to side bid (next choice) jobs when number one jobs are not in operation. (Negotiated 1-12-53).

Paragraph 116. The method of filling temporary jobs is provided. Persons whose number one job is not open to them and who have no line of regression to follow may use their department seniority to bump to any job available to them. Persons so bumped may exercise the same prerogative. (Negotiated 6-8-50).

Paragraph 117. An effort will be made to give the physically handicapped employees consideration to take jobs within their capabilities. (Negotiated 1-10-47).

Paragraph 118. This paragraph is definitely illegal and must be changed. It states, "The Company agrees to make available a seniority list for each department within 15 days from the signing of this agreement and such list shall be revised three times each year. In case of layoff or recall, the Company will make available to the Union a list of those employees laid off or recalled. There will be separate plant and department seniority lists for male and female employees." (Negotiated 3-14-44. Separate seniority provision added 12-16-48).[21]

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[21]United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O.,

Rath's employed women before World War II and during the war. After the war and the return of men with job rights, there followed some acute problems with respect to job classification, department, and plant seniority. Technical changes, along with automation, played a major role in the changes in job content that occurred. Women's jobs were limited because of physical requirements and the women were fearful of losing their jobs. Out of the ensuing conflict came the negotiation of separate male and female seniority lists. All female jobs then were those a woman could normally handle.

Paragraph 129. To have separate seniority lists as provided in Paragraph 118 where certain jobs have in the past been done by both men and women, it is agreed which jobs should be called male and which should be called female. Employees on these jobs before December 16, 1948, will not be required to leave them because of this agreement.

The present contract was negotiated October 21, 1964, after the Civil Rights Act was passed on July 2, 1964. Recognizing the problems involved, the Company and Union agreed on a letter which is contained in the current contract. It states, "It is understood that parties will meet to make such changes in the present contract as may be necessary to conform with Federal legislation relating to discrimination in employment based on sex."[22]

Local 46, and The Rath Packing Company, Agreement between, September 1, 1964-August 31, 1967, p. 48.

[22] Ibid., p. 102.

A check of other packer contracts such as Swift, Armour, and Wilson shows that they have separate seniority provisions. Others have agreed to bargain to merge the separate seniority provisions into one list.

Discussion of a Separate Seniority System

Use of separate seniority lists has been a practice in the packing industry for a long time. In the case of The Rath Packing Company, this provision was negotiated into the Contract December 16, 1948. In order to make this type of separate seniority system workable contractually, it necessitated bargaining for various jobs for men and women. Once it was established which jobs were traditionally male or female, the plant was manned for so many male jobs and so many female jobs each week. This meant that each week each department supervisor determined how many employees, both male and female, he needed for the next week. (Rath revises the work force in each department every week depending upon the production demands of that department.) The supervisor had one list of seniority for females (if the department had female jobs) and one seniority list for males.

Women were transferred within the plant to female jobs. They were transferred within departments to female jobs and when production was reduced or automation eliminated female jobs, they were transferred between departments and ultimately from the plant when there were not enough female jobs to go around.

On the other hand, men were transferred within the plant and

within departments to male jobs. When reduced production required transfers and layoffs, it was done according to male seniority.

From a Personnel Department standpoint, this supplying the needed work force was the equivalent of working with two different types of people within the same work situation but guided by separate rules and placed on an arbitrary division of jobs. The male could be expected to do all the jobs and the female could do many of the jobs but was limited to the extent that physical requirements such as lifting weights was necessary. Other benefits, with minor exceptions, were basically the same when passage of Title VII occurred.

Under the conditions as just described it was possible for females with more plant seniority than males to be laid off because of the lack of traditional female jobs applied through the separate seniority systems. This is exactly what the situation was. Women were laid off who felt they should be working according to the sex provisions of Title VII. This voided traditional female jobs and separate seniority systems. This meant that unless a bona fide occupational qualification was required, a woman had equal opportunity to employment.

Seniority

Seniority is an important issue in labor-management collective bargaining. It is the primary issue in this study. The following discussion should help clarify the strong interest the laboring worker

has in seniority.

Job security is embodied in the term seniority, which provides job status according to length of service. Seniority does not always guarantee employment but it does allow preference where a number of jobs exist. Along with the occupational advantages seniority provides, it also adds psychic wages in the form of status, prestige, and respect. The seniority principle has been at the core of bitter labor-management conflicts because of such important personnel decisions as promotions, transfers, and layoffs. Seniority clauses are included in 87 per cent of union agreements in industry today.[23]

The arguments for seniority include the following advantages. Seniority tends to decrease labor turnover. It improves worker morale and is often responsible for increased efficiency on the job. Seniority allows the employee to know where he stands and it allows an older person to remain on the job. The less efficient workers are protected from being laid off and abuses such as creating a class of preferred workers are restrained. It reduces grievances and relieves management of many judgments that would have to be exercised. Seniority encourages men to learn on the job or train for higher positions. Seniority controls excessive speeding and conserves worker lives. To the worker and society, security is more important than efficiency and must be

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[23]Lawrence Stessin, The Practice of Personnel and Industrial Relations (New York: Pitman Publishing Corporation, 1964), pp. 269-70.

protected. Seniority lends itself to objective measurement. When decisions are based upon seniority, employees have no justification to claim that favoritism or prejudice influenced the decision.[24]

The arguments against seniority take the form of the following disadvantages. Seniority creates an older work force. Seniority does not eliminate discrimination, it only sets up different rules (length of service) in place of it. Enforcing strict seniority, an employer may have to lay off his key men. Seniority overvalues experience and it exploits the more efficient worker. Seniority kills the ambition to excel. Seniority produces a rigid mechanistic system not suited to progressive industry. Seniority takes over the functions which are prerogatives of management and the applications of seniority are probably the most frequent cause of grievances.[25]

Paragraph 118 of the 1964 Contract, negotiated December 16, 1948, establishing separate seniority lists for males and females, became illegal July 2, 1965. The Company and Union attempted a solution to the seniority problem but were not successful. Fifty-nine women from a group of over 100 became plaintiffs in a lawsuit filed with the E.E.O.C. in October, 1965, against the Company and the Union, charging discrimination. These women claimed they were laid off at the same time an equal number of men were working who had less plant

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[24] Ibid., pp. 271-72.

[25] Ibid., pp. 272-73.

rights than they.

Kenneth L. Holbert, conciliator of the E.E.O.C., who visited Waterloo to investigate complaints of sex discrimination by Rath workers said, "We have not had any extensive conciliation efforts in the Midwest involving sex discrimination." This indicates that the Rath mediation effort was one of the first in the Midwest.[26]

In January of 1966, an agreement was reached between the Company, the Union, the plaintiffs, and the E.E.O.C. representatives. By this agreement, all the laid off females with more plant seniority than males were called back to work on May 9, 1966. To make the plan workable, an ABC classification of jobs was necessary in order that particular requirements could be established to place males and females on jobs they could be expected to do. (See Appendix B.)

In June of 1966, sixty-nine women acting as intervenors for all the other women with more plant rights than the fifty-nine plaintiffs, filed suit against the Company, Union, and the fifty-nine plaintiffs charging discrimination resulting from the agreement by which the plaintiffs were returned to work.

Rath's now has one seniority list for both males and females. The ABC job classification is being used to place males and females on jobs and is being revised as needed. Changes will be made in the new 1967 Contract to assure equal employment rights, but as yet the case of the sixty-nine intervenors is still pending a settlement.

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[26]News item in the Waterloo Daily Courier, January 14, 1966.

CHAPTER III

THE DEVELOPMENT OF THE PROBLEM FROM THE UNION'S VIEWPOINT

A solution to the sex discrimination problem at The Rath Packing Company was not a simple matter. It took many Company-Union meetings, lawsuits, and conciliation sessions with the Equal Employment Opportunity Commission to accomplish it. To show the unique role played by Local 46 and the difficulties it had in arriving at a workable solution, this chapter presents material primarily from the Union viewpoint.

Local 46 communicates with its members through regular rank and file meetings and through special rank and file meetings when necessary. As in most democratically oriented organizations, the number attending rank and file meetings is usually less than the total membership. To communicate with as many of its members as possible, Local 46 also publishes a "Union Bulletin" whenever it has information of importance. The "Union Bulletin" is distributed at the Rath plant gates and at the Union office.

The "Union Bulletins" published from January of 1964 to January of 1967 trace the development of the sex discrimination problem at Rath's from its beginning through to its settlement. The material appearing in 1964 "Bulletins" shows a general interest in the passage of the Civil Rights Act of 1964. The articles in the 1965 "Bulletins" concerning Title VII show the Union's efforts in trying to interpret the law. The news in the 1966 "Bulletins" reveals the various events that took place before the complex sex discrimination problem was

finally resolved in a workable solution.

Material Appearing in 1964 "Union Bulletins"

February 4, 1964. The Civil Rights Bill will be acted upon in the House within a week. Write Congressman H. R. Gross urging him to support the bill.[1]

February 26, 1964. The Civil Rights Bill passed by the House is a very good and sweeping measure to give a greater degree of equality to all citizens. The Senate will probably try to delay action with their filibuster. Write your Senators B. B. Hickenlooper and Jack Miller on this question of vital concern to all of us.[2]

March 15, 1964. Write your Senators about the Civil Rights Bill H. R. 7152. The Senate is stumbling along on debate. Ask your Senators to vote for a cloture petition.[3]

June 9, 1964. The Senate will vote on cloture on H. R. 7152 tomorrow. Write your Senators to vote for cloture and H. R. 7152 when it comes to the floor.[4]

July 14, 1964. The President, Chief Steward, and Women's Conference held last week in Denver, Colorado, came up with a number of recommendations concerning, among other things, Civil Rights.[5]

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[1]Local 46, "Union Bulletin" (Waterloo, Iowa, February 4, 1964). (Mimeographed.)

[2]Ibid., February 26, 1964.

[3]Ibid., March 15, 1964.

[4]Ibid., June 9, 1964.

[5]Ibid., July 14, 1964.

The primary concern of the Union in 1964 was to get the Civil Rights Bill passed. Charles Mueller, Chief Steward, also indicated that the U.P.W.A. has long supported nondiscriminatory practices in collective bargaining, including sex. He explained that at the Denver Conference the recommendations on how to handle Title VII provisions were: (1) to establish three seniority categories of male, female, and male-female, and (2) to allow women to hold all jobs presently held with the possibility of picking up some male jobs. He said there was not much activity in Waterloo in reference to Title VII during the remainder of 1964, however, it was known that Swift & Company was working on a proposal to comply with Title VII during that time.[6]

Material Appearing in 1965 "Union Bulletins"

> June 30, 1965. Local 46 Executive Board and Bargaining Committee have passed the following recommended Memorandum of Agreement, subject to approval by Rank and File meetings Thursday, July 8, 1965.
>
> This agreement is made between The Rath Packing Company (hereinafter called the Company) and the United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O., Local #46 (hereinafter called the Union).
>
> The agreement which is in effect dated September 1, 1964 between the Company and Union shall be modified as follows to conform with Federal legislation relating to discrimination based on sex.
>
> The following procedure will be followed, as jobs, departments and plant are increased or reduced.

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[6]Opinion expressed by Charles Mueller, Chief Steward, United Packinghouse Workers of America, A.F.L.-C.I.O., Local 46, personal interview.

To comply with Title VII of the 1964 Civil Rights Act as of July 1, 1965:

> There will no longer be separate plant or departmental seniority lists for male and female employees, Paragraph 96 of the 1961 agreement will be so amended.
>
> Paragraph 134 of the 1961 agreement will be dropped. [Refers to department assignments under a separate seniority arrangement.]
>
> Any paragraphs in the contract where a sex designation is mentioned, the reference will be regarded as meaning either sex.
>
> All job openings will be posted without reference to sex and filled by department seniority.
>
> All department cut-backs will be made by department seniority without regard to sex.
>
> All department openings will be filled by department seniority according to the current contract, except the openings will be available without regard to sex, thereafter the openings will be available to employees by plant seniority without regard to sex.
>
> All plant lay-offs and call-backs will be made by plant seniority without regard to sex.

It is further agreed that in case there are any interpretations of the Federal Legislation which would raise need for the agreement to be modified further, that both parties agree to open the agreement to do so.

The preceding was offered to the Company on June 30, 1965. The Company did not see fit to sign it.

. . . There are currently about 50 women on lay-off status older in plant seniority than men currently employed.[7]

According to Chief Steward Charles Mueller, Local 46 was waiting for guidelines from either the E.E.O.C. or the International Union,

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[7]Local 46, *op. cit.*, June 30, 1965.

U.P.W.A., to show how to comply with Title VII but had not received any by the latter part of June, 1965. On June 29, 1965, J. Prosten from the International Union called saying the U.P.W.A. felt they were given a bad deal in the passage of Title VII and since the government furnished no guidelines, the U.P.W.A. would have to set a pattern for them. Prosten talked about the Swift & Company proposal which the International Union was in favor of accepting and suggested Local 46 consider it. Mueller, the Executive Committee, and the Bargaining Committee of Local 46 were against accepting the Swift & Company concept because they felt it did not give equal rights to all employees. (The Swift & Company proposal is the basic ABC Agreement Local 46 finally agreed to accept.) Local 46 then presented their June 30, 1965, proposal which basically did away with all contractual references to separate sexes. Mueller also indicated that the union felt Virginia Representative Smith, who authored the sex provision of the Civil Rights Bill, was anti-labor and was trying to handicap labor with his sex provision.[8]

July 7, 1965. The Rank and File will act on the proposal announced in the June 30, 1965 "Bulletin" and rejected by the Company.

> Yesterday, we received a letter from International Pres. Ralph Helstein regarding Title VII of the 1964 Civil Rights Act. This section of the Civil Rights law forbids employers or union discriminating because of race, color, religion, national origin or sex. This letter states that many new problems may arise as a result of the new law, such as: Is it unlawful discrimination to continue to designate jobs as "male" or "female"?

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[8]Mueller, loc. cit.

Mr. Helstein advises the law has no criminal provisions, and our movement should be slow for immediate changes.

Your Bargaining Committee and Executive Board met last week to discuss a proposal to attempt to comply with the letter of the law, since we have an obligation to comply with the law of land. This became effective last Thursday, July 1, 1965.[9]

Charles Mueller indicated that President Helstein then sent a letter in which he informed the Union to go slow because if any action was taken it would be taken against the Company and not the Union. He explained that the International Union would work out a policy for the U.P.W.A.[10]

July 12, 1965. The Equal Opportunity section of the 1964 Civil Rights Act of 1964 has now gone into full effect. Part of this Act is the requirement in Section 703 which makes it an unlawful act for an employer to segregate, limit or classify employees in a manner which would tend to deprive any individual of employment opportunities or otherwise adversely affect his status because of the individual's race, color, religion, sex or national origin. It is also forbidden for Unions to classify membership in a manner which would tend to deprive an individual of employment opportunities because of the individual's race, color, religion, sex or national origin.

The Union is in full compliance with the law, so long as we do not cause or attempt to cause our employer to discriminate against an individual in violation of this section.

The Company, however, is obviously not in compliance with the law. We have offered to meet with the Company to attempt to resolve and attempt to correct the areas where the Company is not in compliance with the law.

So far, the Company has not seen fit to offer any proposals to attempt to comply with Title VII. They are apparently going to wait and see what others do.

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[9]Local 46, *op. cit.*, July 7, 1965.

[10]Mueller, *loc. cit.*

> Last week, the Company laid off some more members by the separate seniority provisions of the 1964 agreement. In the 1964 agreement, however, we did agree to meet to make necessary changes in the agreement to conform with Federal legislation relating to discrimination based on sex. (Page 4, numbered Paragraph 11 of Memorandum of Agreement.) As of Monday, men were laid off back to October 13, 1959 and women were laid off back to August 27, 1951.
>
> The proposal which was recommended by the Executive Board has further action pending on it by the Rank and File meetings next week.
>
> We will keep you informed as the situation developes further.
>
> Any member who feels that Rath's is discriminating in employment opportunities under Title VII of the Civil Rights Act, may report to the Union Office for assistance in filing a complaint with the Equal Employment Opportunity Commission.[11]

The Union felt it was in compliance with the law and the Company was not and agreed to meet with them to help them conform. The Union further offered to help any member file a discrimination complaint. They held a meeting for those interested, urged them to file complaints against the Company, and typed and mailed complaint letters to the E.E.O.C., the Attorney General, and the Civil Rights Director of Iowa, according to Mueller.[12]

July 20, 1965. The Union's statement of policy regarding Title VII has been completed. (The rank and file voted against this statement.)

> August 24, 1965. Further information has been received on the complaints some of our members have filed against the Company with regard to the Company's violation of Title VII of the 1964 Civil

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[11]Local 46, *op. cit.*, July 12, 1965.

[12]Mueller, *loc. cit.*

> Rights Act. Agents of the F.B.I. have been investigating the cases on behalf of the Justice Department. For more detailed information be sure to attend your Rank and File Meetings Thursday.[13]

September 15, 1965. The Union suggested to the Company that seniority dates for all laid off employees be extended until July, 1966.[14] (After three years on continuous layoff an employee is given severance pay and loses call back rights.)

> September 29, 1965. Last week, eight delegates attended the Legislative, Civil Rights and Women's Activities Conference in Washington, D. C.
>
> . . . One of the most pressing issues was discrimination in job opportunities under Title VII of the 1964 Civil Rights Act. It was generally conceded by employees and Commissioners of the Equal Employment Opportunity Commission that separate seniority systems for male and female employees are unlawful under the Act. The steps required to be taken to correct this discrimination, however, will be based on the individual case and the investigators findings and the Commissions recommendations based on these findings.
>
> Complaints must by [*sic*] processed quickly after filed, as there are rigid time limits in the proceedings, providing a valid complaint has been filed.
>
> A large number of complaints have been filed by Local 46 members charging employment discrimination by the Rath Packing Company. An Equal Employment Opportunity Commission Investigator, Leonard Carper, was here last week investigating complaints and explaining the Commission's procedures. The results of the complaints should be known within the next six weeks.[15]

Members from Local 46 attended a Washington conference where they gathered more Title VII information in September of 1965. Then a Representative, Leonard Carper, from the Kansas City office of the

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[13]Local 46, *op. cit.*, August 24, 1965.

[14]*Ibid.*, September 15, 1965. [15]*Ibid.*, September 29, 1965.

E.E.O.C. visited Waterloo and explained and revised the complaints of Local 46 into the form wanted by the E.E.O.C. He was given seniority lists, grievance copies, etc., and it was on his recommendation that the E.E.O.C. declared discrimination at Rath's.

Local 46 representatives attempted, but to no avail, to obtain guidelines for Title VII when in Washington in September. They wrote to Congressman H. R. Gross but received only a copy of the Civil Rights Bill in return. The E.E.O.C. speakers in Washington were not very informing, explained Mueller. Soon after, Local 46 received a copy of the Swift & Company proposal but the officers were still not in favor of it.[16]

> December 1, 1965. The Equal Employment Opportunity Commission has issued guidelines to follow under Title VII of the 1964 Civil Rights Act. This section of the Act prohibits discrimination in employment because of sex as of July 2, 1965.
>
> The guidelines basically indicate that past labels of "men's jobs" and "women's jobs" tend to deny employment opportunities to one sex or the other.
>
> They further indicate that separate lines of progression or seniority systems which adversely affect any employee for applying for jobs, bidding on jobs, lay-offs or create a designation between "light" and "heavy" jobs are unlawful.
>
> The Commission has not yet rendered a decision on complaints filed by Rath employees.
>
> Copies of the guidelines are available in the Chief Steward's Office.[17]

Local 46 received guidelines from the International Union in

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[16]Mueller, loc. cit.

[17]Local 46, op. cit., December 1, 1965.

December, 1965. Later in December, International Representative Prosten called and indicated that K. Holbert from the Washington E.E.O.C. Office was coming to Waterloo in January. Prosten was very firm with Charles Mueller, showing the International Union's displeasure with the failure of Local 46 to comply with Title VII by the acceptance of the Swift & Company proposal.[18]

Material Appearing in 1966 "Union Bulletins"

January 11, 1966. A conciliator from the E.E.O.C. will be in Waterloo this Thursday, January 13, to meet with the complainants, the Company, and the Union.[19]

> January 18, 1966. The Conciliator from the Equal Employment Opportunity Commission was in Waterloo last Thursday and Friday. The Company and Union and representatives of the complainants discussed at length the measures necessary to resolve the complaints and comply with the law.
>
> While it is clear that separate seniority lists for male and female employees are illegal and must be replaced by a single list, the exact manner of effecting an agreement to provide a formula which will result in all employees having job opportunities according to their seniority without regard to sex is not a simple problem to resolve.
>
> The Company and Union have agreed to meet to attempt resolution of the complaints and work out contract changes. Prior to any changes going into effect, they will be submitted to a membership meeting for ratification.
>
> Our initial hope is to have a membership meeting this Saturday

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[18] Opinion expressed by Charles Mueller, Chief Steward, United Packinghouse Workers of America, A.F.L.-C.I.O., Local 46, personal interview.

[19] Local 46, "Union Bulletin" (Waterloo, Iowa, January 11, 1966). (Mimeographed.)

> to act on proposed charges [sic], however a bulletin and other notice will be given before any such Rank and File meeting is held.[20]

Kenneth Holbert, a conciliator from the E.E.O.C. in Washington, D. C., came to Waterloo in mid-January of 1966 and met with Company, Union, and complainants in the sex discrimination suit. The Union expected him to bring some guidelines but he did not. The International Union was still backing the Swift & Company proposal. The Union (Local 46) was still not in favor of it and felt the Company was not doing what they might to solve the problem. Holbert told the Company and the Union that they were both liable because they were both parties to a discriminating contract and that they had to do something about it. Chief Steward Mueller indicated that he had felt that this was the case, contrary to what other Union people thought.

At the meetings with K. Holbert in Waterloo, January 13-14, he suggested a swamper concept. This entailed pulling heavy elements from some jobs in order that women could do them. Basically it meant separating and then recombining job elements. This was unpopular with both the Company and the Union. At this meeting the Company offered a proposal similar to the Swift & Company proposal but with different words. Instead of an ABC classification of jobs, they were listed as light, heavy, and male-female. The Union felt, at this stage in the dispute, the Company was in contact with the International Union. Holbert left, giving instructions to both parties to send him a copy

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[20] Local 46, *op. cit.*, January 18, 1966.

of an agreement proposal they were willing to live with.[21]

January 21, 1966. On Sunday, January 23, at 2:00 P. M., there will be a Special Rank and File Meeting at the Local 46 Union Hall to discuss and vote on the recommendation of a joint proposal of the Executive Board and Bargaining Committee to comply with Title VII of the Civil Rights Act.

The proposal follows a pattern set in the packing industry by the International U.P.W.A. It is outlined below:

1. Combine male and female plant and department seniority.

2. Combine male and female rates wherever they are not combined now.

3. Retain our present seniority system, (that is--plant and department) and in place of job classification by sex, we would classify jobs according to occupational qualifications.

   Class A. Jobs that men would be expected to perform and the normal woman could not perform.

   Class B. Jobs that women would be expected to perform and the normal man would not be required to perform.

   Class C. Jobs that the normal man or woman could be expected to perform.

4. Draft a letter outlining the contract changes which designate sex.

5. Implement the changes so that by January 31, 1966, lay-off would be on the basis of the combined seniority and the most senior employees in plant seniority regardless of sex would be working.

Please have your Union cards available to present at the door.[22]

January 25, 1966. Last Sunday, a Special Membership meeting had been scheduled to vote on a proposal to effect compliance with

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[21]Mueller, loc. cit.

[22]Local 46, op. cit., January 21, 1966.

> TITLE VII of the Civil Rights Law. This proposal was basically that which had been worked out by our International Officers, staff and attornies [sic] with Swift & Company. The Executive Board and Bargaining Committee had recommended that the proposal be accepted. On Friday, the International Office was informed by the Equal Employment Opportunity Commission that there were some possible areas of disagreement on the Swift Plan, and they advised us to cancel the meeting, which was done. In the meantime, the International Office and the Commission are discussing the areas of possible disagreement.
>
> The reason the meeting was cancelled was to prevent acceptance of an agreement which may not be acceptable under the law.
>
> Whatever we vote on and put into effect in our Plant will definitely effect [sic] our seniority system to a greater or lesser degree. We think it is better to wait and vote on a proposal that we know is legal, than to accept one, put it into effect, change our seniority, only to find it illegal and have to go through the procedure again and again.[23]

Problems were mounting toward the end of January of 1966 for both the Union and the Company. They were not easy problems to solve since it meant changing seniority provisions that had been in effect for many years at Rath's. The Union called a special rank and file meeting in January to vote on the Swift & Company proposal which the International Union was using to set the pattern for the packinghouse industry. This meeting was called off by the International Union after advisement from the E.E.O.C. that some parts of the Swift & Company proposal may allow special seniority to some parties. The International Union and the E.E.O.C. were apparently working close together at this point in the proceedings. A letter was sent to the E.E.O.C. at this time by Local 46 to convey its willingness to work on a compliance solution.[24]

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[23]*Ibid.*, January 25, 1966. [24]Mueller, *loc. cit.*

February 2, 1966. The manner in which Title VII of the 1964 Civil Rights Act will operate here at The Rath Packing Company has not as yet been established.

Contrary to opinions expressed by some, there is not a definite manner in which seniority systems must operate.

Your Negotiating Committee, Executive Board and Bargaining Committee have explored a number of possible solutions to the sex discrimination problem, but have not as yet found a formula agreeable to the Committee, the Company, the complainants and the Equal Employment Opportunity Commission. As soon as we have a proposal acceptable to these parties, we will bring it to the membership for action.

A workable solution affecting Plant Seniority, Job Rights and Department seniority is not quite as simple to come by as it would seem to be. As an example, if plant seniority would become the primary seniority, would you reduce departments by plant or department seniority or would there be department seniority? Would job classifications be reduced by plant seniority, department seniority or job rights, or would there be department seniority and/or job rights?

We know that this problem is not a simple one to resolve.

Your Negotiating Committee has worked for some considerable time on a modification of the Swift Plan, whereby we keep all types of seniority we now have - plant, department and job, but no longer have separate lists for male and female for lay-off purposes, that is the people with the most seniority would work regardless of sex, and that jobs would be classified according to bona-fide occupational qualifications. Seniority consideration would be given to provide employees with jobs according to their plant seniority, violating to a small degree some of the other types of seniority. We have not as yet been able to work out this Plan to the satisfaction of the parties.[25]

February 3, 1966. There will be a Special Rank and File Meeting this Sunday, February 6, 1966 at 2:00 P. M. This meeting will be held at the Local #46 Union Hall, 1651 Sycamore Street.

The purpose of the meeting is to act on a proposal to comply with TITLE VII of the 1964 Civil Rights Act. This is the section of the Act which prohibits discrimination in job opportunities

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[25]Local 46, *op. cit.*, February 2, 1966.

based on sex.

The proposal to be presented as a recommendation of the Local 46 Executive Board and Bargaining Committee is one on which the International Officers, staff and attornies [sic] have worked on for several months and negotiated at several plants. They feel as your Board and Bargaining Committee do, that this is the best proposal by which employees can have opportunities based on their seniority, rather than their sex.

Following is a basic outline of the recommended proposal: [same as given on January 22, 1966, except for the following paragraph.]

In addition, there will be procedures given and explained as to how the changes - to comply with TITLE VII of the Civil Rights Act would operate in actual practice.[26]

The Union voted on the Swift & Company proposal again with the addition of procedures of how to implement the program. It was rejected because of the ABC job classification and also because there was a move among some members to change to plant seniority along with the ABC job classification. Even women voted against this proposal.[27]

February 8, 1966. The membership last Sunday voted by a 99 vote majority to reject a proposal to comply with Title VII of the 1964 Civil Rights Act along basic lines negotiated by the International Union with other Packers.

We hope to work out something to present to the membership as soon as possible, hopefully within a few weeks.

Whatever we adopt, it is a certainty that persons will work and be laid off according to their seniority, without regard to their sex, for the law requires this. The manner in which people are provided equal employment opportunity can be decided by the members, or if we fail to do so, by the courts. Our membership should have their say as to how seniority operates in our Plant. The courts, with no concept of how any type of seniority would operate, would probably have a playhouse determining a manner in

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[26]*Ibid.*, February 3, 1966.

[27]Mueller, *loc. cit.*

> which they would have our seniority operate. If we do not act, the courts will.[28]

February 14, 1966. Each division will hold meetings to discuss and work on proposals to comply with Title VII. The proposals we come up with will affect almost everyone working at The Rath Packing Company to some degree. Please attend your divisional meetings.[29]

Meetings among the various divisions in the plant were scheduled by the Union in an attempt to find out what the rank and file really wanted. (The Union has the plant divided into thirteen divisions of jurisdiction in their organizational arrangement to represent the workers.) On February 25, 1966, two International Union Representatives, Hathaway and Cotton, came to Waterloo and met with the Local 46 Executive Board and two women from the Women's Activities Committee. The International Union at this point felt Local 46 was being unreasonable about the Swift & Company proposal and they were here to decide whether to take the Union under administratorship (take over control). Local 46 officers felt they had tried to sell the Swift & Company program February 6, 1966, but were not successful.[30]

> March 4, 1966. The Executive Board and Bargaining Committee has voted to hold a Special Membership Meeting on Sunday, March 13, 1966, at 1:30 P. M.
>
> The Sunday Meeting will be for the purpose of discussing and voting for a choice of two proposals to implement TITLE VII of the

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[28] Local 46, *op. cit.*, February 8, 1966.

[29] *Ibid.*, February 14, 1966.

[30] Mueller, *loc. cit.*

1964 Civil Rights Act. TITLE VII is the section of the Act that provides that there shall be equal employment opportunities for all employees, regardless of race, color, religion, sex or national origin.

PROPOSAL NO. 1

1. There will no longer be separate plant or departmental seniority lists for male and female employees, Paragraph 118 of the 1964 agreement will be so amended.

2. Paragraph 129 of the 1964 Agreement will be dropped.

3. Any paragraphs in the contract where a sex designation is mentioned, the reference will be regarded as meaning either.

4. Paragraph 96 - Seniority shall operate on a combination job classification, departmental, and plant basis, without regards to sex.

5. An employee who is in a department which is discontinued or an employee who has been transferred out of his department for 6 months or more will have the option of selecting a department with their plant seniority which will become their department seniority.

This section will apply only to department closings or department reductions resulting from automation.

6. Paragraph 117 - It is agreed that an effort will be made by both the Company and the Union to give physically handicapped employees seniority consideration that will entitle them to take jobs in the department or plant which are of such nature as to be within their capabilities.

There will be a special committee to make such determination or Investigation. Employees who would be moved with the Contract with regards to filling vacancy by forcing the youngest qualified.

7. If a male employee is forced to take a job which historically has been a Female job, he may take an involuntary lay-off. Likewise, if a female employee is forced to take a job which historically has been a male job, she may take an involuntary lay-off. This option shall remain in effect for one year from date of signing of this Agreement.

PROPOSAL NO. II

1. There will no longer be separate Plant or Department seniority

lists for male and female employees, Paragraph 118 of the 1964 Agreement will be so amended.

2. Paragraph 129 of the 1964 Agreement will be dropped.

3. Any paragraphs in the Contract where a sex designation is mentioned, the reference will be regarded as meaning either sex.

4. All job openings will be posted without reference to sex and filled by department seniority.

5. All department cut-backs will be made by plant seniority except for those who have not established rights in that department by working 90 calendar days in that department.

6. For 30 calendar days from the signing of this Agreement, any employee displaced from his No. 1 department will have the right to carry plant seniority as department seniority into any department and select that as his No. 1 department. No person can hold rights in more than one department.

7. Thereafter, any voluntary transfer, after having established rights in a new department by working 90 calendar days in that department will have his plant seniority become his department seniority.

8. Plant seniority will become department seniority for all persons in their No. 1 Department.

9. All persons will have a No. 1 job and when they are cut out of that job, they will use department seniority to get a new job.

10. Jobs will be posted in the department and will be bid by plant seniority by persons in that department.

11. Jobs will be reduced by job rights.

12. The present seniority provisions where not in conflict will remain unchanged.[31]

(Proposal I included ABC features and Proposal II had no ABC features. Both did include changes in regard to plant seniority.)

March 9, 1966. The mass meeting scheduled for March 13th is

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[31]Local 46, *op. cit.*, March 4, 1966.

cancelled. Delegates attending District 3 Convention, after meeting with President Helstein and our International Attorney, Eugene Cotton, advise we postpone this meeting until one or both of them can meet with Waterloo members.[32]

> March 14, 1966. Last week at the District 3, UPWA Convention, we held a meeting with International President Ralph Helstein, District 3 Director Dave Hart and Contracts Department Head Jesse Prosten.
>
> In this meeting, we discussed our problems under Title VII of the 1964 Civil Rights Law.
>
> The International Union has offered to help us work out these problems and has offered to send someone in to help us develop a program to get all people back to work according to their seniority, and hopefully to settle the lawsuit brought by 59 Rath employees against Rath's, Local 46 and the International Union.
>
> We will make every effort to keep everyone fully informed of developments.[33]

Local 46 delegates at the District 3, U.P.W.A. Convention, talked to Ralph Helstein, Dave Hart and Jesse Prosten who indicated they wanted to come to Waterloo to talk to the rank and file. Prosten and Cotton came to Waterloo and informed Local 46 that the Swift & Company plan was the policy of the U.P.W.A. They came to help Local 46 draft a plan because the International Union did not want to be liable for a lawsuit over seniority. The International Union was now ready to use its authority if necessary.[34]

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[32]Local 46, _op. cit._, March 9, 1966.

[33]_Ibid._, March 14, 1966.

[34]Mueller, _loc. cit._

April 12, 1966. Last Thursday, in Cedar Rapids in Federal District Court, a pre-trial conference was held to determine whether or not an injunction should be issued against The Rath Packing Company, Local #46, UPWA, and the International Union. The injunction, which Judge Mc Manus did not see fit to issue, would have required that all employees be returned to work in line with their plant seniority, without regard to sex. I think it was shown by our attornies [sic] that simply bringing people back to work does not necessarily provide people with the opportunity to work on jobs which they can perform.

A new method of applying plant seniority must be devised, or our present method changed to give all employees the opportunity to work on jobs they can perform in line with their plant seniority. This new method or changed method must be put into effect within the next two months, at which time we must return to Court to show that a Plan has been worked out between the parties, and is in operation.

The attorney for the complainants failed to get the injunction he requested probably because the changing of a seniority system as old as ours at The Rath Packing Company, with separate male and female classified jobs, is almost as old as the Company. It is certainly older than the Union. Any major change must be worked out with all deliberate speed, and the changed system must work, and should change our seniority as little as possible, consistent with getting the job done.

The International Union will be helping to work out a proposal which will be workable and acceptable to you, the membership.[35]

April 17, 1966. A special mass meeting will be held Tuesday, April 19th at 7:00 P. M. International President Ralph Helstein will be present to talk on the male-female seniority situation. This will be an extremely important meeting: be here![36]

April 21, 1966. Tuesday, International President Ralph Helstein spoke to the membership regarding the male-female seniority situation. At this meeting, President Helstein gave

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[35] Local 46, op. cit., April 12, 1966.

[36] Ibid., April 17, 1966.

details of a proposal worked out by your Local 46 Negotiating Sub-Committee, International Attorney Eugene Cotton, Jesse Prosten, District Director Dave Hart, and Field Representative Tony Fetter, with assistance from the Women's Activities Committee.

Your Executive Board and Bargaining Committee voted to recommend that the membership adopt the proposal, and it was adopted.

The agreement basically provides the following: [ABC Agreement, Appendix B]

> 1. Male and Female Seniority lists will be merged, into one seniority list, combined male and female for plant and department. Plany [sic] lay-off and call back will be by plant seniority without regard to sex. Normal department reductions and increases will be by department seniority without regard to sex.
>
> 2. The present male or female job classifications will be replaced by three classifications, based on occupational qualifications.

The agreement further provides that persons on lay-off status out of line with their plant seniority will be offered recall to work on jobs which they normally could be expected to perform. Upon acceptance of these jobs, they could not be moved under normal seniority practices. Persons presently working out of line of plant seniority will be placed on lay-off status.

The persons who have been on lay-off out of line of their plant seniority will have the opportunity to return to their seniority department and/or job when their seniority department has openings due to increased production, vacations, retirement, etc. Their regular seniority will apply only after they are able to return under the above mentioned circumstances.

The youngest persons in plant seniority on jobs which either a normal male or female employee could be expected to perform may be displaced by persons returning from lay-off out of line of their plant seniority, if the returning person has more plant seniority. These junior employees will be displaced in a number equal to the number of persons returning. The persons so displaced will use normal seniority procedures to get a job.

All seniority practices and procedures except as amended by the agreement will remain exactly as they are presently.

The agreement provides that the Company and Union will meet as often as necessary to review the operation of the agreement, and

> to work out changes that may be found to be desirable or necessary to maintain full compliance with the law and fairness in the operation of seniority practices, procedures and agreements.
>
> We further plan to establish a seniority review committee, whose duty it will be to study present seniority practices and to bring forward recommended changes, which would be brought to the membership for approval. There are several situations which are undesirable to many persons, such as persons with many years of plant seniority floating around the plant with no home department due to department closings, department reductions, etc. If it is possible to implement these changes soon after membership approval, it will be done, others may have to wait until 1967 contract negotiations.
>
> I would like to thank all members who participated in the Tuesday and Wednesday meetings for the support shown for the Local and International officials. We feel that the agreement when placed in operation will not be as undesirable in practice as it may seem to be now.[37]

Ralph Helstein spoke to the membership of Local 46 and suggested the Swift & Company plan. The first shift rejected the proposal but the second shift had enough votes to carry the election. Local 46 officials felt sure the International Union would have intervened had acceptance not been given to the Swift & Company plan.[38]

<u>April 27, 1966</u>. There will be a committee in the plant classifying jobs under the male-female seniority agreement. (ABC Agreement, Appendix B). Please cooperate with them.[39]

The ABC Agreement, Rath's unique version of the Swift & Company plan, was signed out by the Company and Union on April 26, 1966. May 9, 1966, was set as the date to implement the plan for returning

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[37] <u>Ibid.</u>, April 21, 1966.

[38] Mueller, <u>loc. cit.</u>

[39] Local 46, <u>op. cit.</u>, April 27, 1966.

laid off women to work.[40] (The return program will be given in detail in the following chapter.)

> May 3, 1966. Next Monday, May 9, 1966, all persons laid off under the 1964 Contract will be given an opportunity to return to work under the April 26, 1966 Agreement. These employees will be given an opportunity to return to work on all jobs which both normal male or female employees could be normally expected to perform.
>
> These jobs have been offered to the laid off persons mentioned above. Of the persons laid off in this manner, 62 have chosen to return. Thirteen (13) laid off employees were not offered jobs as the jobs available were held by persons with greater plant seniority. The balance have declined to take the available jobs and remain on a lay-off status.
>
> Each person returning to work under the April 26, 1966 Agreement will be working on a job that has been traditionally performed by a male employee. For this reason, and to help make the Plan work, please lend these employees all the assistance you can in helping them to learn and break in on these jobs.
>
> If there are any questions on the operation of the Agreement, contact your Divisional Steward. Your co-operation in putting this Agreement into full operation will be appreciated.[41]
>
> May 10, 1966. Last week, the Company offered re-employment to all laid off women. The women were offered the opportunity to work on a "C" job, a job which a normal male or female could be expected to perform, or recalled to their own departments if openings existed.
>
> A few women who had been laid off for two years, but had reached this two year period since July, 1964 chose to accept severance pay and gave up their seniority. Several women remained on lay-off instead of accepting a "C" job.
>
> The majority of laid off women accepted the opportunity to work on a "C" job and started to work on Monday, May 9.

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[40] Mueller, loc. cit.

[41] Local 46, "Union Bulletin" (Waterloo, Iowa, May 3, 1966). (Mimeographed.)

We are asking for your co-operation in making the Agreement work. Please help.

Below is a letter sent to the Company which should help specify the "C" job available to an employee placed in position of accepting an "A" job she cannot perform, or lay-off.

"May 10, 1966"

"Mr. Lee Davis
Rath Packing Company
Waterloo, Iowa

Dear Lee:

To confirm our conversation on Paragraph 5 B-3 of the [ABC] Agreement, we suggest the following manner be used in determining which "C" job will be available to the employee who faces the alternative of an "A" job or lay-off.

Since you must have knowledge of this particular job before Friday, we suggest that if you make a determination on Thursday, you use the following criterion to determine which "C" job is available if more than one (1) person has worked that "C" job in a week.

1. You will consider the employee who has worked the job the major part of the week, first. This major part is three (3) days or more.

2. In the case where no-one has worked the job three (3) days or more, you will consider seniority of the person on that job on that Thursday.

This letter applies only to Paragraph 5 B-3. In any further definition, we will advise by letter."

"Yours truly,

LOCAL #46, UPWA, AFL-CIO

Charles F. Mueller,
Chief Steward[42]

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[42] Ibid.

May 18, 1966. Within the past few days, we have been faced with some of the most complex problems that we can ever recall.

It seems as though the more problems we try to solve, the more that are created. What makes these problems most difficult to deal with, is the fact that there aren't any set of rules nor any guidelines to go by.

As you know, many of the women were called back on the "C" job, and are most unhappy. Some of the older women that are being transferred around on different jobs are unhappy, too. The men that are being cut out of their departments as a result of the women coming back are quite unhappy. So it's beginning to seem that irregardless of what we do, we are not making anyone happy.

We have learned that a few of the jobs that were put in the "C" classification are now being re-classified, and placed back in the "A" classification. We feel there are a number of reasons why some of the women were not able to perform these jobs - 1. Lack of confidence, 2. Some not physically strong enough, 3. A feeling of not being wanted by their Union brohter [sic] - (fellow workman) and 4. Not being as young as they used to be.

However, we were pleased that many of the mem [sic] did their best, and a few went out of their way to break their Union sister in on jobs, even though the men were being replaced by them. Unfortunately, there were a few men that did just the opposite.

Maybe it is expecting too much to expect some men to be happy about some of the changes that are being made, but we would appreciate the co-operation of everyone concerned. If there was ever a time that united co-operation was needed, the time is now. It is our belief that there are answers to all these problems, and we will find these answers if we all work together.

Note: Obstacles are those frightful things we see - when we take our eyes off the goal.

A LITTLE PRAYER

"O Lord, give me the strength to accept the things I cannot change.
Give me the courage to change the things I can,
and please give me the wisdom to know one from the other. Amen."[43]

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[43]*Ibid.*, May 18, 1966.

May 31, 1966. The posted notices [posted on bulletin boards] are from the Court of Appeals.

There is not much more information on additional "C" job classifications under the (ABC) Agreement. There must be many jobs in the plant which are within the physical capabilities of either the average male or female employee. Please notify us of any you feel fit this classification.

The International Convention took up and passed resolutions on Civil Rights and Equal Employment Opportunity, reaffirming the U.P.W.A.'s opposition to discrimination based on race, color, creed, religion, national origin, or sex, and renewed the Union's policy to combat this evil wherever it exists.[44]

June 3, 1966. [This notice appeared in a "Steward's Bulletin" which is a communication published by Local 46 and of primary interest to stewards.]

ATTENTION! ALL STEWARDS

On June 3, 1966, this letter was sent to the Rath Packing Company:

"June 3, 1966"

"Mr. Lee Davis
Rath Packing Company
Waterloo, Iowa

Dear Lee:

This is to inform you that the Union objects to the Company violating Paragraph 5, 3 of the Amendment to the Contract, signed April 26, 1966, by holding employees in a department out of line

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[44]Ibid., May 31, 1966.

of seniority for more than a 1-week period when Paragraph 5, 3 is applicable to them.

This is to further inform you that our Steward body will be notified to investigate and file grievances for loss of earnings for all employees whose seniority is violated by this section.

Yours truly,

LOCAL #46, UPWA, AFL-CIO

Charles F. Mueller, Ch. Steward"

During negotiations, this Paragraph was discussed and the Company raised the issue that the task of assigning every week, those employees who removed the youngest in plant seniority on a "C" job in order to avoid lay-off, would be an arduous one.

The Union's position was made clear at that time that these employees had no department seniority and therefore could only stay for the balance of the week, and then go to Personnel and make an effort to go to a department under normal seniority procedures.

Keeping these employees out of line of seniority could result in some of these employees being on "C" jobs which were not held by the youngest in plant seniority which violates the clear intention of the Agreement.

We therefore are instructing you to investigate the seniority of the employees who came into your Department under Paragraph 5, 3 of the Agreement and if the employees they displaced are not actually the youngest in plant seniority, demand loss of earnings for any and all employees who were reduced from your department as a result of this action.

Please contact your Divisional Steward if you have any questions on this problem.

Give this problem your immediate attention!!

Charles F. Mueller, Ch. Steward
Local #46, UPWA, AFL-CIO[45]

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[45]Local 46, "Steward Bulletin" (Waterloo, Iowa, June 3, 1966). (Mimeographed.)

June 7, 1966. The Bargaining Committee has drafted proposals for a seniority forms vote.[46] (Some members of the Union would like to change the seniority provisions of the contract.)

June 10, 1966. The results of the vote were 1297 voting to maintain the seniority system as is, 593 voting to negotiate for changes to plant seniority. Some people have requested that we have a revote on these proposals.[47]

June 13, 1966. There will be a referendum vote to be held on June 15, 1966, to determine if we should go to plant seniority or retain our present system.[48]

September 19, 1966. Our seniority system needs a major overhaul. It is geared to a growing plant with regular turnover. It is not fair now because the plant is no longer growing and has little or no turnover. We should attempt to change it all at once before contract time.[49]

September 28, 1966. J. Prosten, International Representative, mentioned that we take a look at new seniority practices in light of modern working conditions.[50]

November 15, 1966. The Seniority Committee meets November 19, 1966, to draft seniority change recommendations.[51]

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[46]Local 46, "Union Bulletin" (Waterloo, Iowa, June 7, 1966). (Mimeographed.)

[47]*Ibid.*, June 10, 1966.

[48]*Ibid.*, June 13, 1966.

[49]*Ibid.*, September 19, 1966.

[50]*Ibid.*, September 28, 1966.

[51]*Ibid.*, November 15, 1966.

The Union's attention was turned to problems of making changes in the seniority system with regard to department and plant seniority. This issue is still a problem area that will no doubt be a recurring subject in collective bargaining at The Rath Packing Company until some changes are made.[52]

December 13, 1966. Beginning January 7, 1967, we will be working on contract changes we will want in our new contract. (1964 Contract expires August 31, 1967). Weekly meetings will be held as needed.[53]

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[52]Opinion expressed by Charles Mueller, Chief Steward, United Packinghouse Workers of America, A.F.L.-C.I.O., Local 46, personal interview.

[53]Local 46, op. cit., December 13, 1966.

CHAPTER IV

THE DEVELOPMENT OF THE PROBLEM FROM THE COMPANY'S VIEWPOINT

The previous chapter described how local Union officers struggled with the rank and file to get it to agree to some type of plan to comply with Title VII. Other parties included in this struggle were the U.P.W.A. International Union, the complainants, the Company and the conciliators. This chapter traces the development of the sex discrimination problem and solution as it was seen by the Company. Various Company officials have played major roles in working out the Title VII problem at The Rath Packing Company. Lee Davis, Plant Industrial Relations Director from 1964 to 1967, was directly involved in communication between the Rath plant and Local 46. Morris Kinne, Company Attorney and James Newman, Company Industrial Relations Director, acted for the Company from the corporate level.

When a company and union are involved in collective bargaining, two definite sides are evident. Strong feelings and opinions are often displayed. Each party uses the power and resources it has at its disposal to persuade the other party to accept the merits of a program it is advocating. The collective bargaining at Rath's was no exception as the Company and Union worked to solve the sex discrimination problem.

Chapter III and Chapter IV show how each side viewed the problem. Much of the material will of necessity involve repetition of certain events but often these events are viewed differently by each

of the proponents. This type of presentation is used in order to show the issues and the dynamics involved in working out the problem. Company Industrial Relations Director James Newman kept a log of the important events in the Rath case. This chapter follows the basic outline of events presented in the log with other supplements added when necessary.

Events Occurring in 1964

When the Company and Union were working on their contract of 1964, both parties agreed to make changes in the contract as would be necessary to conform to Federal legislation against sex discrimination. A letter was included on page 102 of the Agreement to this effect.[1] Most of the other major meat packers also made similar agreements because the Civil Rights Act of 1964 had been passed and there was a good possibility that changes would have to be made. It is interesting to note that the current Local 46 Chief Steward expressed his opinion at this time that to fully comply with the law, department seniority would have to be eliminated. This is significant since it will be shown later in this chapter that department seniority as practiced at Rath's made settlement of Title VII difficult.[2]

To explain the problem of job assignments at Rath's, the

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[1]United Packinghouse, Food and Allied Workers, A.F.L.-C.I.O., Local 46, and The Rath Packing Company, Agreement between, September 1, 1964-August 31, 1967, p. 102.

[2]James Newman, "Chronicle of Events and Circumstances Relative to Lawsuit Under Title VII Civil Rights Act, 5-31-66" (The Rath Packing Company, Waterloo, Iowa, May 31, 1966).

following material was compiled by an attorney for the International U.P.W.A. and spelled out and entered as defense for the Company and Union in Civil Suit No. 66-C-504-EC.[3]

> . . . The existence in this plant, and in the packinghouse industry, of jobs which have been heretofore separately designated as male or female jobs was not the result of any act of this defendant or of any agreement between this defendant and the Rath Packing Company. Such separate designation of male and female jobs has been standard in the packing industry for more than a half a century, has been sanctioned and accepted by decisions and acts of government-appointed panels, boards, and administrative agencies and was in existence for many decades before this defendant labor organization came into existence or before the first collective bargaining agreement with this employer. When this labor organization first became the collective bargaining representative at this plant, it found in existence, as was true of substantially all of the meat packing industry, a substantial differential between the wage rates paid to men and the rates paid to women for similar jobs, and through collective bargaining efforts over many years, this defendant organization succeeded in gradually narrowing and eventually eliminating said wage rate differentials by raising the rate paid to women to the higher level paid to men. Defendant national organization has been widely recognized and acclaimed as one of the leading forces both in the labor movement and in the national community seeking and accomplishing progress over many years toward the maximum protection obtainable for employment rights and opportunities of women workers in industry, long before the enactment of the Civil Rights Act of 1964. The existence of jobs separately designated as male and female jobs has mixed consequences, favorable and unfavorable to individuals in varying circumstances. This diversity of effect has caused wide divergence of opinion, even among the female members of the organization, as to the desirability or undesirability of elimination of the separate job designations. While one result of the separate designation in past years has been the prevention of women from exercising their seniority to claim certain jobs, it has also been true that the women have been protected against the exercise of seniority rights by men who might otherwise claim some of the lighter jobs hitherto preserved exclusively for women, and women have been protected against requirements otherwise applicable which might require

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[3]Ackerman, et al., v. The Rath Packing Company, 66-C-504-EC (1966).

their acceptance of heavy or onerous jobs or be laid off. Until the passage of the Civil Rights Act of 1964, the question as to the seniority system which might be in the best interests of one or the other group or of various individuals has involved very difficult and complex balancing of demands and interests. Defendant labor organization has at all times acted in complete good faith and has attempted to represent to the best of its ability the best interests of all groups, within the framework of what was practical and what could be accomplished and what the employers in the industry could be persuaded to agree to. The practices in this respect of this employer and at this plant have been substantially those which have been in effect throughout the major areas of the packing industry.

PAR. 7. The contracts between this employer and this union have provided for separate designation of male and female jobs and separate seniority lists for over twenty years and at no time have any of the plaintiffs in this suit ever demanded the elimination of such designations until approximately July, 1965.[4]

If all the jobs at Rath's could have been done by both men or women and had they been by historical tradition assigned to a particular sex, it would have been a rather simple matter to merge male and female seniority lists and then reassign employees to jobs their seniority would carry them to. However, some jobs at Rath's could not be done by either men or women. Women had been restricted from some jobs because of the physical requirements involved. In order to place women on jobs, two basic problems had to be solved. One was how to designate or classify the various jobs. The other was what sort of a procedure would have to be used to get women back on jobs they could perform. This was the stumbling block to a clear-cut solution in the Rath case. The Company's first attempt to come to terms with the problem took place June 14, 1965.

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[4]*Ibid.*

Events Occurring in 1965

June 14, 1965. During a pre-arbitration meeting in which the Company and Union try to settle grievances before an arbitrator is called in, the Company asked the Union its viewpoint in regard to compliance with Title VII. International U.P.W.A. Field Representative Tony Fetter, who was in Waterloo for the meeting, replied that he had no instructions regarding the matter from the International Office in Chicago. The Union, at this time, seemed to feel that compliance was the Company's problem.[5]

June 30, 1965. The Union made its first proposal (Chapter III, page 37) for settlement of the sex discrimination problem and it was rejected by the Company. This proposal did not make provisions for returning the laid off women to work on jobs they could perform.[6]

July 7, 1965. The Company Labor Policy Group felt it necessary to inform the Rath employees that Title VII of the Civil Rights Act of 1964 was not clear as to its application. The Company was willing to meet with the Union on possible seniority changes, but felt it wise to await regulations from the E.E.O.C. A statement to this effect was published in "Topics," the Company news correspondence to its employees.[7]

July 12, 1965. The Union Bargaining Committee told Lee Davis, Industrial Relations Administrator, it felt the Company ought to take

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[5]Newman, op. cit., June 14, 1965.

[6]Ibid., June 30, 1965.

[7]Ibid., July 7, 1965.

a definite stand on Title VII and insist on it because sex discrimination was a strong issue among the various factions in Local 46.[8]

July 21, 1965. The Company offered its first proposal, which was the same as the Union's June 30, 1965, proposal, except for two provisions. The Company said it would not be liable for wages or benefits to women who could not perform the jobs open to them according to their seniority. However, they would allow such employees to take voluntary layoffs in such cases. The Union rejected this proposal.[9]

September 1, 1965. Swift & Company, the largest meat packer in the United States, and the Amalgamated Meat Cutters and Butcher Workmen of North America signed a letter which proposed an ABC classification of jobs to comply with Title VII.[10] (This is noteworthy because eventually the U.P.W.A. representing Rath's signed a similar ABC job classification agreement.)

September 2, 1965. The Union sent letters to all females on layoff in Waterloo and Columbus Junction (the two Rath plants in Iowa), urging them to file complaints of discrimination because of sex and offering to assist them in doing so.[11]

September 20, 1965. A delegation from Local 46 left for Washington, D. C., to attend a conference for all unions to discuss their relationship to Title VII and its interpretations with representatives from the E.E.O.C. They learned at this meeting that Local 46 was

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[8] Ibid., July 12, 1965.

[9] Ibid., July 21, 1965.

[10] Ibid., September 1, 1965.

[11] Ibid., September 2, 1965.

equally responsible with the Company for sex discrimination at Rath's. This was true because they both were parties to a collective bargaining contract that permitted sex discrimination as outlined under Title VII.[12]

September 21, 1965. An investigator, Leonard Carper, from the Kansas City E.E.O.C., talked to Morris Kinne, Company Attorney, and the Plant Labor Relations Administrator, Lee Davis, and wanted to know the Company's position on alleged violations of Title VII as expressed in complaints that had been filed.[13]

September 23, 1965. A Company attorney met with the representative from the Kansas City E.E.O.C. to discuss the Company's position in regard to Title VII complaints. The Company expressed the belief that they were not violating the law as they saw it and asked for guidelines from the Commission as to what they considered discriminatory under Title VII.[14]

October 4, 1965. The Company had conversation with a representative from the International U.P.W.A. and decided it would be best for both parties to go slow in effecting a settlement since there were complicated problems to work out. It was realized by both groups that because of the many complications involved in employment practices at Rath's, a quick, simple solution was not possible.[15]

November 11, 1965. The U.P.W.A., who had elected earlier to

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[12]Ibid., September 20, 1965. [13]Ibid., September 21, 1965.

[14]Ibid., September 23, 1965. [15]Ibid., October 4, 1965.

wait for guidelines on Title VII from the E.E.O.C., signed an ABC job classification agreement with Swift & Company similar to that of the Amalgomated Meat Cutters and Butcher Workmen.[16]

November 22, 1965. The first guidelines for interpretation of Title VII were released by the E.E.O.C.[17] (Discussed in Chapter II.)

November 23, 1965. The E.E.O.C. representative from Kansas City talked to Harlan Hiese, Plant Personnel Director, to get information on several males who had filed sex discrimination complaints with regard to Title VII.[18]

Events Occurring in 1966

January 5, 1966. Kenneth Holbert, E.E.O.C. Representative from Washington, D. C., talked to a Company attorney to set up conciliation meetings January 13 and 14 in Waterloo. The purpose of the meetings was to attempt to reach an agreement in the Rath problem if possible and to make the necessary changes in the seniority system so it would comply with Title VII.[19]

January 13-14, 1966. The Union, the Company, and the E.E.O.C. conciliator from Washington met to attempt to reach an agreement on changes, if any, in the current contract so it would comply with Title VII. The Company pointed out that women now work in eighteen

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[16]James Newman, "Chronicle of Events and Circumstances Relative to Lawsuit Under Title VII Civil Rights Act, 5-31-66" (The Rath Packing Company, Waterloo, Iowa, November 11, 1965).

[17]*Ibid.*, November 22, 1965.

[18]*Ibid.*, November 23, 1965. [19]*Ibid.*, January 5, 1966.

departments. Traditionally, the form of seniority has been the prerogative of employees, and as long as qualifications and performances are met the Company normally defers to the Union and employees. The Company could agree to merged seniority lists and the elimination of sex designations, but to take care of displaced women department and job seniority would have to be changed so women could get on jobs they could do. Several possible plans were discussed, including one based on the three job classifications: heavy, light, and male or female. The Union indicated a desire for the ABC job classification plan adopted by Swift & Company. The Company said it was not opposed to the Swift & Company plan if it would bring the women back to work. No agreement was reached in the conciliation.[20] (Case No. 5-8-411.)

January 25, 1966. A proposed agreement drawn up by the International Union was presented to the Company and the Union by International Union Representative Jessie Prosten and they were both urged to sign it. A Company attorney did not favor the proposal but indicated the Company would discuss the agreement with the Union.[21]

January 28, 1966. Company and Union officials signed the agreement recommended by International Union Representative Jessie Prosten. A letter of interpretation of the agreement was drawn up by the local Union and the Company but it was not signed by the parties.[22]

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[20]Ibid., January 13-14, 1966.

[21]Ibid., January 25, 1966.

[22]Ibid., January 28, 1966.

<u>February 6, 1966</u>. A rank and file meeting was held with International Union Representative Jessie Prosten, Dave Hart, and Tony Fetter present. They voted down a Title VII proposal. (See Chapter III, page 48, 2-3-66.) Six hundred out of approximately 3000 members voted and the proposal lost by ninety-nine votes.[23]

<u>February 14, 1966</u>. The Company received a letter from a Waterloo attorney, stating the Company was being sued by a group of fifty-nine female employees for not complying with Title VII. The Union received a similar letter stating it was being sued also. The women complainants made it known at this time that they were expecting back pay for the time they were unable to exercise their rights because of alleged discrimination. They indicated they would not be satisfied to get just their jobs back.[24]

<u>February 23, 1966</u>. The women filed suit in Federal Court (Civil Suit No. 66-C-504-EC) in Cedar Rapids, Iowa, asking for an injunction and back pay for lost time.[25]

<u>March 4, 1966</u>. Company attorneys and Company Industrial Relations Director, James Newman, traveled to Chicago to talk to International Union President Ralph Helstein and other officers and attorneys of the U.P.W.A. They decided to try for a time extension on the hearing coming up; there were jurisdictional questions, the complex seniority system problems, and more time was needed on the problem.

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[23]<u>Ibid.</u>, February 6, 1966.

[24]<u>Ibid.</u>, February 14, 1966. [25]<u>Ibid.</u>, February 23, 1966.

The International President indicated he was optimistic with regard to getting the women to withdraw the suit for back pay.[26]

March 16, 1966. The Swift & Company Labor Relations Director, J. W. Fike, called Rath's and informed them that David Dutton, Waterloo Attorney for the women complainants, had asked for an explanation of the Swift & Company ABC job classification plan since the E.E.O.C. recommended they work out a solution along the Swift & Company lines of which the E.E.O.C. approves.[27]

March 18, 1966. Rath Industrial Relations representatives and a Company attorney explained the Rath seniority system to Waterloo Attorneys Mosier and Dutton, who represented the women complainants.[28]

March 31, 1966. Company Industrial Relations representatives and Company attorneys met with the attorneys for the complainants. The Company attorneys indicated that Rath's would work out the Swift & Company ABC job classification plan and get the women back to work, but the suit must be settled also. The attorneys for the women said they would meet with their clients and try to get a settlement.[29]

April 4, 1966. A Company attorney talked to David Dutton, the complainants' Attorney, and he indicated that the women would not give up their demand for back pay. Attorney Dutton also mentioned that another meat packer, John Morrell in Ottumwa, Iowa, was being sued by a group of women.

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[26]Ibid., March 4, 1966.

[27]Ibid., March 16, 1966.

[28]Ibid., March 18, 1966.

[29]Ibid., March 31, 1966.

International Union Attorney Eugene Cotton mailed Rath's an agreement which merged seniority lists and abolished sex designations.[30]

April 7, 1966. In a pre-trial conference in Cedar Rapids, the parties were given sixty days or until June 7th to arrive at a method of putting the women to work to conform with Title VII. They were to put it into effect and report back on June 7th. The preliminary hearing was delayed until that date.[31]

April 11, 1966. The Union rank and file voted in the Swift & Company plan with International President R. Helstein present. There was considerable dissatisfaction over the method used.[32]

April 26, 1966. An International Union representative met with representatives of the Company and officers of Local 46, signed the ABC Agreement (Appendix B), and drew up a letter to be sent to the laid off women employees.[33]

April 28, 1966. The Company mailed a copy of the ABC Agreement and the following letter to the laid off women.

> Dear Employee:
>
> The Company and Local 46 U.P.W.A. entered into an agreement effective April 26, 1966 whereby certain practices, procedures and agreements at the Waterloo plant were modified. To carry out and put into effect the terms of this agreement, it is necessary that you formally declare your desire and intention to return to work through acceptance of a "C" job. As you doubtless know, a "C" job under the terms of the agreement is one that is of interest to

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[30] Ibid., April 4, 1966.

[31] Ibid., April 7, 1966.

[32] Ibid., April 11, 1966.

[33] Ibid., April 26, 1966.

both males and females and one that both the average male and average female could reasonably be expected to perform or learn within a reasonable time.

If it is your desire to return to work through acceptance of a "C" job, it will be necessary that you sign the enclosed form and deliver it to the Plant Personnel office no later than 10:00 a.m., Saturday, April 30, 1966. Those who are out of town may deliver the signed form no later than 9:00 a.m., Monday, May 2, 1966. If you do not return the form, it will be assumed that you do not wish to avail yourself of this opportunity to return to work and thereby forfeit your right to do so until normal call-back methods provide the opportunity.

It is planned to hold a meeting of all employees desiring to return to work under this agreement Tuesday, May 3, 1966, at 9:00 a.m., in the east side of the plant cafeteria. At this time assignments will be made to the aforementioned "C" jobs to be effective as of May 9, 1966.

Very truly yours,

THE RATH PACKING COMPANY[34]

May 2, 1966. One hundred twenty-one letters were received back from women and all but seven expressed the desire to return to work.[35]

May 3, 1966. A meeting was held in the Plant Cafeteria lasting from 9:00 A. M. until 6:15 P. M. Approximately 120 laid off women and Company and Union representatives were present. An explanation of Title VII was given and questions were answered. The job content of available "C" jobs was given. The following conversation of some of the women as revealed by tape recordings of the meeting show some of the concerns of the women. The women were worried about being heckled

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[34]Letter from The Rath Packing Company to laid off women employees, April 28, 1966 (Waterloo, Iowa).

[35]Newman, *op. cit.*, May 2, 1966.

or subjected to foul language by the men and Lee Davis, Industrial Relations Administrator, cautioned them not to aggravate the men but to tell their foreman. They wondered about what shift they would have to work and were told there was no guarantee whether it would be first or second. When they asked about how long they would be given to learn a job, they were told it all depended on whether or not they were making progress. When speaking of environmental conditions in the Beef Dressing Department, one woman asked if it was safe up there. She had heard it was not even safe for a woman to walk through there. They also expressed concern about the environmental conditions since no women had ever worked up there. Davis explained that they were working on the assumption that all the men were civilized human beings and that jobs were classified on the ability of a woman to do the job wherever it may be.

One woman said, "There's a lot of bitterness going on in the plant." Davis replied, "You girls have more plant seniority and we have no control over where the jobs are at. We cannot guarantee what will happen." Another woman said, "This is not a plaything; this is real." Davis replied, "We can't prevent people from having the feelings they have. We can do something after it happens. The law says we must have single seniority. We are doing this and this is what goes along with it." Some other questions were:

> How much time do we get to learn how to get back and forth from there?
> Do you have restroom facilities up there for us?
> Is that animal dead or alive?
> Are you alone with the men in the box car?

Davis then explained the ABC Agreement with the Union on procedures for combining male-female seniority. The following is an explanation given by Davis of the Agreement.[36] (See Appendix B for the Agreement.)

Paragraph 1: This paragraph states that where we currently have two (2) seniority lists - one for males and one for females, hereafter we will have one based on plant seniority. We will also hereafter have one (1) department seniority rather than the current arrangement of one each for males and females.

Paragraph 2: This paragraph stated if we are currently paying males and females different rates for doing like work we will pay the same. I want to point this does not mean similar work but the same job or classification. I don't think this will pertain to any job in our plant.

Paragraph 3: The Company and Union will classify all jobs as either Group A, B, or C using the following criteria for each group.

<u>Group A</u> - Jobs which are primarily of interest to males because jobs involve certain physical and environmental demands, and have other characteristics, such that the average male would be, and the average female would not be, reasonably expected to perform the jobs or learn them within a reasonable period of time (hereinafter called A jobs.)

<u>Group B</u> - Jobs which are primarily of interest to females because the jobs involve certain physical and environmental demands and have other characteristics, such that the average female would be, and the average male would not be, reasonably expected to perform the jobs and learn them within a reasonable period of time (hereinafter called B jobs.)

<u>Group C</u> - Jobs which are of interest to both males and

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[36] Lee Davis, "Explanation of Agreement With Union For Combining Male-female Seniority" (The Rath Packing Company, Waterloo, Iowa), May 2, 1966.

females because the jobs involve physical and environmental demands, and have other characteristics, such that both the average male and the average female would be reasonably expected to perform the jobs or learn them within a reasonable time (hereinafter called C jobs.)

Paragraph 4: This paragraph says the Company will not make readily available A jobs to females or B jobs to males, but this agreement does not absolutely forbid either sex that has sufficient seniority and is qualified to successfully bid on such jobs and work them. The Union has stated however, that they will encourage to the best of their ability, employees to refrain from crossing job classified listed in paragraph 3. That is, males can't be allowed to become successful bidders in Group B by use of department seniority or paragraph 116 on B jobs. The same applies to females on A jobs. If however, an employee insists upon exercising his seniority, force the issue to grievance procedure and do not change the above application. If any change in that application it will come through this office rather than each department or division have its own interpretations or change the interpretations. If any change is this position is made you will get a notice from this office immediately.

Paragraph 5: A. Department reduction hereafter will be made by a single list and likewise plant layoff will be by a single list. Employees reduced from the department that have sufficient plant seniority to remain at work will follow the normal pattern of accepting assignment for openings that exist on Friday or Saturday as the case may be. This is no different from our current procedure.

B. When an employee is assigned to secondary department the same rules of seniority currently will be applied, except as follows:

1. When an employee is tranferred [sic] to a secondary department and cannot find a job under normal procedures, i.e. bidding, exercising seniority or 116, the Company may force an employee with more department seniority to fill an A or B who is working a C job. Example: all jobs are assigned and the foreman has one job left to be filled,

an A job. The youngest person in department is a female who has more plant seniority than a male holding a C job. That male will take an A job as seniority dictates and the female will then take the vacated C job.

Job #1 (unfilled) Class A Rate 2 brackets	Job #2 (filled by Fred Jones) Class C Rate 10 brackets
Betty Smith (unassigned) Plant Seniority 10/10/49 Department Seniority 10/10/65	Fred Jones Plant Seniority 10/10/50 Department Seniority 10/9/65

In the above example Betty Smith takes Job #2 and Fred Jones takes Job #1. When a move like this is made it is also agreed that Fred Jones will continue to be paid 10 brackets while Betty Smith will get only 2 brackets. If any incentive is involved the same consideration will be given.

In a similar case of male and a B job the same situation would prevail.

2. Once an employee is moved to a job such as Betty Smith they cannot be moved from that job except the following circumstances. (also applies to paragraph 6).

   a. The employee is recalled to their primary department which they must return to.

   b. The department would reduce and her department seniority would move her out of the department.

   c. A, B job (as in the case would be in Betty Smith's case) would open in the department.

3. If after an employee has not been offered in case of male either an A or C job and in case of female a C or B job on the normal Friday or Saturday plant transfer and no such job available the employee will be entitled to displace the youngest employee in plant seniority whose is on a C job provided they have more plant seniority than displaced employee.

C. If a female employee is forced to fill a C job and

the job has been historically male, the female may take an involuntary layoff. The same will apply to male forced to a C that has been historically female, the male may take an involuntary layoff. This means the Company will not contest their application for unemployment.

This provision to last for one year or until May 9, 1967. This option may be taken after an employee has gone to a department for assignment and has tried to perform the job. In this case however, no weekly or daily guarantee will be paid for only hours actually worked.

Paragraph 6: This paragraph states the employees who have greater plant seniority than those working will be notifed [sic] of the date they are to be called back to work and the procedure which is as follows:

Employees currently on layoff will be offered by plant seniority a C job provided they have more plant seniority than employee currently holding this job. The employee holding job will move whenever his department seniority will take him.

The employee accepting such assignment cannot be moved under normal procedures (See paragraph 5, B-2) and will not be allowed to go their primary department until a need to increase force arises. This need could be production increase or vacation replacement.

Paragraph 7: Any question arising between parties may be processed under normal grievance procedures. In disputes over classification of A, B and C jobs the Company and Union will designate an impartial party to settle such disputes for a period of six months.

Paragraph 8: Both parties agree to meet as often as necessary to make the plan workable to satisfaction of both parties.

Some of the conversation that took place during the explanation was as follows. In regard to the classification of "C" jobs, the women were told that a committee composed of the department steward (male and female, if one existed), the foreman, the superintendent,

and most of the time, Davis, decided which should be "C" jobs in each department. On jobs where it was questionable whether a woman could perform such or not, the committee went to the department to examine it, and in some cases try the job out. The amount of break-in time was questioned again. "What do you call an average woman?" was asked. "Will we be given proper instructions and instructors?" "Do we get a written job description?" "What if the instructors will not cooperate?" At this point, the use of a tape recorder and the presence of a Company lawyer were questioned by the women's legal advisor. He was informed that the Company attorney was a permanent member of the Bargaining Committee and that he (the women's advisor) could hear the tape at a later date. The women were told that the tape was being used to verify what instructions were being given.

Lee Davis offered the hope that this ABC Agreement would comply with the law, and James Newman, Company Industrial Relations Director, explained that the court instructed the Company and Union to work out a plan and put it into operation and then report back. The question of unemployment insurance benefits being paid to those who might not be able to handle some jobs was discussed. They were assured that arrangements with the Iowa State Employment Office had been made. The women were again informed by Davis that next week when they returned to work they were making changes in a well established system operating over the past twenty years and the only sensible conduct would be to go slowly. He urged them to take a job and give it a try. "What looks bad today will probably look much better later

on," said Davis.

The women were then canvassed by plant seniority and assigned "C" jobs. There were many questions asked about the mechanics of the ABC Agreement, and the assignment of jobs took most of the afternoon. On completion, all but thirteen women were assigned jobs. These thirteen were also given jobs by the effective date of May 9, 1966. All together, fifty-four women were placed on "C" jobs, twenty-four chose involuntary layoffs, forty-two were called back to their regular department, and four took separation pay. Eight of the above total were complainants in the lawsuit.[37]

May 9, 1966. The women returned to work. In all departments involved, operations were relatively smooth. Employee cooperation with returning women was good despite some undercurrents of hostility, even on the hog cut where feelings run strongest. There had been rumors of a work stoppage when the women returned, but it did not materialize.

The complainants' attorney told the Company he wanted to see how the plan worked out before further action would be taken. He indicated he wanted depositions from both the Plant Industrial Relations Administrator and the Chief Steward of Local 46. He saw two possible areas of disagreement: the pay provision and the fact that the women do not think they are being allowed to use department seniority like

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[37]Tape recording from the Industrial Relations Office, The Rath Packing Company, Waterloo, Iowa, May 3, 1966.

other employees.[38]

May 19, 1966. Daily reports of all activities in the nineteen departments with "C" jobs were compiled in the Industrial Relations Office. The summary of the first week events was as follows:

> In summary, approximately 13 people were kept for specific break-in purposes on the initial week and in all departments with the exception of two or three, no losses in production were experienced. Foremen were all satisfied that the allocation of "C's" were just with the exception of those afore mentioned that were changed. Plan to meet with the committee the last week of this month to again review the assignments and classifications on jobs to substantiate their validity.[39]

May 26, 1966. The following memorandum, written by the Plant Industrial Relations Administrator, summarizes the situation by departments after two weeks of operation.

> The week beginning May 16 we had 67 females assigned to "C" jobs. I visited each department during the week and talked to the foreman and the employees when the opportunity lent itself without any great confusion.
>
> Listed are the departments and any significant facts of information pertaining to each:
>
> HOG CUT AND FRESH MEAT
>
> 20 employees were again assigned to this area, same as the previous week. No problem as to cooperation and department attitude. One employee was kept for break-in on trimming fat backs.
>
> Had some discussion in the department as to the procedure and method of call back but other than that it is rather quiet and no problems. All girls requiring break-in the previous week were able to perform their jobs in a normal fashion.

[38]James Newman, "Chronicle of Events and Circumstances Relative to Lawsuit Under Title VII Civil Rights Act, 5-31-66" (The Rath Packing Company, Waterloo, Iowa, May 9, 1966).

[39]Memorandum from Industrial Relations Office, The Rath Packing Company, Waterloo, Iowa, May 19, 1966.

Two jobs were reclassified, one packing neck bones and the other packing ribs.

HOG KILL

Five employees were assigned to this area on jobs for the first time. This is compared to one the previous week. Two shaving bellies and backs, one shaving shanks, one trimming snouts. One employee was assigned to the job of cutting gams but after the employee tried it the job was reclassified back to an "A". Three people were required for break-in on the shaving jobs.

No problems in the department as far as the cooperation and break-in. Did have a meeting with the department to explain the method of transfer.

BONING AND PROCESSING

Eleven employees assigned to this department compared to eight the previous week. No one used to break-in the employees as such.

Employees on the trimming jobs were up to 50%, but were only on the job one week. One employee who had completed her second full week of trimming was up to 80% and the foreman was really encouraged that she would obtain 100% on the subsequent week. The employees assigned to the boning classification efficiency was very low, although they did make good effort trying to perform the job.

HAM SKINNING AND FATTING

Two employees were assigned of which one in her second week was operating at 50%. Foreman not hopeful that the average female could obtain 100% as the one employee in her second week was not showing very much improvement.

Department beginning to react about the long break-in granted employee. Have discussed with the foreman about his position as far as how long of a break-in he would allow.

GREEN HAM PICNIC BONING

Three employees, with no one assigned with break-in. One employee on boning the second week was in the vicinity of obtaining 100%. Department attitude very good. Remaining two jobs are not complex and are very easily handled by the average woman.

BEEF KILL

One assigned to clean beef. Second week of the job and no problem.

Doing an excellent job. Assigned an employee on washing heads but was reclassified early Monday after employee tried the job.

VARIETY MEATS

Three employees assigned, no one kept for break-in. All doing their regular jobs. Keeping up was no problem. Department attitude very good.

CHECKERS OFFICE

Two employees assigned filling regular jobs and doing satisfactory work. No one remaining in the department for break-in purposes. The employees were transferred out on the following Friday due to change in department vacation schedule.

CANNING

Six employees assigned. No department problems. Attitude very good and all doing satisfactory work. No production losses are noticable in the packing line on which three were assigned and no people kept for break-in.

FRESH SAUSAGE

Two employees assigned. One an increase of the previous week. Both operating Frankomatic machines. Department attitude good. The newly assigned employee was allowed the same break-in as the previous week for one day. Department production maintained at the current level.

LAMB DRESSING

4 to 5 employees assigned. Two maintained for break-in, the other two now in their second week doing a good job and are able to keep up with the chain.

Department attitude good and jobs look to be to have a realistic classification.

In summary, the departments as a whole have reduced the amount of people they are maintaining for break-in to 6 this week compared to 13 the previous week. We are suffering from low index performances primarily in the boning and processing area and in ham skinning and fatting.

Also am contacting superintendents and foremen to get them to place women in departments such as the hog casing and perhaps in the smoked meat, to get women to work and see if the "C" job classification is realistic even though we have not yet had to assign

anyone to perform these jobs.[40]

June 6, 1966. Conciliator Kenneth Holbert came to Waterloo for the second time with an attorney from the E.E.O.C. General Counsel's Office and met with Company and Union attorneys to discuss Case No. 5-8-411 and draw up a conciliation agreement.[41]

June 7, 1966. International representatives and attorneys and Local 46 representatives met with Company officers and attorneys to discuss the women's demands. The Union rejected the women's demands for special representation on the Union Bargaining Committee because of the demands of other splinter groups. The Union and Company did agree to setting up an impartial third party outsider to pass on job classification disputes (A, B, or C jobs). A Company and Union attorney then retired and drafted such an agreement.[42]

June 8, 1966. Kenneth Holbert and a woman attorney from the E.E.O.C. toured The Rath Packing Company plant and saw most of the "C" jobs. The woman attorney almost became ill at seeing some of the jobs women were doing and wondered how they could do such undesirable jobs. After the tour, both the conciliator and the attorney explained that as they viewed the Rath problem as reported to them in Washington, it did not seem as though a solution would be too hard to arrive at, but

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[40]Memorandum from Plant Industrial Relations Office, The Rath Packing Company, Waterloo, Iowa, May 26, 1966.

[41]Document from Plant Industrial Relations Office, The Rath Packing Company, Waterloo, Iowa, August 3, 1966.

[42]*Ibid.*

after looking over the situation in Waterloo, they admitted it was a very difficult problem to resolve.[43]

June 9, 1966. The Company, the Union, and the complainants' attorneys met to draw up a conciliation agreement. Kenneth Holbert supplied the wording from a previous Commission settlement agreement and gave the committee a start.[44]

June 10, 1966. The agreement settlement was close except for provisions of back pay and attorney fees.[45]

June 16, 1966. The complainants' lawyer met with his women clients but was unable to report anything yet. This was the first time he could get them to agree to drop the lawsuit. Informally, he outlined what he thought their demands might be: vacation, holiday and pension credits; attorney fee and costs; and some additional seniority concessions.[46]

June 28, 1966. The attorney for the complainants sent copies of his clients' proposal for withdrawing the lawsuit and forgoing any claim for back pay.[47]

July 1, 1966. The Company met with the group of women complainants to go over the Title VII proposal settlement. The Company

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[43]Opinion expressed by Morris Kinne, The Rath Packing Company Attorney, personal interview.

[44]Document, *loc. cit.*

[45]*Ibid.*

[46]Kinne, *loc. cit.*

[47]Document, *loc. cit.*

agreed to give the women some back pay and to pay attorney fees.[48]

July 6, 1966. E.E.O.C. Conciliator Kenneth Holbert urged the complainants' attorney to press for a settlement.[49]

July 11, 1966. The complainants' attorney reported the women would not accept the Company's proposal.[50]

July 13, 1966. The Company reported a group of about sixty older women had moved to intervene in the Title VII suit. They were alleging the April 26, 1966 agreement discriminates against older women. It does not place enough weight on plant seniority. The Company and the Union would resist.[51]

January 5, 1967. The lawsuit on behalf of 59 women charging The Rath Packing Company and Local 46 with sex discrimination was dismissed with prejudice by the women's attorney in Federal Court in Cedar Rapids. An intervening motion, filed on behalf of sixty-nine more women, has not yet been ruled upon.[52]

The case has now been settled. The E.E.O.C. is satisfied that the ABC Agreement of 1966 is working and the women agreed to accept some back pay and payment of attorney fees.[53]

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[48]Ibid.

[49]Ibid.

[50]Ibid.

[51]Ibid.

[52]News item in the Waterloo Daily Courier, January 8, 1967.

[53]Opinion expressed by Morris Kinne, The Rath Packing Company Attorney, personal interview.

CHAPTER V

IMPLICATIONS OF THE EVENTS AND CURRENT STATUS OF THE PROBLEM

To describe the issues that made the sex discrimination at Rath's such a complex problem, it becomes necessary to attempt to understand the two viewpoints offered in Chapters III and IV as they interacted and finally arrived at a solution. This chapter will present material to show the problem as it was seen by the various parties involved. As is sometimes the case in collective bargaining, some material and some resources used by Company and Union cannot necessarily be revealed. The Union has various sources and confidants as does the Company. Neither side will show the other all its resources because its collective bargaining position would then be weakened. Most of the material presented in this paper has been worked out by the writer in close association with both the Company and the Union. The various facts given have had the approval of one side or the other. There are some things that cannot be told because of their confidential nature to one party or the other. Respecting these confidences, an attempt was made to secure information about the conciliation meetings involving Rath's and Local 46 from the E.E.O.C. office in Washington, D. C. However, no information was released and this confidence is being respected.

To compile this final chapter, personal interviews were secured with former Industrial Relations Administrator Lee Davis and the current Administrator, Le Roy Grittman. These men have constantly

been apprised of the various events taking place and have personally been present at almost all of the meetings held. Their description of the problem, along with other added evidence will, it is hoped, help show the context of the problem and solution, as well as indicate future implications.

The Problem

The problem in summary is this. Prior to the passage of the Civil Rights Act of 1964, which included in Title VII the prohibition of discrimination by sex, the meat packing industry used the separate seniority systems for male and female for years without any major difficulties.[1] Title VII caused a great deal of controversy because Congress failed to issue guidelines as to how the law was to be interpreted. When no guidelines were to be had, the Union presented its first proposal (June 30, 1965, Chapter III, page 37) to the Company. This plan offered to dovetail (merge) both male and female seniority lists into one and bring back the laid off women and place them on the jobs to which their seniority would carry them. This plan did not take into consideration that women could not do some of the jobs at Rath's. Equal opportunity for the right to work could not be practiced.

According to Lee Davis, Industrial Relations Administrator, the Union realized the loopholes in their proposal when they admitted they were sure the Company would not accept the plan but feared the

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[1]Ackerman, et al. v. The Rath Packing Company, 66-C-504-EC (1966).

implications if they had. These fears were well grounded because men could perform all the women's jobs with perhaps the exception of the janitoress jobs. Department seniority came into play at this point because it was possible for a woman to be forced to do a job in some departments such as lugging beef or pulling a truck which would require more physical strength than most women have. Due to this, the Company would not accept the June 30, 1965, proposal because in case the employee did not want a particular job the Union wanted that person to be able to voluntarily take a layoff with benefits. This, the Company felt, would place on them the liability of payment of benefits to women or men because of physical requirements and not just for lack of opportunity to work. As a result, the Company offered a counter proposal which was verbatim to the Union's proposal except for a provision not making the Company liable if an employee's seniority would not allow him to find a job. This was rejected by the Union.[2]

According to Lee Davis, both parties then began to look at the problem more sensibly by being more considerate of the employees involved. Some kind of system was needed that would protect the jobs the women already had, but regardless of the direction they took, job classification and department seniority would be a problem. At this time, the Union took a wait and see attitude again, hoping Washington, D. C., would send out interpretations of the law. It was thought that

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[2]Opinion expressed by Lee Davis, Industrial Relations Administrator, 1964-1967, The Rath Packing Company, personal interview.

separate seniority lists might possibly be legal. The Union did not feel they were the discriminating party at this time and helped employees file complaints with the E.E.O.C. Several complaints charging violation of Title VII were filed against the Company in the form of grievances. The Company's answer was that they were operating under the current contract and that only a meeting between both parties could change the contract.[3]

Since the Union still had the idea of combining seniority lists and letting, as the parties characterized it, the chips fall where they may, the Company accommodated them in an experiment of such a move. It was agreed that a particular week be selected, and during that week the Company would man the plant using the Union's combination or dovetailing seniority plan. As an experiment this was done on paper only but with all the actual manning statistics for that week. The results showed that if actually manned, using this concept, twenty-five older women laid off at the time would still be on layoff because physically they could not do the jobs to which their seniority would have carried them. This was quite revealing to Union officials and they realized that once women with more plant seniority were returned to work, they had to rely on department seniority to get them a job they could perform. They, however, were the youngest employees in the various departments and if the men in these departments who had jobs women could perform did not voluntarily want to give them up, the

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[3]<u>Ibid.</u>

women would be compelled to do heavy physical labor or take a layoff. One solution would be to forego department seniority but the Union rank and file would not agree to this. The Company could not be expected to be liable for the loss of wages to men who were displaced by returning women. The Union realized the women would not be treated fairly, nor could the Company operate under such a plan.[4]

Delegates from Local 46 then attended a conference in Washington, D. C., with the hope of getting guidelines to solve their problem. There were still no guidelines. Local 46 representatives did learn that they too were liable to sex discrimination charges because they were parties to a contract allowing separate seniority. It was at this time that the charges that had been filed against the Company were changed to include the Union as well. Leonard Carper of the Kansas City E.E.O.C. office came to investigate the Rath problem and he found that discrimination was taking place. His parting words to Lee Davis were that "he was very happy he was the investigating officer on this complaint because rarely did they send out as conciliator, the investigating officer, and this would be a difficult case to settle."[5]

Conciliator Holbert came to Waterloo in January of 1966 to meet with the parties involved in an attempt to settle the alleged sex discrimination charges. Both sides were hoping Holbert would have some words of wisdom to enable the parties to get together. As it

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[4]<u>Ibid.</u>

[5]<u>Ibid.</u>

turned out, he did not. He did find out the Union was not too receptive at the time and the only solution he could recommend was that the women take their case to the courts.[6] (The Union at this point was, no doubt, preoccupied with the Swift & Company proposal that the International Union was working on, as was brought out in Chapter III, page 46.)

The Union Executive and Bargaining Committees then worked out several proposals for ratification by the rank and file. One such proposal was announced in the January 21, 1966, "Union Bulletin"; it was the Swift & Company proposal which was adopted as a pattern for the packinghouse industry by the International Union. The E.E.O.C. had not fully accepted the Swift & Company plan at this time and consequently the International Union canceled a vote on this proposal by the rank and file.[7]

On February 6, 1966, the rank and file voted on the Swift & Company proposal identical to that mentioned January 21, 1966, with additional information as to the procedures of implementing the program. This vote rejected the plan most particularly because of the ABC job classification features. The interesting thing about this rejection is that Local 46 had rejected a program the International Union had declared as a pattern for all the U.P.W.A. affiliated locals. They had also refused a plan the Company had indicated it would accept

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[6]Ibid.

[7]Local 46, "Union Bulletin" (Waterloo, Iowa, January 21, 1966). (Mimeographed.)

if it would bring the women back to work.[8] The Local 46 officials felt they had tried to pass the plan advocated by the International Union but were not successful in doing so.[9] The International Union was unhappy with the proceedings at Waterloo and was considering taking Local 46 under administratorship in order to achieve a settlement of the problem along lines approved for the industry.[10] This was not done and Local 46 Executive and Bargaining Committees presented two proposals for the rank and file to vote on March 4, 1966. These proposals included changes in the seniority provisions of the contract. Since department seniority was a stumbling block in any Title VII settlement, and because many of the older people at Rath's were being adversely affected by automation, there was a move among some factions in the plant to do away with department seniority and retain plant seniority. These two proposals included changes in regard to plant seniority. One included ABC job classification procedures and the other did not. Also, as an added point of conjecture, both plans were to be voted on at the same time in an "either one or the other" type vote.

The meeting, however, was called off on advice from the International Union. The President, Ralph Helstein, then came to

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[8]*Ibid.*, January 13-14, 1966.

[9]Opinion expressed by Charles Mueller, Chief Steward, United Packinghouse Workers of America, A.F.L.-C.I.O., Local 46, personal interview.

[10]*Ibid.*

Waterloo to settle the issue. Local 46 officials admitted they felt that the President would have negotiated with the Company on the Swift & Company plan even if the rank and file refused the program in a scheduled vote.[11] The plan was approved by the rank and file and signed out April 26, 1966.

Implementing the ABC Agreement (Swift & Company plan with minor changes), which was agreed upon by the Company and Union, was done with a minimum of confusion. Letters were then sent to the laid off women, informing them of the settlement and calling a meeting for all those wanting to return to work. Company and Union officials worked together on May 3, 1966, at an all-day meeting to explain the ABC Agreement and assign women to jobs for returning to work on May 9, 1966. The women returned to work, and although there were rumors of impending production stoppages, none in fact occurred. Lee Davis, Plant Industrial Relations Administrator, said, "The Union as a whole did an excellent job of implementing the program and kept grievances to a minimum. They kept their disgruntled element in control and the transition was very smooth."[12] He also indicated he felt sure that production losses due to the change-over were slight.

Implications of the ABC Agreement

A number of proposals were considered by the Company and the

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[11]Mueller, loc. cit.

[12]Opinion expressed by Lee Davis, Industrial Relations Administrator, 1964-1967, The Rath Packing Company, personal interview.

Union in an effort to eliminate sex discrimination at Rath's. The critical area of concern in the evaluation of these various proposals was whether or not provisions were formalized in writing to insure that the laid off females would be placed on jobs they could perform. It has been noted before that jobs had been classified historically as either male or female at Rath's, as well as throughout the meat packing industry in general. In order to find a way of replacing males with less plant seniority for females with more plant seniority, a third classification of jobs which both males and females could perform was needed. The ABC Agreement provided such provisions.

The "A" jobs such as beef lugging, beef boning and pulling loins, were jobs of primary interest to males because the demands of the job were such that the average male could be expected to do them and the average female could not be expected to do them. Class "B" jobs like bacon layer, can washer, and packer and scaler were those of primary interest to females because the demands of the job were such that the average female could be expected to perform and the average male would not be expected to perform. Both "A" and "B" job classifications assumed a reasonable break-in period in order to learn the job. The "C" classification included jobs of interest to both males and females, such as trimming hams, shaving hogs, and boning picnics. The demands were such that the average person could be expected to perform with a reasonable amount of break-in training. This "C" classification has been the stumbling block for arriving at an agreement among Local 46 members. It seems as though the Company indicated a

willingness to accept any reasonable plan to return the females to work that was agreeable to the Union rank and file. However, the Union appeared to have serious problems arriving at a plan which would be acceptable to a majority of its members. Some members wanted plant seniority to replace department seniority as presently practiced. Many members did not like the ABC Agreement because it had implications that affected the manner in which department seniority and job classification provisions were administered. With reluctance the ABC Agreement was adopted and the jobs at Rath's were canvassed and classified.

The "C" job classification was created in order to give the laid off females an opportunity to return to jobs they could perform. They were originally laid off because there were no female jobs open to them. That is, they did not have enough plant seniority to be eligible for available jobs open to females as historically practiced for years before Title VII. At the same time, men with less plant seniority were working on jobs open to males historically. To allow females with more plant seniority than males to return to work, the "C" job classification was the area of transition. Females could return to work and if they had more plant seniority than males on "C" jobs, they could bump them and take their jobs. If the male did not have enough plant seniority to successfully claim a "C" job he would then be laid off. Once a female accepted a "C" job she was "frozen" to that particular job until, using her contractual rights, she was called back to her number one seniority department or requested a

transfer to another department in line with her plant seniority. If the female felt she could not perform a particular "C" job to which she was assigned, she could elect to take an involuntary layoff and be eligible to collect unemployment benefits. This involuntary provision was limited to a one year period following the adoption of the ABC Agreement. It was hoped by both Union and Company that the provisions of the ABC Agreement would be for temporary use to implement the problem of returning the females to work.

Le Roy Grittmann, Plant Industrial Relations Administrator (Grittmann replaced Davis in 1967 when the latter took an assignment as Superintendent of the Sausage Division of Rath's), indicated that the ABC Agreement was a plan to dovetail seniority and put women on "C" jobs until their regular department called them back. It was assumed they would stay on the "C" job until their regular department opened up. If employment at Rath's had been stable, this would have been the case; however, the situation at Rath's has been one of a decline in production. This has caused cutbacks in the labor force and various job realignments with peculiar results. Instead of women staying on "C" jobs for a few weeks and then returning to their regular department and eliminating the need for only a few "C" jobs, there is a continuing group of "C" jobs that must be learned by the women. Due to weekly fluctuations in production, women are constantly moving from one "C" to another "C" job. There were fifty-four women on "C" jobs when the original assignments were made on May 3, 1966. On August 19, 1966, there were twenty-six women on "C" jobs, and on May 29, 1967,

there were twenty-two women still on "C" jobs. Instead of the problem working itself out, it has become a continuing problem which is something no one had anticipated when the ABC plan was adapted to the Rath situation.[13]

According to Industrial Relations Administrator Grittmann, the Union made a request to the Company to extend the one year involuntary layoff clause in the ABC Agreement, which expired May 9, 1967. The Company answered "No," and as a result the number of employees taking voluntary layoffs dropped considerably. An employee can take a voluntary layoff at the time of assignment to a department but this does not entitle him to compensation. Thus the Company was freed of one financial liability but others remained. Paragraph 5 (1) of the ABC Agreement states in part: "When the Company assigns an employee to an A or B job in order to vacate a C job, the employee assigned to that A or B job will suffer no loss of earnings and in this case the employee filling the C job will receive the rate and incentive of the A or B job to which the other employee was assigned out of line of department seniority." This paragraph was intended to mean that when a female employee bumps a male employee from a "C" job to an "A" job because he has less plant seniority, the two were supposed to trade earnings. It does not work as it was originally intended. The female gets paid the earnings she makes and the male gets paid the earnings

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[13]Opinion expressed by Le Roy Grittmann, Plant Industrial Relations Administrator, The Rath Packing Company, personal interview.

of whichever is the greater of the two jobs. Here again the Company has added expenses. Both Davis and his successor, Grittmann, indicated that the President of the U.P.W.A., Ralph Helstein, made it clear that complying with Title VII should in no way be an economic burden to the Company from the rate structure standpoint. The attitude of Local 46 is not the same as Helstein's on this matter.[14]

Another area of contention is Paragraph 5 (b)(3) of the ABC Agreement. This paragraph was mentioned by the Union in Chapter III under the May 10, 1966, and June 3, 1966, dates. The problem faced here is the determination of who the female can bump on a "C" job. If it happens that two males worked on the same "C" job during a week, it must be determined who has rights to the job for that particular week. One male may have more plant seniority and the other less plant seniority than the female bumping. It is possible for a little manipulation by the Company and Union on this point to see to it that the male with greater seniority is credited with being on the job, thereby preventing the female from bumping.[15]

Males and females are to be given the same amount of break-in time on a job in order to qualify for the position. In a cutback period and in declining production as being experienced by Rath's, where there is constant movement of females to various "C" jobs each week, it is very difficult to determine how much break-in time a female has had on a particular job. Many jobs at Rath's require

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[14] _Ibid._

[15] _Ibid._

several weeks to learn and during this learning period a male is usually put with the female as an instructor or break-in man. So again, the Company finds itself in a situation where it is paying two employees for doing one job. This has been a continuing practice each week and was not anticipated when the plan was drawn up.

In June of 1966, when employment was near normal and most of the women were back on their regular jobs, a Union committee and Company personnel again looked over the "C" classification jobs. They found that the initial classification of jobs had been well done. No jobs in the "A" group were reclassified to "C" jobs. They also found the former "A" jobs that had been classified to "C" the first time around were well placed. There were not many soft jobs remaining in the "A" group and there was no attempt to rearrange work in the various jobs.[16] However, according to Grittmann, Industrial Relations Administrator, a request was made in midyear 1967 by Local 46 in the form of a grievance to take another look at the ABC job classifications. Union Grievance, Number 38, was answered by the Company with the statement that each department in the plant will be canvassed to see if any ABC job classification changes should be made. The Company would notify the Union of any changes and would be willing to set up a joint Union-Company committee in the event a dispute arises because of any necessary changes.[17]

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[16]Davis, _loc. cit._

[17]Grittmann, _loc. cit._

It has been shown here that the ABC Agreement has not worked for Rath's because of their particular declining production and unfavorable marketing situation relative to the general industry of meat packing. Instead of eliminating the problem created by Title VII, it only perpetuates it from week to week. This probably is not the case in some other meat packing companies where they are increasing production or at least maintaining the status quo. It appears from all evidences that the equality between male and females concerning job opportunities has not fully materialized at Rath's. Male employees in some cases seem to feel that females are being given preferred treatment. These male employees claim that women are being given more break-in time than men. Females, in some cases, are replacing males and cannot do the jobs or make only limited attempts to qualify on jobs. This can be done since some women are constantly moving from one department to another each week.

The marginal male workers who are involved in the displacement from jobs by females are not necessarily a contented group. It has been said that some of them have considered taking up a collection to hire a lawyer to represent males who were being discriminated against in the "C" job classification administration. They note how some females do only a fraction of the amount of work a male will do in a day's time.

Some females are not content with the ABC Agreement in application. They find they are moving often from one job to another each week. The males in some of the departments to which women are

assigned are not as cooperative as they were before Title VII. In some departments, males used to sharpen knives and help females keep their equipment in good working order but now refuse to make things any easier for females than is required. There are other departments where females have been accepted readily and encouraged to succeed at the work assigned to them. This is, no doubt, the case in a majority of the departments with "C" jobs.

There are still other problems that demand attention such as that of plant seniority replacing department seniority. One consolation that some of the males have is that in the declining situation at Rath's at the present time, the females have more at stake than the males. Since many of the females are older persons, eventually they will retire and as no more females will be hired under present conditions, the time will come when fewer females will be employed at Rath's to the advantage of the males who as a group may be younger. The marginal worker or the workers who are subject to transfer each week from department to department are not very happy in many cases but as a group these workers seldom are very contented due to the constant frustration caused by lack of job security felt with the constant change from one job to another each week.

The Company has been subject to financial burdens in excess of those normally incurred since the application of the ABC Agreement. Lee Davis, Le Roy Grittmann, and Harlan Heise, Plant Personnel Manager, all have indicated that the one serious fault of the ABC Agreement from the Company's standpoint is the financial liability brought

on by the loss of earnings that must be paid to an employee unable to get a job he or she can perform. Excess break-in pay is also financially uneconomical for the Company. These areas would require a change if negotiations were attempted on this problem again.

The Union, no doubt, has complaints from the disgruntled among both male and females. The problem that has likely been most difficult for them to solve has been that of the dispute over plant and department seniority. The pattern across the nation is gradually moving toward plant seniority acceptance as was verified by the International Union. By changing to a plant seniority system, many of the problems faced in this case could have been solved easier. The conflicting situation of plant, department, and job classification seniority as practiced at Rath's would be simplified greatly if the change to a single plant seniority could be effected.

The evidences in this case at Rath's seem to point to various factors that made a solution to the sex discrimination problem very difficult. The bargaining position of the Company seemed to suffer from the declining production and profit situation they occupied. The Union, which seems to have taken advantage of its position of a superior bargaining strength, made it difficult for the Company to effect a speedy solution to the problem. This appears to be substantiated by the problems the International Union had in bringing Local 46 in line with other locals affiliated with the U.P.W.A. as they worked out the sex discrimination problem.

For the meat packing industry in general, Title VII has had a

strong impact on some collective bargaining issues. Females have been part of the labor force for years. Separate seniority systems have been the rule and job classification issues followed the dual seniority setup over the years. By the time Title VII became law, a complex plant, department, and in some cases, job classification seniority system had been successfully operating. Title VII brought many changes that had to be implemented. Some meat packers, because of simplified seniority provisions and increasing production situations, are probably experiencing a minimum of confusion. Other packers, such as Rath's, who have had unique bargaining agreements with their local unions, are finding the settlement of the problem frustrating and often a financial liability. It will be interesting to see the long range effects of Title VII changes on industries and especially the meat packing industry. Surely the meat packing industry problem with sex discrimination will furnish some guidance to other industries and businesses that in one way or another fall under the jurisdiction of Title VII either now or in the future as more women enter the labor market.

In summary, this study has found that sex discrimination was being practiced by The Rath Packing Company and Local 46, U.P.W.A., under the terms of the 1964 Contract when Title VII of the Civil Rights Act of 1964 became law. The meat packing industry has used separate seniority lists for years and according to Title VII, sex discrimination of this nature is unlawful. Fifty-nine women complainants sued the Company and Union for alleged sex discrimination violations. The

Company, the Union, and the E.E.O.C. were able to find a solution to the problem by implementing the ABC Agreement which basically follows the Swift & Company plan adopted by the International U.P.W.A. and affiliated unions. Other issues in the lawsuit were concluded and the case was considered settled in June, 1966.

The 1964 Contract had provisions to allow for changes necessary after Title VII became law. Specific paragraphs in the current contract that must be changed are Paragraph 118 which established separate seniority lists for males and females and Paragraph 129 which outlines the rate structure to be followed with the practice of separate seniority lists.

The return of laid off women with more plant seniority than men working was done using the ABC Agreement and the changes to correct the sex discrimination problem were made very effectively by joint Company and Union cooperation. A look at the practices put into effect on May 9, 1966, reveal some inadequacies in the plans now followed that need more study. It is possible that the ABC plan will not work properly in a declining production situation. Added financial obligations have been thrust upon the Company which need to be distributed more equally between the Company and the Union. Many other minor problem areas which are unique in the collective bargaining practices between The Rath Packing Company and Local 46 have been explored in this paper and show why the problem was so complex and difficult to solve.

Conclusions and Implications

From this study, and considering Rath's unique position as an independent producer in a declining production and unfavorable marketing situation, these conclusions may be drawn.

1. The ABC Agreement follows the basic concepts of the Swift & Company Agreement but is modified slightly to conform to seniority provisions of The Rath Packing Company. Swift & Company drew up the basic Agreement which was accepted by affiliates of the U.P.W.A. and related unions to settle the sex discrimination problem resulting from Title VII of the Civil Rights Act of 1964, and in the meat packing industry in general it seems to be working.

2. The basic Swift & Company Agreement was worked out through collective bargaining in the absence of, or at least prior to, definite guidelines from the government through its mediation service, the courts, or the International Union. The negotiation described here at Rath's, and earlier negotiated at Swift & Company, represents an emergent and still fluid situation.

3. The Swift & Company Agreement should be regarded as tentative and open to recurrent negotiation; however, it will perhaps indicate future guidelines as new situations occur or conditions in the local operation or in the industry in general change.

4. The ABC Agreement negotiated between The Rath Packing Company and Local 46 has not completely fulfilled its intended purpose of returning females to jobs where sex discrimination by seniority may not be the only recurring issue.

5. Another recurring issue, that of excessive marginal transfer of employees, both male and female, on jobs which either sex could be expected to perform, remains, and is actually perpetuated on a weekly basis by certain provisions of the ABC Agreement.

6. Specifically, the ABC Agreement has permitted the Union to use seniority in such a manner as to cause additional economic costs to the Company.

7. Rath's unique position as an independent meat packer in which production has been declining, has meant that the ABC Agreement as presently negotiated has produced undue financial obligations on the Company.

8. The clear implication is that any company in a similar declining production and unfavorable marketing situation may find the ABC Agreement unacceptable.

We may finally conclude by saying, at least in the Rath case, if conditions continue to remain the same at The Rath Packing Company, a revision of the ABC Agreement seems imminent.

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APPENDIX A

APPENDIX A

This list of definitions was taken from Bulletin No. 1438, "Industrial Relations and Wage Terms," published by the United States Department of Labor, Bureau of Labor Statistics, in May, 1965.

Active Employees. Employees at work, as distinguished from retired or laid off employees.

A.F.L.-C.I.O. (American Federation of Labor and Congress of Industrial Organizations) Federation of approximately 130 autonomous national and international unions created by the merger of the American Federation of Labor (A.F.L.) and the Congress of Industrial Organizations (C.I.O.) in December, 1955. More than 80 per cent of union members in the United States come within the orbit of the A.F.L.-C.I.O. through their membership in affiliated unions. The initials A.F.L.-C.I.O. after the name of a union indicates that the union is an affiliate.

Agreement. (Collective Bargaining Agreement: Union Contract) Written contract between an employer (or an association of employers) and a union (or unions) usually for a definite term, defining conditions of employment (wages, hours, vacations, holidays, overtime payments, working conditions, etc.), rights of workers and union, and procedures to be followed in settling disputes or handling issues that arise during the life of the contract.

Arbitrator. An impartial third party to whom disputing parties submit their differences for decision (award).

Automation. The term is often used in reference to any type of advanced mechanization or as a synonym for technological change.

Back Pay. Payment of part or all the wages for a particular prior period of time, arising from arbitration, court, or board awards, grievance settlements, errors in computation of pay, misinterpretation of wage legislation, etc.

Bargaining Agent. Union designated by an appropriate government agency, such as the National Labor Relations Board, or recognized voluntarily by the employer, as the exclusive representative of all employees in the bargaining unit for purposes of collective bargaining.

Bargaining Unit. Group of employees in a craft, department, plant,

firm, or industry recognized by the employer or group of employers, or designated by an authorized agency such as the National Labor Relations Board, as appropriate for representation by a union for purposes of collective bargaining.

Bumping. Practice that allows a senior employee (in seniority ranking or length of service) to displace a junior employee in another job or department during a layoff or reduction in force.

Bureau of National Affairs, Inc. (BNA). A commercial nongovernmental organization engaged in providing various types of reports and services dealing with industrial relations and labor affairs.

Civil Rights Act of 1964. Under Title VII of this Federal act, employers, unions, and employment agencies are required to treat all persons equally, regardless of race, color, religion, sex, or national origin, in all phases of employment, including hiring, promotion, compensation, firing, apprenticeship, job assignments, and training. An Equal Employment Opportunity Commission was created to assist in carrying out this section of the act.

Collective Bargaining. Method whereby representatives of the employees (the union) and employer determine the conditions of employment through direct negotiation, normally resulting in a written contract setting forth the wages, hours, and other conditions to be observed for a stipulated period (e.g., 2 years). The term is also applied to union-management dealings during the term of the agreement.

Conciliation. Mediation.

Contract. Agreement.

Discrimination. Term applied to prejudice against or unequal treatment of workers in hiring, employment, pay, or conditions of work, because of race, national origin, creed, color, sex, age, union membership or activity, or any other characteristic not related to ability or job performance.

Employee. General term for an employed wage earner or salaried worker. Used interchangeably with "worker" in the context of a work situation, but a "worker" is not an "employee" when he is no longer on the payroll.

Employer. General term for any individual, corporation, or other operating group, which hires workers (employees). The term "employer" and "management" are often used interchangeably when there is no intent to draw a distinction between owners and managers.

Equal Pay for Equal Work. A policy denoting or a demand for,

payment of equal compensation to all employees in an establishment performing the same kind or amount of work, regardless of race, sex, or other characteristics of the individual workers not related to ability or performance.

Grievance. Any complaint or expressed dissatisfaction by an employee in connection with his job, pay, or other aspects of his employment. Whether it is formally recognized and handled as a "grievance" depends on the scope of the grievance procedure.

Industrial Relations. General term covering matters of mutual concern to employers and employees; the relationships, formal and informal, between employer and employees or their representatives; government actions and law bearing upon these relationships; an area of specialization in a company.

International Representative. Generally, a fulltime employee of a national or international union whose duties include assisting in the formation of local unions, dealing with affiliated local unions on union business, assisting in negotiations and grievance settlements, settling disputes within and between locals, etc.

Job Analysis. Systematic study of a job to discover its specifications, its mental, physical, and skill requirements, its relation to other jobs in the plant, etc., usually for wage setting or job simplication purposes.

Job Classification. Arrangement of tasks in an establishment or industry into a limited series of jobs or occupations, rated in terms of skill, responsibility, experience, training, and similar considerations, usually for wage setting purposes. This term, or job class, may also be used in reference to a single cluster of jobs of approximately equal "worth."

Job Posting. Listing of available jobs, usually on a bulletin board, so that employees may bid for promotion or transfer.

Labor Organization. Union.

Layoff. (Reduction in Force) Involuntary separation from employment for a temporary or indefinite period, without prejudice, that is resulting from no fault of the workers. Although "layoff" usually implies eventual recall, or at least an intent to recall workers to their jobs, the term is occasionally used for separations plainly signifying permanent loss of jobs, as in plant shutdowns. Reduction in force usually signifies permanent layoff.

Local Union. (Local, Chapter, Lodge) Labor organization comprising the members of a union within a particular area or establishment, which

has been chartered by, and is affiliated with, a national or international union.

Management. Term applied to the employer and his representatives, or to corporation executives who are responsible for the administration and direction of an enterprise.

Master Agreement. A single or uniform collective bargaining agreement covering a number of plants of a single employer or the members of an employers' association.

Mediation. (Conciliation) An attempt by a third party to help in negotiations or in the settlement of a dispute between employer and union through suggestion, advice, or other ways of stimulating agreement, short of dictating its provisions (a characteristic of arbitration). Most of the mediation in the United States is undertaken through Federal and State mediation agencies. Mediator - Term used to designate person who undertakes mediation of a dispute. Conciliation - In practice, synonomous with mediation; the term lives on mainly the name of the chief mediation agency.

National Labor Relations Board (N.L.R.B.). Agency created by the National Labor Relations Act, 1935, and continued through subsequent amendments, whose functions are to define appropriate bargaining units, to hold elections to determine whether a majority of workers want to be represented by a specific union or no union, to certify unions to represent employees, to interpret and apply the act's provisions prohibiting certain employer and union unfair practices, and otherwise to administer the provisions of the act.

Occupational Rates. Wage rates (single or rate ranges) for particular occupations in an establishment, industry, or area.

Output Per Man-Hour. Productivity.

Past Practice. Existing practices in the plant or company, sanctioned by use and acceptance, that are not specifically included in the collective bargaining agreement, except, perhaps, by reference to their continuance.

Posting. Job Posting.

Probationary Period. Usually a stipulated period of time (e.g., 30 days) during which a newly hired employee is on trial prior to establishing seniority or otherwise becoming a regular employee. Sometimes used in relation to discipline, e.g., a period during which a regular employee, guilty of misbehavior, is on trial. Probationary Employee - a worker in a probationary period. Where informal probation is the practice, a worker who has not yet attained the status of

regular employee may be called a <u>temporary employee</u>. (See Regular Employee.)

<u>Production Workers</u>. Usually employees directly involved in manufacturing or operational processes, as distinguished from supervisory, sales, executive, and office employees. The term "production and related workers" as used in Federal Government statistics is usually specifically defined for survey purposes.

<u>Productivity</u>. (Output Per Man-Hour) Term referring to efficiency of production; in technical terms, as in measuring rate of change, usually stated as a ratio of units of output to a unit of input, e.g., 10 units per man-hour.

<u>Quit</u>. Voluntary termination of employment initiated by employee, as distinguished from dismissal or layoff which are involuntary.

<u>Rank and File</u>. Members of an organization, exclusive of officer and employees.

<u>Ratification</u>. Formal approval of a newly negotiated agreement by vote of the union members affected.

<u>Recall</u>. Process of bringing laid off employees back to work, usually based on the same principles that governed order of layoff in inverse order (e.g., last worker laid off is first to be recalled).

<u>Recognition</u>. Union Recognition.

<u>Reduction in Force</u>. Layoff.

<u>Referendum</u>. Process by which all members of a union vote, usually as individuals, for the election of officers, changes in union constitution, etc., as distinguished from decision making through delegates assembled in convention.

<u>Regular Employee</u>. Usually, a fulltime employee who has fulfilled formal or informal probationary requirements, as distinguished from seasonal, part-time, probationary, and temporary employees.

<u>Retraining</u>. (Break-in) Development of new skills for workers through a definite program, so that they are able to qualify for new or different work.

<u>Retroactive Pay</u>. Wages due for past services, frequently required when wage increases are made effective as of an earlier date; or when contract negotiations are extended beyond the expiration date. (See back pay.)

Scale. Union Rate.

Seniority. Term used to designate an employee's status relative to other employees, as in determining order of promotion, layoff, vacations, etc. Straight seniority - seniority acquired solely through length of service. Qualified seniority - other factors such as ability considered with length of service. Departmental or unit seniority - seniority applicable in a particular section of a plant, rather than in the entire establishment. Plantwide or companywide seniority - seniority applicable throughout the plant or company. Seniority list - individual workers ranked in order of seniority. (See Superseniority.)

Separation Pay of Allowance. Severance Pay.

Severance Pay. (Dismissal Pay or Allowance; Termination Pay; Separation Pay; Layoff Allowance). Monetary allowance paid by employer to displaced employees, generally upon permanent termination of employment with no chance of recall, but often upon indefinite layoff with recall rights intact. Plans usually graduate payments by length of service.

Shop Committee. (Grievance Committee; Negotiating Committee) Group of workers selected by fellow employees, usually union members, to represent them in their dealings with management.

Shop Steward. (Union Steward) A local union's representative in a plant or department elected by union members (or sometimes appointed by the union) to carry out union duties, adjust grievances, collect dues, and solicit new members. Usually a fellow employee.

Single Rate. Rate of pay which is the same for all workers in the same job or job classification.

Standard Agreement. (Form Agreement) Collective bargaining agreement prepared by a national or international union for use by, or guidance of, its local unions, designed to produce standardization of practices within the union's bargaining relationships. Form Agreement - uniform agreement signed by individual members of an employers' association and often by employers in the same line of work but outside the association.

Strike. Temporary stoppage of work by a group of employees (not necessarily members of a union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, or resolve a dispute with management.

Strike Vote. Vote conducted among members of a union to determine whether or not a strike should be called.

Superseniority. A position on the seniority list ahead of what

the employee would acquire solely on the basis of length of service or other general seniority factors.

Trade Union. Union.

Union. (Trade Union, Labor Union, Labor Organization) Any organization in which workers participate as members, which exists for the purpose of dealing with employers concerning grievances, wages, hours, and conditions of employment. Unions are voluntary organizations and need no license from the government to operate. Unions may incorporate if they wish.

Union Agreement. Agreement.

Union Contract. Agreement.

Union-Management Cooperation. Voluntary joint participation of union and management in solving problems such as production and safety, or in engaging in certain outside activities, such as community or charitable work. The term is usually reserved to joint actions outside of the process of collective bargaining itself.

Union Member. A union member may be defined in broad terms as a worker who has met the union's qualifications for membership, has joined the union, and has maintained his membership rights. Each union usually determines its own qualifications. In general, dues-paying members are those who pay dues to the union on a regular basis. Members in good standing include dues-paying members and members exempted for various reasons (unemployed, or on strike, ill, etc.) but still carried on the union rolls as full-fledged members. Book members are those listed on the union rolls, dues-paying or not.

Union Recognition. Employer acceptance of a union as the representative of his employees, the first step in the establishment of a collective bargaining relationship.

Union Steward. Shop Steward.

U. S. Department of Labor. The Department was established by Act of Congress in 1913 to "foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." The Department also has important functions in the field of international labor affairs.

APPENDIX B

APPENDIX B

The Agreement signed by The Rath Packing Company and Local 46, U.P.W.A., to settle the sex discrimination problem as a result of Title VII of the Civil Rights Act of 1964.

(ABC) AGREEMENT (Quoted)

It is hereby agreed by and between Rath Packing Company (hereinafter called the Company) and United Packinghouse, Food and Allied Workers, AFL-CIO (hereinafter called the Union), that present practices, procedures and agreements at the Waterloo plant shall be modified to the extent necessary to conform to the following:

1. Wherever separate male and female seniority lists are maintained, such lists shall be merged into single lists without regard to sex, resulting in single plant seniority, single department seniority, single job seniority, and single seniority for each purpose or category in which seniority relationships normally govern.

2. Except as otherwise specifically provided herein, wherever there exists any separate designation of a job or wage rate or schedule as male or female, such designation shall be eliminated.

3. It is the parties' understanding that the law does permit the use of bona fide seniority systems and does permit the Company and the Union to point out to employees the jobs normally considered to be of primary interest to males or to females. Therefore, in order to attempt to achieve the maximum available job opportunities to all

employees regardless of sex the parties will proceed immediately to allocate all jobs to one of three bona fide occupational groups as follows:

Group A - Jobs which are primarily of interest to males because jobs involve certain physical and environmental demands, and have other characteristics, such that the average male would be, and the average female would not be, reasonably expected to perform the jobs or learn them within a reasonable period of time (hereinafter called A jobs).

Group B - Jobs which are primarily of interest to females because the jobs involve certain physical and environmental demands and have other characteristics, such that the average female would be, and the average male would not be, reasonably expected to perform the jobs or learn them within a reasonable period of time (hereinafter called B jobs).

Group C - Jobs which are of interest to both males and females because the jobs involve physical and environmental demands, and have other characteristics, such that both the average male and the average female would be reasonably expected to perform the jobs or learn them within a reasonable time (hereinafter called C jobs).

4. Wherever, by practice, procedure, or contract, a job would normally or automatically be offered to an employee on the basis of seniority standing, it will be assumed that a male employee would not normally be interested in a B job and a female employee would not

normally be interested in an A job, and such jobs will not, therefore, normally or automatically be offered to such employees. Similarly, wherever by practice, procedure or contract, an employee would normally be required to accept assignment to a job, or a job would normally have been considered to be available to such employee as an alternative to layoff, such requirement or such availability shall not be deemed to apply to a male employee with respect to a B job or to a female employee with respect to an A job. Nothing in this agreement however shall prevent any employee, regardless of sex, from requesting assignment to any job in accordance with applicable seniority rules, procedures and agreements, in which event the Company shall consider the individual qualifications of such employee to determine whether ability to perform the job or learn it within a reasonable time exists, and any such individual assignment or assignments shall not affect the general group allocation of the job to Group A, B or C.

5. All seniority practices, procedures, and agreements heretofore in effect shall remain in effect except as modified by this agreement.

(a) In layoffs, employees will continue, where such has previously been the practice, procedure, or agreement, to be reduced out of departments by department seniority, to be reduced out of the plant by plant seniority, and, in the case of an employee who is reduced out of a department but still holds sufficient plant seniority to remain in the plant, to be transferred by plant seniority to departments in which jobs are open.

(b) When an employee has been transferred into a department which is then such employee's secondary department, job assignments within such department shall continue to be governed by department seniority, job rights, or such other practices, procedures, or agreements as have heretofore been in effect, except:

(1) If an employee transferred to a secondary department finds no job which is normally available to such employee within the meaning of Paragraph 4 of this agreement, the provisions of the basic collective bargaining agreement between the parties governing the Company's right to assign to open jobs shall be applied by assigning to any open A or B job which by reason of Paragraph 4 hereof is not normally available to the transferred employee the employee with lowest department seniority then holding a C job to whom such A or B jobs is available within the meaning of Paragraph 4, provided such employee is also younger in plant seniority than the transferred employee.

When the Company assigns an employee to an A or B job in order to vacate a C job, the employee assigned to that A or B job will suffer no loss of earnings and in this case the employee filling the C job will receive the rate and incentive of the A or B job to which the other employee was assigned out of line of department seniority.

(2) An employee who is placed on a C job in a secondary department will not be subject to removal from that job in

the operation of department or job seniority, except where the normal procedures, practices or agreements, would require recall of such employee to his or her primary department, or would require reduction of such employee out of such secondary department in a reduction of force, or where another job in such secondary department is available to such employee within the meaning of Paragraph 4 of this Agreement.

(3) If after application of the provisions of this Agreement, any employee whose plant seniority would normally entitle such employee to remain at work in the plant, shall not have been assigned to a job which is normally available to such employee within the meaning of Paragraph 4 of this Agreement, then such employee shall be entitled to displace the employee in the plant with lowest plant seniority then holding a job which is normally available to such employee within the meaning of Paragraph 4, provided such displaced employee has less plant seniority than the employee asserting such right of displacement.

The Displaced employee shall, in turn, have all rights with respect to other jobs available to him or her under applicable practices, procedures and agreement, as modified by this agreement.

(c) In order to permit an orderly and equitable adjustment to the modifications introduced under this agreement, for a period of one year from the effective date of this agreement, the following shall

apply: If the only job to which an employee becomes entitled under the provisions of this agreement is a C job, and if, in the case of a male employee such a job has heretofore been a female job, or in the case of a female employee such job has heretofore been a male job, such employee may take an involuntary layoff.

6. Although there is no increase in force or other circumstance currently occurring which would occasion a recall of employees currently on layoff, it is the desire of the parties to make special provision for making available immediate opportunity for employment of any employees currently on layoff with greater plant seniority than employees currently at work. For this purpose, it is further agreed that by or before the expiration of two weeks from the effective date of this agreement the following procedure shall be carried out:

(a) All employees then in a layoff status, whose plant seniority is greater than that of the employee with least plant seniority still at work in the plant, will be notified of a date and time when they may report to the plant to exercise the rights set forth in this paragraph 6.

(b) Employees at work in the plant with lowest plant seniority to a number equal to the number entitled to the notice specified in (a) above shall be designated for layoff out of the plant.

(c) The Company shall review the list of employees entitled to the notice specified in (a) above and shall determine the combined total of B and C jobs necessary to make employment available for all

female employees receiving such notice and the combined total of A and C jobs necessary to make employment available for all male employees receiving such notice. The Company shall then prepare a list of those employees at work in the plant with lowest plant seniority to a number necessary to include the combined total of B and C jobs, and the combined total of A and C jobs, necessary to make employment available to all who receive the notice specified (a) above. The jobs held by employees on such list shall be deemed available to the employees receiving notice under (a) above, said list being hereinafter called the available job list.

(d) The laid off employees receiving notice as specified in (a) above shall be given an opportunity, in order of plant seniority to select their preference from among the jobs on the available job list prepared pursuant to (c) above, and upon such selection shall, at the commencement of the following week, be entitled to displace the employee holding such job, provided that the displaced employee has less plant seniority than the employee displacing him or her. If an employee so displaced is not among those with lowest plant seniority designated for layoff out of the plant pursuant to (b) above, the normal practices, procedures and agreements governing job assignments and reduction out of the department shall apply to determine his or her rights with relationship to employees in the department and the plant other than the laid off employees who are being assigned to jobs pursuant to the special procedure described in this Paragraph 6.

(e) Because of the special circumstances involved in this

special procedure for bringing back currently laid off employees, and in order to give adequate protection to such employees and assure the most orderly transition possible, the following shall apply until there is either an increase in force which would normally cause the recall of such employees to the department in which they now hold department seniority or until there is a reduction in force which would require their reduction out of the department to which they are assigned under this special procedure:

> The laid off employees upon being assigned to a job pursuant to this special procedure regardless of the department in which such job may be, and until either of the foregoing events occur, shall not be governed by any practice, procedure or agreement which would otherwise require or entitle any other employee to displace them or which would otherwise require or entitle them to displace any other employee. When there is either an increase in force which would normally cause the recall of such employee to the department in which such laid off employee now holds department seniority or when there is a reduction in force requiring the reduction of such employee out of the department to which he or she is assigned under this special procedure, all of the normal practices, procedures and agreements with request to rights in connection with reduction in force, as modified by this agreement, shall be operative.

(f) If the only job available to any laid off employee entitled to notice pursuant to (a) of this Paragraph 6 under the procedures of (d) above shall be a C job, and if, in the case of a male employee such job has heretofore been a female job, or in the case of a female employee such job has heretofore been a male job, such employee may continue in layoff as an involuntary layoff.

7. Any question arising under this agreement may be processed as a grievance in accordance with the provisions of the grievance and arbitration sections of the basic collective bargaining agreement between the parties. However, the parties further recognize that in the early period of application of this agreement there may arise a need for special procedures for expediting the handling of disagreements as to classification of a job into the A, B or C categories, the parties will therefore, as soon as practicable after execution of this agreement, by separate instrument which shall be deemed part hereof when signed, designate one or more impartial persons to act, in accordance with such procedures as such separate instrument may specify, to bear and determine (a) any dispute between the Company and the Union as to the appropriate classification of a job hereunder and (b) any contention by any employee that a job has been improperly classified hereunder. Such separate instrument shall be in effect for a period of six months from the effective date of this agreement.

8. Meetings will be held between the representatives of the Company and the Union as often as may be necessary to review the operation of the Agreement. The parties agree to work out such

further changes as may at any time be found necessary or desirable to assure full compliance with law or to achieve and maintain fairness and feasibility in the operation of seniority practices, procedures and agreements.

9. The Effective Date of this agreement shall be May 9, 1966. Signed this 26th day of April, 1966 in Waterloo, Iowa.

RATH PACKING COMPANY:	UNITED PACKINGHOUSE, FOOD AND ALLIED WORKERS, AFL-CIO
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