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Trade unionism in the City of Atlanta civil service: problems of the multilateral approach to labor management relations

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Trade Unionism in the City of Atlanta Civil Service: Problems of the Multilateral Approach to Labor Management Relations

Advisor: Dr. Brenda Rowe

Degree Paper dated May 18, 1986

This paper examines trade unionism in the City of Atlanta Civil Service. Focusing on the American Federation of State County and Municipal Employees (AFSCME) and general service employees, with the city as members, the study employed the qualitative research methods of participant-observation and analysis of secondary data sources.

Major findings of the study are first, the lack of collective bargaining agreement (contract) between AFSCME and the City of Atlanta. This problem is found to be related to the legal setting of the City of Atlanta, the influence of the Civil Service Board on labor relation matters and the attitudes of public managers towards collective bargaining. Georgia's law pertaining to collective bargaining is vague. As a non-statutory state, collective negotiations in Georgia are limited to a meet-and-confer policy and the use of the...
union security measure of dues check-off.

Secondly, board members are found to lack proper qualifications in personnel matters yet are trusted with initial responsibilities of assisting the city in serving and maintaining highly skilled, motivated and productive personnel. In addition, the board is responsible for a complete evaluation and the passing of final disciplinary decisions on employees, without adequate experience and knowledge in these areas. The results are inconsistent judgement and delay in adjudicating grievance cases.

Thirdly, the attitude of public managers towards collective bargaining with public employees in the city is negative. This negative attitude is enhanced by over reliance on attorney general opinions which govern and shape labor-relation matters in the city.
PROBLEMS OF THE MULTILATERAL APPROACH TO
LABOR-MANAGEMENT RELATIONS

A DEGREE PAPER
SUBMITTED TO THE FACULTY OF ATLANTA UNIVERSITY IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF
PUBLIC ADMINISTRATION

BY

FRIDAY DANIEL UDO

DEPARTMENT OF PUBLIC ADMINISTRATION

ATLANTA, GEORGIA

MAY 1986
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I. INTRODUCTION

The labor movement in the United States has its roots in the desire on the part of employees to protect and promote their economic as well as social welfare. From the beginning, job security, better wages, shorter hours, improved working conditions and benefits have been on the union agenda. Central to all these is labor's goal of replacing management's unilateral decision making with a joint process of determination or bilateral decision making. Future orientation—the view that next year should be better than the current one—is yet another aspect of the American labor movement's general philosophy. The collective bargaining process is viewed by labor then as the central way to achieve all these.

Trade unionism in the private sector began in the colonial era with a primary focus on political activity, reform and humanitarianism. Collective bargaining was not an issue at that time since individual workers were usually at considerable disadvantage if they attempted to bargain with an employer. It was during the early part of the twentieth century that worker organizations turned to activities
designed to advance and protect their interests.

However, obstacles have made the accomplishment of these goals in the public sector difficult. First, public managers have always viewed collective bargaining as a threat to sovereign authority and a limitation on the power of the government to protect the public interest. Consequently, government has always been confronted with the problem of balancing the interest of the taxpayers and that of public sector unions.

Secondly, public sector unions have had a historically weak legal status. Under Anglo Saxon common law of the eighteenth and early nineteenth centuries, collective work action to raise wages was often found to be an illegal criminal conspiracy. It was also held that the public interest was threatened if two or more persons acted jointly to interfere with an employer's vested property rights. This view was somehow reversed by the landmark 1842 case: Massachusetts Commonwealth Vs. Hunt which made the existence of the union legal. This cold and uncooperative reception of organized labor by the legal community of the eighteenth and early nineteenth centuries, and the concern for the government to balance the interest of the union and that of

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2 Ibid., pp. 286-287.
the general public, have put the labor movement through what some authors refer to as "long and arduous road."

Activities leading to public sector trade unionism date back to the mid-1830s when government employees in naval shipyards and army arsenals began to organize. On the state level, teachers, police, sanitation workers and fire-fighters were the pioneer organizers. Of major concern to these unions were shorter working hours (ten-hour day), the general redress of grievances and better working conditions. It was difficult for unions to achieve these since their only tool was the lobbying of Congress, and for the most part, this approach proved unsuccessful. To strengthen their power and maximize gains, organized public sector labor, therefore, turned to increase militancy.

Militant efforts by unions were evidenced by several work stoppages throughout the nation. One of the major strikes during the eighteenth and the early part of the nineteenth centuries was the Boston Police Strike which Dresang referred to as "the infamous police strike in Boston 1919." However, this attempt met with government opposition in the form of injunctions and strike breakers. Among those things causing the organization of the police and the resultant strike were long weekly work hours, low salaries, and the unsanitary conditions of police stations. Boston

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police officers worked an average of eighty-seven hours per week and were paid $1,100 to $1,600 per year. Salary increases were rare. When efforts to bargain settlement of grievances failed they went on strike. Governor Calvin Coolidge of Massachusetts saw the strike as illegal, commenting that "there is no right to strike against the public safety of anybody, anywhere, at anytime." With that, all striking officers were dismissed. Order was restored by calling in the National Guard. While Coolidge's efforts were applauded by the public and was later rewarded by his election to the U.S. Presidency, this incident crippled public-sector labor movement activities for almost fifty years.

By the late 1950s and early 1960s, however, two major developments saw a resurgence in public-sector labor organizing activities. First, there was tremendous growth in public employment following World War II. At the same time, growth of private sector unionism had come to a virtual standstill. Organized labor turned, therefore, to the public-sector. Indeed, statistics show that private sector union membership grew by only 4 percent between 1968 and 1976, while public sector membership grew by 40 percent.

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Secondly, national and state legislation with provisions for collective bargaining increased. This included legislation by New York Mayor Robert Wagner in 1958 which provided for measures of collective bargaining for city employees. On the national level, President Kennedy's 1962 Executive Order 10988, represented a major breakthrough for federal workers. This order provided for dues check-off and advisory arbitration of employees' grievances. Union shop (where all employees were compelled to union members) was also prohibited.

The trends set in the 1950s and 1960s continued in the 1970s. Title VII of the Civil Service Reform Act (CSRA) of 1978 further enhanced public-sector trade unionism on the federal level. More comprehensive than preceding Executive Orders the CSRA combined and placed in statutory format provisions such that "presidents no longer have the authority to regulate the process on their own." This represented the first statutory provision addressing labor-management relation and collective negotiations for federal employees. States and local governments subsequently responded with some form of legal authorization for dealing collectively with employees. The nature of these laws took many forms and varied in nature and scope. Some were comprehensive in terms of the classes of employees covered, scope of bargaining and

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6 Rabin et al., *Handbook on Public Personnel Administration and Labor Relations*, p. 304
the administrative apparatus. Others were less comprehensive, covering, for example, only local employees such as teachers or fire fighters. To take advantage of these laws, various labor organizations sprung up at various times and organized public employees. In still other instances laws expressly forbade state recognition of and negotiation with employee organizations.

Today, the American Federation of State County and Municipal Employees (AFSCME) which emerged in 1935 is the largest union representing state and local government employees. It has more than a million members and is ranked the sixth largest in the nation. The American Federation of Teachers (AFT) is the second largest and is ranked eleventh nationally. The third largest and oldest is the International Association of Fire Fighters (IAFF), originating in the 1880s. According to Levin and Hagburg, "One out of every three employees at the state and local government levels belongs to one of these three labor organizations." 8

Among these unions, AFSCME has one of the most dynamic beginnings. The union was formed at a time when America was in the midst of the worst economic depression in history. The organization began under the name, "Wisconsin State Administrative, Clerical Fiscal and Technical Employees Association." This name was later changed to "Wisconsin

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State Employees Association" after it received its charter from the American Federation of Labor (AFL) on May 16, 1932. The Wisconsin State Civil Service was about to be abolished. It was at this time that a group of fifty public employees under the leadership of Arnold S. Zander met to talk "organization." The purpose of this group was to develop measures to serve the civil service and improve the welfare of public employees.

The organization achieved its first objective when by its efforts a bill to abolish civil service in 1933 was defeated in Congress. Activities of the movement spread throughout the nation increasing members so that by 1935, there were thirty such groups in Colorado, Wisconsin, Georgia, Massachusetts, Ohio, California, Illinois and Washington. The movement came under the American Federation of Government Employees (AFGE) as the need to establish a national center arose at the 1935 American Federation of Labor (AFL) convention in Atlantic City.

In December 1935, thirty-two delegates from states representing the Unions of States County and Municipal Employees met in Chicago, adopted a constitution and called themselves the American Federation of State, County and Municipal Employees. They were still under the auspices of AFGE and Madison, Wisconsin was chosen as organizational

headquarters. In 1936, AFSCME was granted an independent international union charter by the AFL.

As AFSCME grew in membership, it merged, in 1957 with the 30,000 member Government and Civic Employee Organization Committee. In that same year, union headquarters was transferred from Madison to Washington, D.C. Today, AFSCME is the fastest growing union in the United States and the largest in the AFL-CIO.

In Atlanta, Georgia, AFSCME was founded in 1947 by Grady Memorial Hospital and Fulton County Court House employees. City of Atlanta employees became a part of AFSCME in the late 1940s. In 1962, the union was fragmented into chapters under one local union. Also, at that time, general service employees of Atlanta Public Schools became a part of the organization. Today, in the City of Atlanta there are four chapters under Local 1644 of AFSCME with over 3,147 members.

Since its inception in Atlanta, AFSCME has been actively involved in organizing city employees. Its objectives include the promotion of:

(1) the organization of workers in general and public employees, in particular.

10 Ibid.

11 Interview with Leamond Hood, Area Director, American Federation of State County and Municipal Employees, Local 1644, Atlanta, Georgia, June 3, 1985. (See Appendix A.)
(2) the welfare of the membership and to provide a voice in their determination of the terms and conditions of employment; a commitment to the process of collective bargaining as the most desirable, democratic, and effective method to achieve these as union members and as citizens; and to employ available legislative and political action as a tool.

(3) civil service Legislation and Career Service in government.

**Purpose and Scope of the Study**

Although it is never an easy task for AFSCME to achieve its objectives for all members, AFSCME can be credited with success in organizing state, county and municipal employees. As will be shown in the following sections, AFSCME's success in organizing employees in the City of Atlanta Civil Service is limited by the lack of a collective bargaining agreement. The problem (as discussed under literature review) though bilateral in nature is influenced by the unilateral concept of sovereignty doctrine; further, it assumes multilateral dimensions as the fear of the outcome of a contract on the public welfare attracts public interests. In addition, it is impacted upon by the influence of third party, the Civil Service Board influence on labor relation matters, and the legal setting. The purposes of this study
are, therefore:

(1) to examine trade unionism in the City of Atlanta Civil Service and its inherent problems, with focus on AFSCME as the trade union representing general service employees in the city; and

(2) to recommend possibilities for a contractual agreement between the City of Atlanta and AFSCME.

Organization of the Study

Section II, which follows, presents the problem and its setting and the internship experiences. Section III, provides a discussion of the relevant literature. Methodology used in the analysis of the problem is contained in Section IV while Section V focuses on the analysis of the problem. Finally, Section VI draws some conclusions and offers recommendations.
II. THE PROBLEM AND ITS SETTING

A. The Agency and Units in Which the Internship was Served

The writer served as an intern with AFSCME Local 1644 from March to June 1985. According to Kramer, the jurisdiction of a local may be an entire city or a county (never an entire state service), a department such as public works; or social welfare, a part of a department such as a water works or a class of employees cutting across all departments, such as nurses, engineers, social workers, or laborers. The average number of members in a local may vary from ten to more than 5,000. In Atlanta, AFSCME Local 1644 is made up of local chapters composed of members numbering over 3,000 from various departments represented by the union. The local consists of the executive board, the area director, deputy directors and staff.

Unit Description

Chapters: A chapter is a unit within the local union consisting of union members, working at a particular location, performing the type of work generic to the unit.

There are four chapters in AFSCME Local 1644: (01) Grady Memorial Hospital, (02) City of Atlanta General Service Employees, (03) School Board (general service employees) and (04) the Bureau of Corrections.

Each chapter meets to conduct chapter business at the local headquarters at Martin Luther King, Jr., Drive on a monthly basis.

Membership: As can be seen in Figure 1, AFSCME has a very unique organizational structure. Unlike most organizations, the highest level of authority in the union is its membership. The rationale for structuring the organization in this way is that its existence is based solely on the support of members.

The Executive Board: Under the total membership is the local union's Executive Board. Comprised of sixteen members, the Board is made up of representatives from every local chapter, and functions as the policy maker when the local union is not in session.

The Area Director and Deputy Directors: AFSCME has one Area Director who serves both at the national and local levels. This position is assisted by two deputies; one at the national level and the other at the local level. Both the Area Director and Deputy Directors report to the Executive Board. The primary duties of the Area Director

Interview with Leamond Hood, AFSCME, Local 1644, Atlanta, June 3, 1985. (See Appendix A.)
FIGURE 1

ORGANIZATIONAL STRUCTURE
AFSCME LOCAL 1644, ATLANTA

1644 Memberships

Executive Board

Area Director

Deputy Director National

Deputy Director Local

Staff (Representative) Intern

Chapter 01 Chapter 02 Chapter 03 Chapter 04

include staff recruitment (subject to the approval of the Executive Board) and the direction and coordination of staff activities. In addition, the Area Director represents members at Civil Service Board hearings and union meet-and-confer meetings with City of Atlanta representatives.

The Deputy Director at the national level serves both the local and the national interests of the union and could be called upon to work at any part of the country at any time. Here in Atlanta, the main duty of this position is organizing employees. Though the primary duty of the local level Deputy Director is that of representing employees at grievance hearings, the incumbent also performs the local duties in the absence of the Area Director.

Staff: The staff consists of five union representatives and two secretaries lending clerical support. One of the secretaries serves on the national level while the other serves at the local level. They both, however, report to the Area Director.

The union representatives report to the Area Director, as well as the Executive Board. They are assigned to work with the unions' chapters. Three of them represent members employed by the City of Atlanta and the Bureau of Corrections. One represents members at Grady Memorial Hospital and one represents members of the School Board Chapter. Their duties include: representing members at grievance hearings, organizing employees, and meeting with management to
"negotiate" better working conditions for employees. While the staff representatives, together with the Area Director carry out policies emanating from the Executive Board, they also make recommendations and proposals to the board regarding programs and community activities to be implemented and supported by the union.

**Duties and Responsibilities of Intern**

Due to the nature of the organization, internship duties were generally broad. They included observing grievance hearings, attending negotiation meetings and visiting work sites. Primary internship responsibilities however, centered on research. Research is an important task of any union and AFSCME employed the writer's skills at designing questionnaires, interviewing and drafting correspondence. For the duration of the internship, the writer was directly responsible to the Area Director.

**B. Statement Definition of the Problem**

This paper addresses labor-management problems inherent in the lack of a legally binding collective bargaining agreement between the American Federation of State County and Municipal Employees (AFSCME) and the City of Atlanta. Specifically, these problems which include the passing of inconsistent disciplinary decisions on employees due to insufficient knowledge in personnel matters by board members, lack of procedural due process provision for employees in the
city disciplinary procedure, the delay in handling employees' appeal cases and subsequent partiality in settling disciplinary cases almost always in favor of management, relate to the infavorable working conditions of City of Atlanta general service workers. Except for meeting and conferring with management, AFSCME lacks other avenues and authority to seek managerial compliance with its demands. An essential part of the problems is the legal setting and the Civil Service Board influence on labor relations matters. There is currently no state or local law governing labor relations for general service employees which specifically addresses city employee collective bargaining. According to Zivilich, "the state law does not specifically address the question of a contract. The law is also loose on the issue of strikes. This situation puts AFSCME in a very tenuous position to legally enforce its demands." Beyond the legal setting, the authority and procedures of the Civil Service Board in matters affecting employee working conditions is often criticized by AFSCME.

Definition of Collective Bargaining

Collective bargaining can be defined in different ways depending on the purpose desired. If it is used in its most narrow sense to mean, management meeting and talking with

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Interview with Tony Zivilich, Bureau of Labor Relations, City of Atlanta, Georgia, May 9, 1985. (See Appendix A.)
union officials to obtain their views or recommendations on wages, work hours, or other conditions of employment, it is undoubtedly, within the discretionary power of the affected public agency to do so. However, this is the orthodox interpretation of collective bargaining which is rooted in the sovereignty doctrine. Collective bargaining as it is employed in this sense is merely "a meet and confer" arrangement.

Under its explicit definition, the opinions of writers on the subject as it relates to the public and private sectors are varied. For example, Crane sees collective bargaining as a vehicle through which labor relations agreements between management and employees are established, administered, and enforced either in the public or private sector. Davey defines collective bargaining more explicitly as:

A continuing institutional relationship between an employer entity (government or private) and a labor organization (union or association) representing exclusively defined group of employees of said employer (appropriate bargaining unit) concerned with the negotiation, administration, interpretation, and enforcement of written agreements covering joint understanding as to wages or salaries, rates of pay, hours or work, and other conditions of employment.

Heisel and Hallihan maintain that collective bargaining, whether in the public sector or private sector,

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has something in common and that is, "it is a process as well as the act of negotiating which is applicable to both the public and private sectors." However, the results of bargaining may differ in the public sector. In the private sector, the process almost invariably results in a legally enforceable contract, whereas in the public sector wages and employment conditions may continue to be set by ordinance. This last contention applies more particularly to federal employees rather than state or local employees. Where legally binding collective bargaining statutes mandate, state and local employees can bargain for about the same thing as their private sector counterparts.

A collective bargaining agreement between a union and management can promote a healthy labor-management relationship between an employer and employees. In the State of Florida where there is a collective bargaining agreement with the public employee union (AFSCME), for example, confusion in personnel matters and hostilities toward the union from both the public and management have been expelled.

According to Fitzpatrick, agreements with such provisions as a grievance procedure with binding arbitration, dues check-off, and maintenance of benefits, have not only resulted in a harmonious relationship between AFSCME and management but have improved the economic and working

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conditions of employees as well.

The Impact of the Lack of a Contract Agreement on AFSCME and the City of Atlanta

The City of Atlanta has not entered into a collective bargaining agreement (contract) with AFSCME. Instead, the city relegates "negotiating" to a "meet and confer" policy administered through the Mayor's Office, the Bureau of Labor Relations (of the Personnel Department) and the Civil Service Board. That is, though city representatives meet with union representatives on a regular basis to discuss issues affecting employees' working conditions, management is not obligated to implement or enforce union recommendations. In two such meetings held on July 2, and August 5, 1985, union representatives complained about this non-committal policy.

Exhibits 1 and 2 below contain items discussed in these meetings. Exhibit 1 focuses on employee rights while Exhibit 2 categorizes employees' conduct and their respective disciplinary actions. Though a positive position, meet and confer lacks the teeth of enforcement. In situations where people are confused about policies on personnel matters due to the lack of a legally binding collective bargaining agreement (contract) between management and a union, harmonious labor-management relations, employee morale and better employee economic and working conditions are in jeopardy.

LIST OF ITEMS DISCUSSED AT THE MEETING BETWEEN THE CITY OF ATLANTA AND AFSCME ON JULY 2, 1985

Topics Discussed at Meetings Prior to June 4, 1985

1. Uniforms - The Uniform Policy Committee has met and worked out suggested changes. Those are now being presented to the department heads.

2. Dues deduction categories - A series of new classifications who can have union dues deducted by finance has been drawn up. The union wishes to add five additional categories to that list. Before the union accepts that list, we would like a breakdown giving the number of employees in each category that will be eligible for dues deduction.

3. Interest payments on uninvested portion of pension fund - Topic was tabled. It should now be brought up again.

4. Notification of employees' right to have representation in any meeting involving possible disciplinary action. Bureau of Labor Relations to follow up with a letter from Commissioner of Administration and distributing it to all installation chiefs.

5. Disciplinary committees in such bureaus as sanitation and their functioning.

6. Right of employee to immediate discipline for infraction of rules - within five working days. Bureau of Labor Relations to draft statement.

7. Criteria for promotions - Union representative to check with Councilwoman Asher.

8. Disciplinary action - Union to bring in concrete proposal.

Source: Meetings between AFSCME's Negotiating Committee and the Mayor's Administrative Officers, Atlanta, July 2, 1985.
EXHIBIT 2
LIST OF ITEMS DISCUSSED AT THE MEETING BETWEEN THE CITY OF ATLANTA AND AFSCME ON AUGUST 5, 1985

<table>
<thead>
<tr>
<th>Actions Constituting Just Cause for Disciplinary Actions</th>
<th>Minor Offenses</th>
<th>Secondary Offenses</th>
<th>Major Offenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence without leave, or the failure to report after the expiration of a leave of absence.</td>
<td>Consumption of alcoholic beverages while at work, or being intoxicated on the job.</td>
<td>Detailing in or having illegal contraband such as drugs, alcohol, stolen goods or weapons during working hours.</td>
<td></td>
</tr>
<tr>
<td>Excessive Tradiness</td>
<td>Discovery of a false statement in an application.</td>
<td>Loans sharking during working hours.</td>
<td></td>
</tr>
<tr>
<td>Abuse of Sick Leave</td>
<td>Acceptance of gratuities of $100 or more of ethics of the City of Atlanta.</td>
<td>Deliberately causing bodily injury to another employee while on duty, except in self defense without excessive force.</td>
<td></td>
</tr>
<tr>
<td>Intentional insubordination or serious breach of proper discipline.</td>
<td>Refusal when so directed to be examined by a licensed physician designated by the city during working hours or when the employee is compensated for the time and expenses incurred.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inefficiency or incompetency.</td>
<td>Engaging of offensive conduct or language directed toward the public.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss of job requirements, such as the loss of a necessary license which prevents the adequate performance of assigned duties.</td>
<td>Borrowing of city equipment for personal use without prior official permission.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Willful making of false statements to supervisors, officials, the public or boards, commissions or agencies.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engaging in or offensive conduct or language directed toward supervisory personnel of fellow employees.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: "Conduct Subject to Disciplinary Action" (AFSCME Local 1644 Records, 1985).
Indeed, according to Crane, "whenever employee-employer relations involve unions, collective bargaining lies at the heart of the personnel process."

This lack of a collective bargaining agreement (contract) between AFSCME and the City of Atlanta is further exacerbated by the role of the Civil Service Board. In the absence of a contractual agreement which would contain established grievance procedures for management and categories of employees, the city delegated the arbitration of individual grievances to the Civil Service Board. The Civil Service Board membership is comprised of people with various professional backgrounds, yet with little or no training in labor-management relations. In addition, all members are full-time employees in other agencies and serve only part-time as board members. This structure consequently, creates problems of delay and improper handling of employee grievances case. Furthermore, the absence of standardized grievance policies and lack of understanding and enforcement of such policies results in inconsistency in supervisory disciplinary actions. Moreover, employees do not have access to a due process procedure. They have to accept the decisions of the board, oftentimes at their dissatisfaction. This dissatisfaction with the system emanates from the board's partiality in rulings. The significance of the lack of a legally binding

collective bargaining agreement (contract) lies in the inability of the union (AFSCME) to successfully challenge the legality of board rulings and the resultant multilateral nature of labor-management relations decisions.
III. REVIEW OF RELEVANT LITERATURE

Theoretical Perspective on Public Unionism

The literature covering public employee unionism is vast and diverse. This review focuses on those topics that have influenced decision making in labor-management relationships. Thus, the discussion will center on the following topics and the controversies surrounding them: the traditional approach or the unilateral model; the private sector bilateral model; and the public sector multilateral model.

The Traditional Approach: The Unilateral Model

One of the most controversial issues in pre-World War II private sector bargaining was the managerial prerogative. Managers in private organizations argued that as chosen trustees, it was their responsibility to manage the company's assets in the interest of stockholders. Therefore, "they had no legal right to bargain with a union on matters that affected the profitability of the company." Managerial prerogative remains an issue in private sector collective bargaining.

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Labor organizations saw their responsibility as representatives of workers to bargain with management on those matters that significantly affect members. This struggle created a major conflict which raged so bitterly that some top-flight executives of America's major corporations threatened to pull out of the system if they were forced to surrender on this matter of principle. This view of managements' prerogative or management rights has, however, come over time to be juxtaposed with a new view, that of, the relative bargaining power of labor and management.

In the public sector, the management rights issue is based on the principle of sovereignty. The concept of sovereignty provides a theoretical framework for public managers to resist public unionism. Narrowly defined under sovereignty the government is seen as omnipotent and the sovereign power is exercised on behalf of the governed by elected federal, state and/or local governments. The traditionalists view the sovereign authority as being above any legalistic challenge. Hence, the expression, "The King can do no wrong." The argument as it relates to public employees is then that the government by its sovereign power cannot be forced to negotiate with its employees. The contention is that "collective bargaining clashes with sovereignty because it involves joint, rather than unilateral, determination of
Proponents of sovereignty further justified their arguments on the basis of the functions of government and its machineries. It has been and is maintained that, the nature of the functions of government and its ability to maintain the democratic process and make the necessary decision in the field of personnel administration, as a public employer, requires the possession of arbitrary and authoritarian powers. An attempt by employees or their unions to modify such decisions would automatically subvert the representative democratic process.

The proponents of sovereignty received strong support when President Roosevelt declared in a letter to Luther C. Steward, President of the National Federation of Federal Employees:

All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purpose of government makes it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with government employee organizations. The employer is the whole people who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many cases

\[\text{Rabin et al., Handbook on Public Personnel Administration and Labor Relations, p. 301.}\]

\[\text{Ibid., p. 404.}\]
restricted by laws which establish policies, procedures or rules in personnel matters.\textsuperscript{23}

The position of traditionalists against collective bargaining in government was fostered by President Roosevelt's issuance in 1902 of an Executive Order known as the "gag rule." This forbade federal employees from lobbying Congress,

\ldots either directly or indirectly or through associations to solicit an increase in pay or to attempt to influence in their own behalf any other legislation whatsoever. \ldots serve through the heads of the department in or under which they served.\textsuperscript{24}

This legislation was enforced for about a decade until nullified in 1912 by the passage of the Lloyd-LaFollette Act which gave employees the right to join labor unions and petition Congress, but did not provide the right to strike.

Those laws and arguments in favor of sovereignty while opposed to collective bargaining for public employees, armed public managers with tools to promote their powerlessness in bargaining with employees. They saw collective bargaining for public employees as a matter of law and their duties as agents of the sovereign and therefore the defenders of such laws. Collective bargaining, therefore, would inhibit and restrict their ability in doing their jobs of governing the country.

\textsuperscript{24} Ibid., p. 3.
The proponents of sovereignty were bitter about the affiliation of government with the labor movement. To them, such a relationship would result in divided allegiance. According to Spero, they saw a similarity between the civil service and the military when it concerned loyalty, and argued that, "... loyalty and treason ought to mean the same thing in the civil service as they do in the military or naval services." They did not, however, see any similarity between government and private business since the later was after profit. According to Hart, Belen, Chief Council, House Committee on Post Office and Civil Service vowed to:

... take violent exception to those who believe that there is no difference between federal employment and private employment when it comes to negotiations between labor and management. ... The very nature and purposes of government makes it impossible for employees to bind the administrators and officials of government in any kind of bilateral agreement. ...

The opposition to collective bargaining in favor of sovereignty among public managers took the nation by storm. Here in Georgia, according to a study by Yancy in each of the cases, *International Longshoreman's Association vs. Georgia Port Authority: Local 574 International Association of Firefighters vs. Floyd; and Chatham Association of Education Teachers Unit, et.al. Vs. Board of Public Education for the City of Savannah and the County of Chatham*, the Supreme Court

of Georgia ruled that neither the state nor its agents could be forced to engage in collective bargaining. To do so, they argued, would be contrary to the state's public policy. In the case of the Georgia Port Authority, the court further asserted that bargaining by the state is an illegitimate delegation of the sovereign's power when it declared:

> We, therefore, hold that the state's ports authority in the operation of the docks and warehouses at its Savannah terminals was without authority to enter into an agreement with any third party fixing the terms and conditions of employment of personnel working for the authority. . . such action being against the public policy of the state was unlawful under the Act of 1962.  

Also, according to the study, in *Local 574, International Association of Fire fighters Vs. Floyd, 1969*, the court once again relied on the unlawful delegation of sovereign power.

The other side of the argument belongs to those opposed to the sovereignty doctrine. Having emerged about the same time as their opponents, this view created a wave of counter arguments which have raised some doubts in the minds of many scholars and managers regarding the validity of the sovereignty theory.

Calling the arguments of sovereignty proponents "specious," Chamberlain questions why every act of government (no matter what it is) either directly affecting the

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28 Ibid., p. 9.
interests of some special group, or routine, misguided, ill-conceived or convenient to itself, must be protected by the invisible shield of sovereignty. Noting the difference between the administrative or operating function of government and the policy or legislative function, he asserts that, "if sovereignty is an attribute of the later, it should not automatically be extended to the former."  

Beyond these theoretical questions, several arguments of the proponents of sovereignty have been found to clash with opponent's contentions. First, the argument that the nature of public sector activities are unique as compared to the private sector, clashes with opposing contentions that there are many instances in which the functions of public employees parallel, supplement or compete with the activities of private undertakings. Spero, for example, shows that:  

(a) San Francisco until very recently, had both private and public street car lines, (b) New York also had a private and public subway system; (c) the United States Navy ships are built by its New York Navy Yard and the privately owned Newport News Shipbuilding Company; (d) the federal government depends, to a large extent on a distinctive paper manufactured in a private factory for protection against counterfeiting; (e) the government depends on a private company for

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the supply of electricity and communication systems. Even in the exercise of that unique and traditional governmental function, the maintenance of law and order, the government must rely not only upon its police officers and inspectors, but also upon the cooperation of the entire community. Thus, interruption of local transportation and communications services might well cause as much disorder and disruption of social and economic life as a police strike. In the words of Lee, "Both sectors share the characteristics of a wide range in the nature of jobs that greatly affect the general public". One could, therefore, infer that, there is nothing entirely unique to public activities.

A second pro-sovereignty argument, that collective bargaining would weaken executive authority, cause chaos, confusion, and futility in the public service, likewise clashes with opposing views of government's traditional unilateral labor-management relations based contention that, "human relations principles and techniques which have been validated by practical experience in industry can and should be applied with equal beneficial results in government."

According to a 1942 Civil Service Commission Report, the philosophical concepts of the government as employer were

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found not to be entirely useful in establishing appropriate employee relations policies. In addition, when a test of efficient management based on "what works" was applied by the commission, "authoritarian theory of the state employer"—the sovereignty doctrine was found not to be useful as an approach to public personnel management, particularly for the manager facing an effectively organized union of public employees. It was concluded that, practicing managers in either the public or private sector, need a decision-making paradigm which promotes the development of more workable models of labor-management relations that can be used in practical situations.

Opponents of the sovereignty doctrine have also looked at it from other perspectives. Gerhat sees it as more of a rationale to defend an existing anti-union policy than a "plan of action" to guide management or policymakers. Chamberlain sees it as a source of comfort and convenience to government officials rather than a bedrock on which society rests. Gompers, first president of the American Federation of Labor (AFL), viewed it as a threat to the liberties of American workers and asked the AFL to oppose the expansion of government activities in order to preserve those liberties.

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35 Spero, *Government and Employer*, p. 3.
Hart views it as "being in a deep freeze of suspended animation from which it is unlikely ever to be released." Umar and Kirk seem to support the above contentions when they state that "those who oppose collective bargaining in the public sector may be basing their views on an out-moded concept dating back to an era when government opposed all forms of labor organization and bargaining." Perhaps the views of the proponents of bargaining in the public sector can best be summarized by a 1955 American Bar Association statement:

A government which imposed upon private employers certain obligations in dealing with their employees may not in good faith refuse to deal with its own public servants on a reasonably similar basis.  

The doctrine of sovereignty will have impact for public sector labor-management relations for some time to come. Today, the public sector is still confronted with unresolved issues regarding sovereignty. These issues include: (1) whether public employees have the right to organize and bargain collectively; (2) whether government is a different type of employer than private sector employers, (3) whether public employees can be denied the right to strike; (4) whether arbitration is an illegal delegation of government authority; and (5) whether the principle of

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36 Hart, Collective Bargaining in Federal Service, p. 44.
38 Ibid.
sovereignty interferes with union rights. However, states such as Florida, Minnesota, Pennsylvania and New York, with general employee collective bargaining laws in the public sector and legally binding collective bargaining agreements with public employee unions have already found solutions to many of those issues. Since Georgia is among those states without such laws, the struggle among unions, public managers and the general public on those issues will no doubt continue.

The Bilateral Model—Private Sector: The bilateral model of bargaining involving labor and management is the traditional approach to collective bargaining. This is the type of negotiation which generally characterizes the private sector. However, since consumers have interest in a situation that is likely to affect their well being, it is not unusual to find bilateral bargaining gradually attaining the dimensions of multilateralism mostly at the final stage of negotiations. However, the bilateral nature of private sector bargaining and the availability of product or service choice in the marketplace for consumers generally restrict third party action mostly during the initial probing stages of negotiation when the supply of products or service are not interrupted. For this reason, third party activity in the private sector bilateral bargaining is less prevalent.

However, in the private sector bilateral model, the first phase of the bargaining process is the preparation for
negotiation. At this stage, both parties spend time searching for information to support their positions at the bargaining table. After this stage, the actual negotiation transpires.

During negotiations, bargaining teams representing management and employees meet. According to Bunker, there are two basic bargaining units in the private sector. These are: (a) crafts—consisting of employees of the same or highly occupational skills such as those in the building industry, and (b) the industrial units comprised of employees with different occupational skills, such as assembly-line operators. Together, these representatives negotiate terms and conditions of employment, which once revised, and approved by both parties, will be incorporated into a new collective bargaining agreement (contract) covering the employer-employee relationship for the time period specified in the contract.

After negotiations, the third phase is the implementation and administration of the contract. At this stage, management's responsibility is to assume the timely and judicious execution of the agreement reached at the bargaining table. Since labor-management relations involves conflict, the important thing is managing conflict during the duration of the agreement. Therefore, one of the major

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provisions of a contractual agreement is a method for the resolution of conflicts. These include, grievance procedures, mediation and grievance arbitration.

Contract administration is perhaps the most time consuming and complex phase of collective bargaining. This is so because an attempt to bring mediators or arbitrators to settle any grievance that might arise during the process of a contract implementation and administration could further delay settlement. Another reason is that, it is also at this time that both parties spend time keeping records of events that might prove essential for the next collective negotiation.

**Multilateral Model - Public Sector:** When collective bargaining takes place in the public sector, it often involves more people than those actually at the bargaining table (management and the union). This form of bargaining is known as the multilateral model. The third party groups operate on the fringe of bargaining. These third party groups are generally able to influence the process by being in a position that allows them to impose economic and

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**Grievance Procedures** are steps and methods provided in contract agreements for resolving grievances arising from the interpretation and application or misinterpretation or misapplication of policies of agreement. **Mediation** is a process in which a neutral third party attempts to conciliate disputes between labor and management but does not enforce a settlement. **Arbitration** is a proceeding voluntarily chosen by parties who want a dispute determined by an impartial judge of their own mutual selection, whose decision based on the merits of the case, they agree in advance to accept as advisory or final and binding. Any of the above measures could be used during contract negotiation or administration.
political sanctions on the negotiating parties. Therefore, to satisfy the diverse needs of all groups with interests in the bargaining agreement, the bargaining approach becomes multilateral in structure.

The multilateral model of public sector bargaining could be accounted for by the market pricing principles for a public service. Almost all public services are subsidized by the government. The subsidy makes the prices of such services to the consumer below the average cost of providing them. However, some services such as police protection, fire protection and public education are supplied at no direct cost to the consumer. These services are subsidized by tax revenues which are provided by both users and non-users of the services. Consequently, taxpayers will have an interest in any labor management negotiations which are likely to raise the cost of the service and which may also increase the cost of financing the subsidy. It is to their advantage, therefore, to organize into "interest" groups to present their views to decision-makers via the imposition of political and economic sanctions. In this way, they attempt to indirectly influence negotiators.

Multilateral bargaining varies among public employment jurisdictions and among different services within a given jurisdiction. The exact extent of multilateral bargaining depends on the existence of an interest group structure, the scope of bargaining, the perceived impact of work stoppages
and the bargaining tactics of the negotiating parties.

The interest group structure consists of a number of groups such as the American Medical Association (AMA) and the Health Insurance Association of America (HIAA) representing sections of the community to the suppliers of the service. Well-defined interest group structures tend to develop when the public places considerable importance on the quality of the service. For instance, according to Anderson, "the AMA and the HIAA successfully defeated plans by Presidents Nixon, Kennedy and Carter to establish a National Health Insurance program." Generally, organized interest groups at the federal and state levels tend to be more permanent and have better financial backing than do local groups. Many local interest groups such as the People's Church of Love led by Reverend Hosea Williams in Atlanta are voluntary organizations. Their effectiveness varies to some extent with the personality and enthusiasm of group leadership. In small communities the lack of permanent well-defined groups restricts communication between the parties to the negotiations and segments of the community. For this reason, the potential extent of multilateral bargaining in small communities is expected to be much less than is possible in large cities. Yet, individuals in key positions in the power structure of a community, regardless of size, can perform the

same function as the interest groups. This includes, mayors, city council presidents, etc.

As previously mentioned, a system of multilateral bargaining in the public sector depends on a number of factors. A second factor is the scope of bargaining. The scope of bargaining could be defined as the range of issues subject to negotiations between employers and employee representatives. In the public sector, this definition could be affected by a third party; the interest group.

However, the scope of bargaining varies widely within the public sector. For example, wage determination is outside the scope of bargaining for federal employees, while for states and local government employees it is a permissible item. If the scope of bargaining encompasses many issues that will affect the lives of the interest groups, they will present a strong united front in order to influence the bargaining agreement to their advantage. However, interest group activity may be less pronounced where the parties face a limited scope. It has been suggested that since this is the case with federal employees, multilateral bargaining is not yet present at that level.

Another factor in multilateral bargaining is the relationship of the topics being negotiated with the goals of the interest groups. Groups tend to be more active in negotiations if the issues being negotiated relate to their major goals. For instance, students and/or community groups such
as Parent-Teachers Associations (PTA) may seek to influence school district bargaining where bargaining outcomes affect the quality of education. In the City of Atlanta, the Atlanta Chamber of Commerce as a typical interest group, may be illustrative here. Claiming to represent the views of the general public, this group opposes the collective bargaining of public employees. The primary reason for their position is the fear that their power structure and commercial industry would suffer if public unions participate in the determination of the price of their services and other working conditions. A contract agreement would inhibit the ability of the Chamber of Commerce to influence labor relation matters in the city. They are, therefore, striving to keep the city free of unions.

A third key factor influencing multilateral bargaining is the potential for a strike or work stoppage. Once a strike has occurred, interest group activities depend on the perceived impact of a work stoppage. Not all public-sector services directly affect the public and in some instances, acceptable alternatives are available. For example, in the case of the 1919 Boston Police Strike, the National Guard was called in to maintain law and order. However, since few alternative sources of supply of some services exists, it is expected that each side will be more aware of public support than is the case in the private sector.
This theoretical discussion of the variations in multilateral bargaining is illustrated in Figure 2 which shows expected interest group activity during negotiations in the private sector and for selected public services in urban areas. Bargaining is divided into three stages: the initial probing stage; the hard bargaining stage; and the strike stage. Interest group activity in the initial probing stage is concerned mostly with the quality of service. In Stage II, interest group motives begin to shift to concern over possible interruption of the service. Once a strike takes place, interest group activity focuses almost entirely on ending the work stoppage. However, these are what might occur in general terms, but, some exceptions may occur in some cases during the strike while some remain focused on the quality of service.

The shape of the "Expected Interest Group Activity" (EIGA) line depends on the previously discussed four variables: the interest group structure, the scope of bargaining, the perceived impact of work stoppages, and the tactics of the parties. In public education and social welfare services, interest groups are well organized and bargaining frequently include topics such as class size, case load, and procedures for professional employees to participate in policy decision. As a result, third party activity is relatively higher in the initial probing stages than in
FIGURE 2
EXPECTED INTEREST GROUP ACTIVITY IN URBAN AREAS

other services depicted in Figure 2.

Interest group activity is likely to increase slightly in the second stage as negotiations are given widespread publicity in the news media. Once the strike deadline is reached interest group activity then increase rapidly (as shown in Figure 2 by the upward movement of the interest group lines) depending on the groups' perception of the impact of a strike. Activity continues to increase after the strike occurs, but at some point the activity will level off and possibly decrease as the public adjusts to the work stoppage or substitute services are established. The rate at which activity levels off will vary among public services according to the difficulty involved in providing acceptable substitutes. The provision of national guard troops as a substitute for striking police would probably reduce public pressure for ending a work stoppage.

The effort to "keep the plant open" or the provision of a partial service is a tactic usually adopted by management to increase its bargaining power and thus reduce the interest group pressure to end a strike of public employees. During a recent strike of social workers, monthly checks were still mailed to welfare recipients so that pressure from "customers" to end the strike was substantially reduced. This type of management action which rarely occurs in private

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sector, results partly from multilateral bargaining in the public sector.

The Impacts of the Lack of Engagement in Constructive Negotiations on Other Cities

The refusal of public managers to recognize and negotiate agreements (contracts) with public employee unions in most cities has resulted in various work stoppages, disruptions of services, and even brutal deaths.

This is illustrated by the 1968 situation between AFSCME and the City of Memphis, Tennessee. The sanitation and public works employees of Memphis protested low pay and poor working conditions. When the city managers refused to recognized and bargain with AFSCME, they went on strike. The strike was fierce and awesome. According to Calvin, "for sixty-three days, union strikers placed themselves and their families in jeopardy—risking jail, blood shed and economic ruin to win a concession with the City of Memphis."

Unfortunately, the Mayor of the city, Henry Loeb and his Councilmen remained adamant in refusing to recognize and bargain with AFSCME. The strike continued receiving the support of voluntary organizations such as the NAACP, church ministers and students. Life in the city became hazardous as

43 Ibid.

trash at many locations in the southern part of Memphis caught fire.

Ultimately, the city government conceded. Recognition of the union (AFSCME) and the negotiation of an acceptable agreement between AFSCME and the City of Memphis occurred simultaneously, and the strike ended. But, it was a costly one, many people lost their lives. In fact, Dr. Martin Luther King, Jr. one of the supporters of the strike was killed by a sniper before the bitter dispute was settled. However, the City of Memphis saw for the first time, the establishment of AFSCME Local 1733 which has since become a cohesive and vital force within the city. Today AFSCME Local 1733 boasts more than 6,000 dues-paying members representing fifteen divisions of city services.

Not every publicized strike was eventually successful, however. A number of visible strikes backfired against the union. In 1977, Atlanta Mayor Maynard Jackson fired over 900 sanitation workers when they struck for the same reasons as their Memphis cohorts. Replacements were hired. Union members lost jobs and AFSCME lost the right to represent sanitation workers in Atlanta. Similarly, in 1978 and 1979, the mayors of San Antonio and New Orleans, respectively, took tough stands, fired striking workers and hired replacements. It is essential to note that this took place in

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parts of the country without prounion traditions. Cities in the northeast or upper midwest with prounion views, may not have been able to hire strikebreakers.

Inspite of some unsuccessful attempts by public employees to strike in the past, we are still seeing a rise in the number of such strikes as the public managers continue to refuse to negotiate with unions on a bilateral basis. According to Dresang, "there was a total of 536 such strikes in 1980 in states and local governments throughout the nation." If organization of public employees by organized labor such as ASFCME continue to meet this type of tough resistance on the part of public managers in some cities, and as more younger employees begin to support union views, we will witness more of such strikes in many cities in the future.

Table 1 illustrates more vividly the rampant occurrence of work stoppages by function throughout the nation in 1980. The table shows that, a total of 502 work stoppages were seen on the state and local levels. The highest number of work stoppages of 287 occurred in education, followed by police and fire protection with 63. The third was highways with 45, and hospitals with 20. Although evidence of work stoppages in Georgia and the City of Atlanta in particular has been discussed, attempts to obtain more recent data for Georgia met with failure. However, in view

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46 Ibid.
# TABLE 1

## STATE AND LOCAL GOVERNMENT WORK STOPPAGES BY FUNCTION

### 1980

<table>
<thead>
<tr>
<th>Work Stoppages (Number)(^a)</th>
<th>Total</th>
<th>Total</th>
<th>Education</th>
<th>Highways</th>
<th>Hospitals</th>
<th>Police and Fire Protection</th>
<th>Public Welfare</th>
<th>Other (Multiple)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL</strong></td>
<td>502</td>
<td>287</td>
<td>225</td>
<td>62</td>
<td>45</td>
<td>20</td>
<td>63</td>
<td>14</td>
</tr>
<tr>
<td><strong>STATE</strong></td>
<td>22</td>
<td>7</td>
<td>4</td>
<td>3</td>
<td>-</td>
<td>4</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>LOCAL</strong></td>
<td>480</td>
<td>280</td>
<td>221</td>
<td>59</td>
<td>45</td>
<td>16</td>
<td>62</td>
<td>13</td>
</tr>
<tr>
<td>-Represents zero</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^a\) = Duplication; each work stoppage is counted separately for each function affected, but only once in the total work stoppage.

of the problems fraughting public organizations facing organized labor without bilateral negotiations between management and unions, more work stoppages are likely to be seen in such public organizations either in cities, counties or states.
IV. METHODOLOGY

This study employed the qualitative research methods of participant-observation (strategic informant) and analysis of secondary data sources. The primary sources used to analyze problems inherent in the lack of a collective bargaining agreement contract between the City of Atlanta and the American Federation of State County and Municipal Employees (AFSCME) were participant observation and the use of semi-structured interviews. The advantage of this combination of open-ended and forced-choice questions of semi-structured interviews is that it allows the respondent to express feelings without inhibitions or restrictions, while affording the interviewer control over the direction of the interview. The secondary sources included library research and a review of the City of Atlanta and AFSCME records on labor relation matters.

Attempts made to interview as many managers and union officials as possible met with limited success. Key personnel related to labor relations matters in the city were not available for substantive interviewing. The writer, therefore, relied heavily on observation, the views of middle level employees and related studies to form an overall
picture of the current status of trade unionism in Atlanta Civil Service.

Interviewees were selected due to their strategic positions in the relevant organizations. The interview schedule for those interviews are shown in Appendix A. Interviews with third party representatives such as the Chairman of the Civil Service Board are also shown in Appendix A. Other items found in the Appendix are: Minutes of City of Atlanta Civil Service Board Meetings, (an appeal case), Appendix B. Grievance and Appeal Procedure and Meet and Confer Policy of the City of Atlanta with Organizations, Appendix C, and Dues Checkoff Policy Section 71033 City of Atlanta Code of Ordinance, Appendix D.
V. ANALYSIS OF THE PROBLEM

The description of the unilateral, bilateral and multilateral collective bargaining models do not individually describe the nature of labor relations activities in the City of Atlanta. Present labor relations activities between the city and the union could be best described as "meet-and-confer" which as previously mentioned, involves union and city representatives meeting on a regular basis to discuss matters affecting employees' working conditions.

The process could also be described as informal embodying aspects of the three models. For example, an illustration of the application of the unilateral model in labor relations matters in the City of Atlanta is shown when management unilaterally determines salaries and other working conditions of employees in the union without consulting the union. An example of a bilateral model as a part of the process is through the "meet-and-confer" policy. The multilateral approach is illustrated by the influence of the interest groups and the Civil Service Board influence in labor relation matters in the City of Atlanta. This informal bargaining policy has allowed the city to choose any bargaining tactic which precludes commitment to union demands.
Again, while city representatives may listen to union demands and suggestions, they are not obligated to incorporate them in the decision making process.

However, a previous study by Yancy indicated that the City of Atlanta had engaged in some form of collective bargaining with AFSCME between 1966 and 1976. But the version of bargaining has been unstructured, crisis oriented and informal, and the end results have never been a written contract. Instead, the city and union agreements have appeared in amended ordinances, resolutions, revisions in the civil service rules, and sporadic changes in wages and working conditions.

The Civil Service Board

In general, the civil service board or Commission is a well established body on the state and federal levels. The major purpose of its establishment was to implement the merit system. In order to be able to perform this vital function, the board has significant power in the determination of personnel matters. Its authority ranges from human resources planning to the hearing of employee appeal cases.

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In exercising its authority over personnel matters, the board is ostensibly impartial and independent. However, lack of adequate proof of impartiality and independence in making decisions, and the disagreement of the board's use of the merit principle as the major basis for personnel decisions in government, have resulted in criticisms from various groups. One such organization instrumental in the establishment of the federal civil service system, the National Civil Service League, called for the abolition of civil service commissions.

Other groups critical of civil service commission are unions. Unions have criticized the civil service commission for being an arm of management in that commissioners or board members are appointed, for example, by chief executive such as mayors. Therefore, spoils system politics and favoritism are said to prevail.

Furthermore, due to the power to make unilateral decisions on matters affecting employees' working conditions by civil service commissions, unions have called for a bilateral determination status through the collective bargaining process particularly on those elements of the merit system that protect their tenure, their right to hearings and those that shield them against political exploitation. In states where this bilateral determination is allowed, the

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immensity of the strength of the civil service board has created additional confusion over who can bargain for the public and on what issues.

For instance, in 1965 when the Michigan legislature passed a Public Employment Relations Act authorizing public employees to organize, and public employers the duty to bargain with union representatives, there was the question of who "the employer" was. Several agencies claimed the status. In Wayne County, the status was claimed by (1) the county board of supervisors; (2) the three-man civil service commission appointed by the board; and (3) the road commission (for its employees). This dispute has made collective bargaining difficult. In Atlanta, there is no such law for general service employees in the city. Decision making in matters affecting employees working conditions is mainly done by the Civil Service Board in consultation with AFSCME on a meet and confer basis.

The Civil Service Board for the City of Atlanta consists of five members including the chairman. Members are all appointed by the mayor of the city for a term of four years each. The authority and function of the board is not different from those described above. In addition, the board also acts as the public employer for city employees. In an interview with Leroy Johnson, he mentioned that "The board also functions as an appellate body for employee appeals, reviews and recommends personnel policies, and approves
classification and pay." It is also the responsibility of the board to be the protector of public trust in the civil service system. The board is, therefore, faced with the arduous task of balancing the interest of the city with that of employees.

Although the Charter and the Civil Service Rules and Regulations do not specify whether the board should be a judicial body following courtroom procedures or an informal body merely reviewing the action of the department. To ensure its fair treatment of employees, however, the board does have the power to make final decisions on employee appeal cases.

The several functions of the board have, however, come under criticism. One area of criticism is the qualification of its members. According to a city task force study, there are no specific qualifications in the City Code for board members. Yet, the board has critical areas of responsibility in assisting the city in securing and maintaining highly skilled, motivated and productive personnel. Indeed, the personnel field encompassing labor-management relations, affirmative action, equal employment opportunity, job validation performance and productivity, and adherence to state and federal laws, is increasingly complex. Yet, members are expected to perform as specialists in these

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50 Interview with Leroy Johnson, Chairman, Civil Service Commission, Atlanta, Georgia, May 18, 1985. (See Appendix A.)
areas, evaluating and passing final disciplinary decisions on employees without adequate experience and knowledge in these areas. This often results in inconsistent judgements.

The city's disciplinary procedure is again criticized for the lack of a procedural due process provision for employees. According to the task force study, the present processes ordinarily do not provide an employee the opportunity to respond prior to the imposition of adverse disciplinary action. This is contrary to legal precedent. However, Georgia has revised its disciplinary action procedure to include a built-in opportunity for response, but, this has not yet been reflected in the City of Atlanta's disciplinary process.

Another area of criticism of the board is the delay in handling employees' appeal cases. The task force study also found that, the average lapse time between the initiation of a disciplinary action to its resolution by the Civil Service Board was eleven months. Examples which illustrates the severity of this situation include the following:

(1) Employee A was dismissed in April, 1977. The Civil Service Board hearing was not held until February 1979. The employee was reinstated without backpay.

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52 Ibid.
(2) Employee B was suspended for two days in October, 1979. In November, 1980, the suspension was revoked.

(3) Employee C was suspended for six days in July, 1979. In April 1980, the Civil Service Board upheld the department's position.

Almost all grievance appeal cases are similarly delayed. Resolution of disciplinary appeals within time frames specified by ordinances are virtually non-existent. This type of process creates operating and supervisory problems for departments and negatively affects employee morale. All these problems with grievance resolutions could have been ameliorated if there was a collective bargaining agreement with the union, a contract specifying grievance procedures. Appeal cases would be handled by professionals such as mediators and arbitrators. In the absence of such agreement, the union and employees have to abide by the present procedures. Appendix C shows the grievance and appeal procedures for the City of Atlanta employees.

Furthermore, the board is criticized for its partiality in settling cases. Managers claim that the Civil Service Board almost always settle appeals in favor of employees. In fiscal year 1978-79, of the cases resolved 60 percent were in favor of employees and 40 percent in favor of management. After that year, things turned so dramatically around such that the majority of cases were settled in favor

53 Ibid., p. 24.
of management. This has put employees and the union into a powerless and confused situation making them critical of the board's role of impartiality in the handling of appeal cases. Tables 2 to 5 illustrate the pattern of adjudication from 1978-82. They also reflect the number of appeals by agency. In 1979-80, of the cases that were decided 38.4 percent were in favor of employees and 61.6 percent in favor of management. In 1980-81, 40 percent of the cases were in favor of employees and 60 percent for management. In 1981-82, cases favoring employees fell to 33.8 percent while those favoring management rose to 66.2 percent.
### TABLE 2

**NAMES OF DEPARTMENTS**

**APPEALS HEARD BY THE CIVIL SERVICE BOARD**

**FISCAL YEAR 1978-1979**

<table>
<thead>
<tr>
<th>Department</th>
<th>Number of Appeals</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police (uniformed only)</td>
<td>19</td>
<td>42.2%</td>
</tr>
<tr>
<td>Environment and Streets</td>
<td>17</td>
<td>37.7%</td>
</tr>
<tr>
<td>Fire (uniformed only)</td>
<td>4</td>
<td>8.9%</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>2</td>
<td>4.4%</td>
</tr>
<tr>
<td>Motor Transport</td>
<td>2</td>
<td>4.4%</td>
</tr>
<tr>
<td>Aviation</td>
<td>1</td>
<td>2.2%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>45</strong></td>
<td><strong>99.8%</strong></td>
</tr>
</tbody>
</table>

- **Number of Appeals Heard, 1978-1979** ...............45
- **Number of Decisions in Favor of Appellant** ...........27(60%)
- **Number of Decisions in Favor of Management** ..........18(40%)
**TABLE 3**

**NAMES OF DEPARTMENTS**

**APPEALS HEARD BY THE CIVIL SERVICE BOARD**

**FISCAL YEAR 1979-1980**

<table>
<thead>
<tr>
<th>Department</th>
<th>Number of Appeals</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Safety</td>
<td>18</td>
<td>24.7%</td>
</tr>
<tr>
<td>Environment and Streets</td>
<td>30</td>
<td>41.0%</td>
</tr>
<tr>
<td>Motor Transport</td>
<td>10</td>
<td>13.7%</td>
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<tr>
<td>Parks and Recreation</td>
<td>7</td>
<td>9.6%</td>
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<tr>
<td>Tax Office</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>Purchasing and Real Estate</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>CETA</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Bureau of Building</td>
<td>1</td>
<td>1.4%</td>
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<tr>
<td>Personnel</td>
<td>1</td>
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<tr>
<td>Miscellaneous Service</td>
<td>1</td>
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</tr>
<tr>
<td>City Council</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>73</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Number of Appeals Heard (1979-1980) 73
Number of Decisions in Favor of Appellant 28 (38.4%)
Number of Decisions in Favor of Management 45 (61.6%)
TABLE 4
NAMES OF DEPARTMENTS

APPEALS HEARD BY THE CIVIL SERVICE BOARD
FISCAL YEAR 1980-1981

<table>
<thead>
<tr>
<th>Departments</th>
<th>Number of Appeals</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment and Streets</td>
<td>29</td>
<td>41.4%</td>
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<tr>
<td>Public Safety</td>
<td>32</td>
<td>45.7%</td>
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<tr>
<td>Parks and Recreation</td>
<td>4</td>
<td>5.7%</td>
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<tr>
<td>Human Development</td>
<td>1</td>
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<tr>
<td>Personnel Operation</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>Aviation</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>Motor Transport</td>
<td>2</td>
<td>2.9%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>70</strong></td>
<td><strong>99.9%</strong></td>
</tr>
</tbody>
</table>

Number of Appeals Heard (1980-1981) 70
Number of Decisions in Favor of Appellant 28(40%)
Number of Appeals in Favor of Management 42(60%)
TABLE 5

NAMES OF DEPARTMENT

APPEALS HEARD BY THE CIVIL SERVICE BOARD
FISCAL YEAR 1981-1982

<table>
<thead>
<tr>
<th>Department</th>
<th>Number of Appeals</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Safety</td>
<td>20</td>
<td>27.0%</td>
</tr>
<tr>
<td>Environment and Streets</td>
<td>29</td>
<td>39.2%</td>
</tr>
<tr>
<td>Motor Transport</td>
<td>8</td>
<td>10.8%</td>
</tr>
<tr>
<td>CETA</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>8</td>
<td>10.8%</td>
</tr>
<tr>
<td>Community and Human Development</td>
<td>1</td>
<td>1.4%</td>
</tr>
<tr>
<td>City Hall</td>
<td>2</td>
<td>2.7%</td>
</tr>
<tr>
<td>Personnel Operation</td>
<td>4</td>
<td>5.4%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>74</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Number of Appeals Heard 1981-1982

Number of Appeals in Favor of Appellant 74(33.8%)

Number of Appeals in Favor of Management 49(66.2%)
The Legal Setting

Unlike the private sector, the regulation of labor-management relations in the public sector occurs primarily at the state level. According to Levin, those federal statutes such as the Norris-LaGuardia Act, and the Wagner Act regulating trade unionism in the private sector have not been extended to state and local governments. State governments therefore, have the discretion to adopt or not to adopt any specific policy to regulate labor relations in the state and local public service.

Because of the authority to regulate labor relations activities by individual states, a variety of state laws for public employee unions are seen. Some states have binding collective negotiation laws while some have only meet-and-confer policy, while some have both. Still, others have laws similar to their private sector counterpart. Florida is one such state. In Florida, rights similar to those included in Section 7, of the National Labor Relations Act are also guaranteed to Florida public employees under the Public Employee Relations Act (PERA) of 1970.

However, some state laws only have provisions for certain categories of public employees such as public transpor-


tation, fire fighters and school teachers excluding others such as police officers, and general service employee, Georgia is no exception. There is no labor relations law for general service employees in the State of Georgia. The only Georgia statute authorizing public employee bargaining is the Fire fighters Mediation Act of 1971 granting fire fighters in cities of 20,000 or more that elect coverage the right to bargain collectively and be represented by a labor organization as to wages and rates of pay. This law exclude consolidated city-county government with over 150,000 people. The statute also forbides strikes and job action. However, there is a meet-and-confer labor policy including dues check-off for AFSCME organizing the general service employees in the City of Atlanta. However, the dues check-off is contingent upon the absence of a strike.

The check-off ordinance was passed by Maynard Jackson's administration in January 29, 1975. It allowed organizations to qualify for check-off if they submit valid dues-deduction authorization cards from more than half the eligible employees in a unit. Georgia public employee's labor policy is particularly vague. There is no specific policy authorizing or not authorizing public employees in the

57 "Deduction of Labor Organizations Dues from City Employees' Salaries (1975)," Atlanta City Code, Section 7-1033, Chapter II, "Discussions with Labor Organizations," Sections 1 and 2. (See Appendix D.)
state to engage in collective bargaining. Court decisions
opinions rendered by the Attorney General are therefore major
forces behind public labor policy. For example, Yancy, in
her studies found that, in the case of Chatham Association of
Educators, Teacher Unit, et.al. Vs. Board of Public Education
for the City of Savannah and the County of Chatham 1974,
where the Board of Education had negotiated a contract with
the Chatham Association of Education, the court ruled that:

Without specific legislative authorization, a school
board has no authority by contract or otherwise, to
delegate to others the duties placed on the board by
the constitution or laws of Georgia. 58

Consequently, the contract was considered void.

In addition, the Attorney General expressed the
opinion that "unless the General Assembly authorizes them to
do so, public employees in Georgia cannot enter into valid
collective bargaining contracts with labor unions." At the
same time, the Attorney General maintained that if called
upon to pass on the matter of collective bargaining, the
Georgia courts will probably uphold the right to bargain
collectively in the sense of meeting and consulting with
union officials about wages, hours and the conditions of
employment of public employees. In 1966, the office of the
Attorney General, further asserted in an unofficial opinion

58 Dorothy Yancy, "The Spectre of Public Unionism from
City of Atlanta," (Ph.d. dissertation, Atlanta University,

59 Ibid.
that, "local units of governments have the right to allow their employees to bargain collectively if they choose to do so." This was followed by the claim to recognize the right of public employees as citizens to organize and join a union, as guaranteed by the First Amendment to the Constitution. According to James R. Beaird, "this right of self-organization appears to be meaningless because state employees may not utilize it to deal with the employer collectively through a bargaining agent." The legal environment of public employee trade unionism in Georgia is, therefore, shaped by court decisions and opinions of the Attorney General.

The impact of the Attorney General's opinions on public employees' labor relations in the City of Atlanta was further asserted by the AFSCME Area Director, Leamond Hood in an interview, claiming that, the Attorney General's opinion has a lot of influence on labor relations in the city. For example, Hood blamed the lack of a contract with the city on the perpetuation of the false notion by the City of Atlanta that it is illegal for the state or its subdivisions to enter into collective bargaining agreements. To him then, there is no statutory authorization and there is no legislative authorization or prohibition against such action

60 Ibid., p. 12.
or such a contract. Rather, the interpretation of the Attorney General's opinion is what is being relied upon by public managers in the city to avoid dealing with the union or entering into a collective bargaining agreement, memorandum of understanding or any other form of written document resulting from such discussions. From the above analysis, it could be concluded that, public employee (general service) unions in the City of Atlanta are operating in an environment where there are no specific legal guidelines to regulate their relationship with management.

62 Interview with Leamond Hood, AFSCME, Local 1644, Atlanta, June 3, 1985. (See Appendix A.)
VI. CONCLUSIONS AND RECOMMENDATIONS

This paper examined trade unionism in the City of Atlanta Civil Service and found that the problem with AFSCME in its dealings with the City of Atlanta on behalf of the general service employees is the lack of a contractual agreement. According to the views of employees and union officials this problem is due partly to the legal setting and the influence of the Civil Service Board on labor relations matters. The state law on labor relation matters for public employees is vague. In addition, there are no labor relations laws for general service employees. City ordinances, the Attorney General opinions and court decisions, form the basic guidelines on public employees' organization matters. AFSCME only deals with the city on a meet-and-confer basis. Such a policy does not allow the union to exercise any legal power in enforcing its demands. The present grievance procedure in the city is plagued by bias and delays. The results of such delays in resolution of grievances and disciplinary actions create operating and supervisory problems for departments and decrease employee morale in the union.

The city relates to the union through its representatives from the Bureau of Labor Relations and the
Civil Service Board. Although the Civil Service Board has overall power in disciplinary matters by its members, delays and inconsistencies in the resolution of cases have led to dissatisfaction among employees.

A contractual agreement with the city would streamline departmental policies, improve the perception of workers represented by AFSCME, establish meaningful procedures for discipline and promotion; and provide the union with legal authority in personnel matters. It is clear that establishing a legally binding collective bargaining agreement between AFSCME and the City of Atlanta is not an easy task. Essentially, it requires determination and commitment. The absence of such policies could leave trade unionism in the City of Atlanta Civil Service at a stand still for years to come.

Unfortunately, such a situation would lead to worker unrests, work stoppages and subsequent interruption of public service. This was the case when in 1977 Atlanta sanitary employees struck, in Memphis in 1968, in San Antonio in 1978, and in New Orleans in 1979. The citizens of Atlanta are not deserving of the undesirable consequences of a lack of bilateral negotiations between management and labor.
Recommendations

The following recommendations should prove useful.

Since an agreement (contract) with the union has a lot to do with the legal setting, AFSCME should increase its involvement in city politics. The union (AFSCME) should be acquainted with key decision making personnel in the city. AFSCME needs to develop its local political clout, electing and supporting City Council members sensitive to interests of the union; people who will support union views and agree to collective bargaining for general service employees in the city. AFSCME should actively engage in the political education of the members. After elections, AFSCME should engage in lobbying the City Council for ordinances that will give bargaining rights to the union.

To be able to implement the above recommendations, the organizing effort of the union must be reinforced. With more members, AFSCME will be in a better position to influence the Atlanta City Council. The following are strategies that could be applied to increase union membership. (1) Educating nonunion members as to how membership would benefit them. This could be done by sending out printed materials on union benefits to union members to share with their fellow nonunion members at their work places. (2) Union representatives should meet with members at their work sites on regular basis to give them the opportunity to discuss any problems they might have with management. (3) Then, the union would use such complaints as "stepping stones" to convince other employees how they would benefit by membership and (4) promotion of a team effort with the power to have a voice in the determination of their working conditions.

To implement these, AFSCME has to expand its administrative structure. This could be done by increasing the number of its local union representatives from the present four to six. This will allow them to have at all times a representative in the office to attend to employee needs and problems while maintaining field operations.
AFSCME should also step up efforts in research. Focus areas should include the effect of agreement (contract) on employee morale, attitudes toward work and productivity. The citation of positive effects on worker morale, and productivity, for example, can go a long way in helping to convince management that a contractual agreement is not an albatross for management. Positive results could be used as one of the strategies to convince management for a contract.

Nothing substantial is likely to happen with regard to changing the present situation of trade unionism in the City of Atlanta unless, AFSCME is more determined and committed to the cause.
APPENDIX A

INTERVIEW SCHEDULES
An interview with the Chairman, Civil Service Board in the City of Atlanta

INTERVIEWER: "What is the nature of the system designed to address employees' problems (grievances) in the civil service in the City of Atlanta?"

RESPONDENT: "The system is the type that gives a right to every city employee under the Civil Service Act, to appear before the Civil Service Board, to address any grievances that he or she has against an employer."

INTERVIEWER: "In your opinion, do you think this system is functioning well to meet its objectives, or are some improvements needed?"

RESPONDENT: "The Civil Service Board is an independent body appointed by the mayor to hold an impartial hearing on employees' grievances. It has been functioning well."

INTERVIEWER: "What are the monitoring and evaluating techniques used to find out if the system is functioning well?"

RESPONDENT: "It is a self imposed system."

INTERVIEWER: "How often does the board meet to hear appeals?"

RESPONDENT: "Three times in a month."

INTERVIEWER: "What percentage over the years have appeals been decided in favor of employees and management?"

RESPONDENT: "40 percent for employees and 60 percent for management."

INTERVIEWER: "Thank you."
INTERVIEWER: "What is the present status of AFSCME's dues check-off with the city employees?"

RESPONDENT: "Some job classifications were made which did not qualify many employees for dues check-off. This has been brought to the attention of the city and the city is ready to rectify the situation such that more employees will become eligible for dues check-off. But, the union in order to maintain its status with the city has to make sure that, 51.1 percent of this eligible employees sign up for the union."

INTERVIEWER: "What is the nature of the current city negotiation activities with the union (AFSCME)?"

RESPONDENT: "Only meet and confer sessions which takes place once every month."

INTERVIEWER: "What are the things negotiated about?"

RESPONDENT: "Working conditions: wages, seniority, ordering of uniforms and job classifications.

INTERVIEWER: "Thank you."
An interview with the Director, Bureau of Labor Relations, City of Atlanta: Tony Zivilich

PART I

INTERVIEWER: "What are the functions of the Labor Relations Department?"

RESPONDENT: "The department represents the city in its negotiation sessions with the union. It also makes recommendations to supervisors and employees on how to settle grievance cases. Grievance appeal cases are also referred from the department (in the case of general service employees) to the Civil Service Board for hearings."

INTERVIEWER: "Is an employee always represented by the union in a board hearing?"

RESPONDENT: "An employee could represent himself or get a lawyer, if turned down he could go to the union. But the city is not obligated to accept what the union or an attorney says on behalf of an employee."

INTERVIEWER: "What is the position of the Civil Service Board in adjudicating those case?"

RESPONDENT: "The board acts as an arbitrator and as a quasi-judiciary body. It is not out to help employees."

PART II

INTERVIEWER: "Why is it that AFSCME cannot have a contract with the City of Atlanta?"

RESPONDENT: "A part of the fault is the state legislation. The state law does not specifically address the issue of a contract. The law is also loose on strike. It does not specifically say that public employees in Georgia should not have a contract. For example, public employees in Savannah, Georgia have a contract with AFSCME."

INTERVIEWER: "What is the nature of the city's labor relation policies with AFSCME?"
RESPONDENT: "The city maintains a meet and confer policy with AFSCME. The city does not have to accept what the union says during such a session as there is no bargaining agreement between them. This puts the union in a very tenuous legal position to enforce its demands."

INTERVIEWER: "What in your opinion do you think AFSCME should do in order to get a contract?"

RESPONDENT: "The union should vote to power those city councilmen who supports the union views and agree to collective bargaining. The mayor of the city is not a problem. But the Chamber of Commerce is the main obstacle behind the union not getting a contract. The union should strengthen its organizing activities for more members and power."

INTERVIEWER: "Do you think a contract will cost the city more money?"

RESPONDENT: "A contract with AFSCME would not cost the city any more money than what it is now.

INTERVIEWER: "What do you see as major benefits of such a contract to both the city and employees?"

RESPONDENT: "It would help to improve productivity and the city will save money by reducing lay-off days."

INTERVIEWER: "In what ways?"

RESPONDENT: "Right now, there is no uniformity in managerial policies throughout departments regarding meeting employees' needs, such as providing them with uniforms. Everybody is going its own way. In some department, employees without proper uniforms may be asked to take off for a day or two till uniforms are ready. The city will still pay them. A contract will bring in order, streamline things, and make management more responsible.

INTERVIEWER: "Thank you."
An interview with the Area Director, American Federation of State County and Municipal Employees (AFSCME): Leamond Hood

INTERVIEWER: "Could you briefly describe how AFSCME came into being in the City of Atlanta Civil Service?"

RESPONDENT: "AFSCME was founded in Atlanta in 1947 at Grady Hospital. It functioned as a social club rather than a union. It got into the city's Civil Service in the late 1940's and 1950's. There was no form of collective bargaining or negotiation. It operated in the form of political lobbying begging for something. It did not work too well."

INTERVIEWER: "How could you compare the situation with AFSCME in the City of Atlanta in those early days with what it is today?"

RESPONDENT: "AFSCME today is different from AFSCME of the past. Although what it is now is nothing to be compared to the private sector established labor-management relations where one could negotiate written contract and legal document that could be enforced in the form of law. What AFSCME is having now is a little more sophisticated form of hard and hard negotiation rather than hard and hard begging. Management would sit down with their designated people to talk with the union representatives about union concerns and recommendations for improving wages and hours and other conditions of employment."

INTERVIEWER: "What would be the result of such negotiations in terms of its effect on managerial policies?"

RESPONDENT: "Those items are often at times reduced to writings but not as a mutually agreed upon document that could be submitted to appropriate administrative officials for enactment as a unilateral document. Therefore, there is no acknowledgement that the union has any influence in changing policies, procedures or impacting on wages and working conditions so getting credit for it, now, is still one of the major obstacles in improving modern day labor management relations."

INTERVIEWER: "What do you think are the immediate problems to all these?"

RESPONDENT: "First, lack of a contract is the problem. Second, it is also a perpetuation of the false notion that it is illegal for the state or its subdivisions to enter into collective bargaining agreement."
INTERVIEWER: "Why do you say that?"

RESPONDENT: "Well, there is no statutory authorization, no legislative authorization or prohibition against such action or such a contract. It is simply the interpretation of the Attorney General opinion that most of them rely upon to avoid dealing with the union or entering into collective bargaining agreement, memorandum of understanding or any other form of legal document resulting from such discussions."

INTERVIEWER: "What do you think would be the major benefits of a contract?"

RESPONDENT: "A contract will improve the perception of workers represented by AFSCME. It will also improve the influence of workers in establishing some meaningful procedures for promotion, grievances, how to utilize sick time; what form of discipline could be administered and when. In general, a mutually agree upon document for rules and regulation of personnel management is much better for the moral of the work force, for the efficiency of the work and for the perception of the workers that they have a voice in the mamouth bureaucracy that often takes months or years for employees to exhaust before they could get a hearing on an issue."

INTERVIEWER: "Thank you."
APPENDIX B

MINUTES OF CITY OF ATLANTA CIVIL SERVICE BOARD MEETING

(AN APPEAL CASE) THURSDAY, AUGUST 27, 1981, 3:30 PM

CITY HALL ANNEX CONFERENCE ROOM
The meeting was called to order at 4:05 p.m. by Chairman Leroy Johnson.

Representative (Department)  Representative (Appellant)
Patrick J. Sojka  Michael Zachary, AFSCME

The Civil Service Board heard the case of Kenneth Smith, Sewer Crew Supervisor II, Department of Environment and Streets.

In the pre-hearing the Board asked the department's representative and the appellant's representative for the issues of the case. Mr. Sojka stated that the issue was the fact that a felony was committed by Mr. Smith and counsel for the appellant agreed.

Mr. Zachary stated that the rational of the case was that there were other employees at the same installation where the appellant worked that had been convicted of felonies and that they were reinstated to their positions.

An objection was made by Mr. Sojka who stated that, in such instances, individuals should be enter into the records by name and that a general statement was immaterial and inappropriate. Objection was overruled.

Mr. Zachary stated that Mr. Smith has felt that for a number of years the department has tried to terminate him. He stated that the City was within its rights to discipline the appellant, but if the court saw fit to put the employee on probation, after considering the argument by his counsel, the City should too. He noted that the court considered that Mr. Smith was employed and that he had a family to support; then the court placed Mr. Smith on probation. After hearing the above facts, Mr. Zachary
Chairman Johnson stated that the City has a right under the statutes to discipline an employee who was convicted of a felony and to any extent they wish.

A document from the Superior Court of Fulton County, State of Georgia; Indictment Number A-53719 and A-53745 was presented by Mr. Sojka as evidence to the Board to indicate Mr. Smith's conviction.

Mr. Sojka further stated that Mr. Smith had been employed with the City for sixteen (16) years; however, he had fourteen and a half (14½) years of accrued service pension. The other time was suspension, absence without pay, and absence without leave. Based upon these facts Mr. Sojka asked that the Board uphold the City in its decision to terminate Mr. Smith.

The appellant spoke on his behalf; he stated that he was with the person that had possession of drugs and that he did not have any on him; he didn't know what that person was going to do with the drugs and that his attorney told him that it would be best if he plead guilty because of the lack of money to pay attorney's fees and the possibility of a jail sentence. He stated that his attorney told him to plead guilty because he could get probated.

In Executive Session, the Board voted unanimously to uphold the City in its decision to terminate Kenneth Smith effective May 4, 1981. The Board concluded that the Department did carry the burden of proof.

There being no further business, the meeting was adjourned at 4:53 p.m.

APPROVED:

LEROY R. JOHNSON, Chairman
Civil Service Board
APPENDIX C

GRIEVANCE AND APPEAL PROCEDURE

AND

MEET AND CONFER POLICY OF THE CITY OF ATLANTA WITH

ORGANIZATIONS
CHAPTER XIX

Grievance and Appeal Procedures

Section 1. Policy.
(a) In order to efficiently perform the services of the city, employee grievances should receive prompt consideration and equitable resolution. Wherever possible, grievances should be resolved or adjusted informally, and both supervisors and employees shall be expected to make every effort to do so. With respect to those grievances which cannot be so resolved, employees shall be entitled to process the grievances as hereinafter provided.

(b) These procedures governing the processing of grievances and providing the right of appeal are established for the purpose of eliminating or correcting justifiable complaints or dissatisfaction of employees; insuring that all employees shall be afforded fair, equitable and expeditious review of their grievances without fear, coercion or discrimination; and providing a systematic and orderly method for resolving complaints and differences between employees and supervisory or management personnel.

Section 2. Grievances and appeals.
(a) Grievance. A grievance is defined as a complaint of an employee filed at the departmental level from an adverse personnel action. The complaint may concern employment conditions, performance evaluation, rates of pay, hours of work, relationships between employees and supervisors, or relationships between employees.

(b) Appeal. An appeal is defined as that procedure by which an employee, after exhausting the grievance procedures at the departmental level, may secure further review of an adverse personnel action by the bureau of labor relations, and, if necessary, by the civil service board.

Amendment Note: The ordinance of April 25, 1977, section 40 repealed and replaced the last sentence of subsection (a).

Section 3. Notification of right to appeal.
Any written notification submitted to a regular employee who is being subjected to disciplinary action shall set forth the right of the employee to appeal the imposition of the disciplinary action to the director of labor relations and subsequently to the civil service board.

Section 4. Grievance procedure and appeal.
Any regular nonprobationary employee in the classified service who has been demoted, suspended, or dismissed, or who is aggrieved as a result of the interpretation and application of these rules and regulations, or who has been subjected to any other alleged discriminatory or disciplinary action, shall have the right to utilize the grievance and appeal procedure, hereinafter set forth. Upon compliance with the following requirements, an appeal may be made to the department head of an employee, to the director of labor relations, and to the civil service board:

(1) A formal grievance shall not be initiated unless and until the employee has discussed the grievance with the immediate supervisor of the employee, and such employee was not satisfied with the results of the discussion. The employee may discuss the complaint with the immediate supervisor, with or without a representative of his choice within five (5) working days after the occurrence or within five (5) working days after the employee becomes aware of the occurrence. The immediate supervisor shall render a decision on the matter within five (5) working days after the grievance has been presented.

(2) Should the employee or employees not be satisfied with the decision of the immediate supervisor, the employee shall reduce the grievance to writing and shall file a standard grievance form with the next highest supervisor in line within five (5) working days after the occurrence. The grievance form should state the nature of the grievance, the persons involved and the date and time of the occurrence. This supervisor shall respond to the grievance in writing within five (5) working days after filing.

(3) Should the employee or employees not be satisfied with the decision of such supervisor, the grievance shall be presented in writing within five (5) working days to the director of the bureau who shall render a written decision on the grievance, signed and dated, within five (5) working days after such presentment.
(4) If the employee is still aggrieved, such employee shall file a standard grievance form with the department head of such employee setting forth the reasons for the appeal. The department head shall make appropriate inquiries, consider all facts surrounding the action, and take appropriate steps to resolve the grievance. The department head shall render a written decision to the employee on the standard grievance form within five (5) working days after receipt of the written appeal.

(5)a. Should the employee still be aggrieved, such employee may appeal to the director of the bureau of labor relations. Should no decision be reached resulting in the settlement of the grievance within five (5) working days, such employee may then appeal the grievance to the civil service board. The employee shall be required to complete the standard form designated for such purposes, and such form must be filed with the director of the bureau of labor relations within five (5) working days after the receipt of the decision by the director. The appeal to the civil service board shall be submitted through the personnel director and shall be accompanied by all of the facts and information concerned with the grievance as well as the written responses of the director of labor relations and the supervisory employees and officials of the city.

b. The failure of supervisory employees or officials to follow the steps outlined above shall result in conferring upon the employee the right automatically to proceed to the next step in the grievance procedure. The failure of the employee to follow the steps outlined above shall result in the dismissal of the grievance at any step.

c. In those cases where dismissal or suspension are involved and where such action has been upheld by the department head as indicated by the signature of the applicable department head on the appropriate forms, the employee may institute the grievance directly with the director of the bureau of labor relations.

(6) The civil service board shall, within five (5) working days after the receipt of an appeal, hold a hearing upon the same and consider the action complained of in the grievance. The hearing, wherever possible, shall be scheduled during normal working hours and employee, supervisors, their representatives and witnesses, shall have the right to appear before the board for the purpose of presenting facts, information, and relevant evidence.

(7) At the hearing of the appeal before the civil service board, technical rules of evidence shall not apply. All testimony before the board shall be under oath or affirmation. Any member of the civil service board shall have the power to administer oaths, call witnesses, and may compel the production of books, records and documents pertinent to any investigation or hearing authorized under these rules and regulations.

(8) The recommendation by the civil service board upon the appeal shall be by a majority vote, and a copy of such recommendation shall be given to the employee instituting the appeal and the appointing authority. The recommendation of the board shall be rendered within a period of three (3) working days following the completion of the hearing.

a. Any applicant for employment with the city, who shall believe that an act of discrimination has occurred with respect to such applicant, shall have the right to appeal to the civil service board.

b. Any applicant for a position in the classified service who should desire to appeal the decision of nonacceptance of the applicant’s application by the personnel director, or an alleged error in the rating of a test of examination procedure, shall have the right of appeal to the civil service board.

c. Any regular non probationary sworn officer of the department of public safety, who holds the rank of captain or any rank below that of captain, who has been demoted, suspended, or dismissed, or has been subjected to any other alleged discriminatory or disciplinary action shall have the right to appeal final decisions of the commissioner of the department of public safety relating to personnel actions to the civil service board.

(9) The commissioner of the affected department shall, in a period of five (5) working days following the formal notification of the civil service board’s ruling, notify the chief administrative officer of his recommendation with reference to the case. An additional five (5) working days shall be allowed for the final decision to be made by the mayor or his designee and for the employee to be notified in writing. In no case shall the time period to inform the employee of the mayor’s decision, or the decision of his designee, exceed 10 working days. If notification of the decision is not received by the employee within the 10 days, the mayor or his designee shall have the authority to direct the commissioner of
finance and the director of personnel operations to implement the civil service board's decision retroactive to the date of the ruling. (Code 1977, Exhibit to Art. B, Ch. XIX, Sec. 4, as amended by Ord. No. 1978-69, 10/23/78, Ord. No. 1978-73, 11/24/79, Sec. 1, and Ord. No. 1978-78, 11/24/79, Sec. 1)

Amendment Note: The ordinance of March 29, 1977, section 2 added subsection 8 c. above. Ord. No. 1978-69, approved on October 23, 1978, amended the above section by adding a subsection (9), which subsection (9) was subsequently repealed by Ord. No. 1978-73, approved November 24, 1978. The provisions of subsection (9) currently codified above were enacted by Ord. No. 1978-78, approved November 24, 1978.

Section 5. Responsibilities of supervisory personnel.

(a) Supervisory personnel shall hear and consider without prejudice any grievance of an employee and shall make a determination as to whether or not the grievance is justified. Should it be found that the complaint of the employee is a valid one, then such personnel shall notify the grieving employee of the determination with respect to such grievance. If such grievance is found not to be justified, the aggrieved employee shall be provided with the reasons upon which such determination was made.

(b) No employee shall be denied the right to process a grievance to the succeeding step of the grievance procedure. Should such a denial occur,
such employee shall be entitled to file a new grievance based upon such denial at the next level of supervision.

(c) No punitive, discriminatory, or adverse action shall be taken against any employee or applicant who shall file a grievance or an appeal.

CHAPTER XX

Discussions With Labor Organizations

Section 1. Representative of city.

The director of labor relations shall serve as the city's representative in discussions with any recognized labor organization concerning salaries and other conditions of employment of city employees.

Section 2. Procedure.

When a labor organization has requested meetings with the city, the director of labor relations shall meet at convenient times with the appointed representatives of the appropriate labor organization, or organizations, for the mutual purpose of discussing wages, hours, and working conditions, insofar as such may be appropriate under city, state, and federal laws, the civil service ordinance, and the rules and regulations of the city.

Section 3. Prohibited discrimination.

There shall be no discrimination against any employee because of the fact that such employee is a member of a labor organization, nor shall such members receive any advantage or preferential treatment of any kind over those employees who are not members of a labor organization. No employee shall be required, as a condition of employment with the city, to become or remain a member of a labor organization.
APPENDIX D

DUES CHECKOFF POLICY SECTION 7-1033

CITY OF ATLANTA CODE OF ORDINANCE
Section 7-1033  Deduction of labor organization dues from city employees' salaries.

(a) The commissioner is hereby authorized and directed to deduct from the salary or wages of employees, who are not in an executive, professional or administrative position as defined by the Fair Labor Standards Act, or directors, department heads, installation supervisors, confidential employees; all who have the authority to hire, fire, discipline or effectively recommend such action, a specified sum of money as stated on the dues authorization card signed by each employee representing the monthly dues of the organization to which said employee belongs. Each eligible enrollment dues authorization card and the amount of the monthly dues shall be certified to the commissioner within 30 days after the adoption of this section and thereafter enrollment dues authorization cards of employees becoming members of the organization shall be certified between the first and fifteenth days of the month subsequent to such employee becoming a member, by the president or secretary of the organization.

All enrollment dues authorization cards of employees submitted to the commissioner in the year 1974 shall be considered as valid enrollment dues authorization cards under this section, and any enrollment dues authorization card of any such employee submitted after the adoption of this section which should designate another organization, different from that on the employee's 1974 dues authorization card, shall be rejected by the commissioner unless such employee has previously filed with the commissioner a withdrawal dues authorization card, as provided by the ordinance in effect in the year 1974.

No deduction shall be made until a written dues authorization card signed by the employee shall have been delivered to the commissioner of finance.

(b) Between the first and fifteenth days of the month, following the month in which such money is collected from the deduction of dues, the commissioner after deducting the cost to the city to implement such deduction of dues, shall remit the balance so collected to the secretary or president of the employee organization together with a list of names of those employees from whom the dues were collected.

(c) For the purpose of this section, the "employees' organization" shall be defined as any organization recognized by the council and approved by the mayor by ordinance. In addition to the above approval, at the times of certification set forth above, any organization, including those already recognized by resolution, must have been designated as the organization of which the employee is a member, on the above dues authorization card of such employee, by more than one-half (1/2) of the total number of eligible employees within the following departments and bureaus of the city combined: Bureau of correction; bureau of airport maintenance and operation; bureau of facilities and cultural affairs; bureau of parks and recreation; department of environment and streets; vehicle maintenance division, and city hall division (bureau of general services) all of whom share a community of interest with respect to their hours of work, wages and other terms and conditions of employment.

Should any city employee who did not sign a valid enrollment dues authorization card in the year 1974 wish to withdraw or terminate the deduction of dues from such employee’s wages or salary, then such employee may do so in the months of January or July of each
year by submitting in writing to the office of the commissioner of finance the following statement, or words to such effect:

"I would like to have the deduction of my dues terminated."

(d) The foregoing deduction of dues is conditioned upon the fact that the organization representing any employee or group of employees, any shop steward or any official of the organization or any of its members individually or collectively will not strike, and will not approve or take part in any strike, sit-down, slow-down or any interference with the operation of the city by picketing, patrolling, demonstrating or any stoppage of work or other similar activities. Further, the deduction of dues is conditioned upon there being no campaigning or soliciting of membership on city property during working hours. Upon the occurrence of any of the above actions or activities and upon a written determination by the mayor, or his designee, that such actions or activities are occurring, the deduction of dues from the salary or wages of the employees belonging to said organization shall be automatically terminated by the commissioner of finance and recognition of the employees' organization shall be terminated.

(e) The dues deduction of an employee shall not be made in the event the salary or wages of an employee at any pay period, after making all deductions required by law and previously authorized by the employee, should not equal the amount of such dues. Thereafter, such deductions shall commence, nonretroactive, upon there remaining after such deductions an amount of such employee's salary or wages equal to such dues. The dues deduction of an employee shall terminate when, in the event of suspension, sickness, or any leave of absence, such employee should receive in any dues deduction pay period an amount of money less than such employee's normal and regular salary. Such dues deduction shall thereafter commence, nonretroactive, upon such employee receiving in any dues deduction pay period such employee's normal and regular wages or salary.

(f) Any organization recognized as an "employees' organization" as defined by subsection (c) of section 7-1033 herein shall, no later than September 1, 1977, and September 1 of each succeeding year thereafter, beginning on September 1, 1978, submit to the commissioner of finance authorization cards signed by at least 50 percent, plus one (1) of the total number of eligible employees within the combined departments and bureaus of the City of Atlanta designated in subsection (c) of section 7-1033 herein. Each such authorization card submitted shall be signed by the eligible employee and dated no later than August 31st of the year in which such authorization card is submitted pursuant hereto. Upon receipt of such signed and dated authorization cards, the commissioner of finance shall determine whether or not the total number of authorization cards so submitted constitutes at a minimum 50 percent, plus one (1), of the total number of eligible employees within the combined departments and bureaus of the City of Atlanta as designated in subsection (c) of section 7-1033 herein. In the event the total number of authorization cards submitted does not constitute the requisite fifty percent (50%) plus one, then the commissioner of finance shall certify to the city council and the affected employees' organization the total number of authorization cards which will be required in order for the organization to comply with the requirements of this subsection; if the employees' organization fails to submit the additional required authorization cards to the commissioner of finance within 30 days from the date of such certification, then both the deduction of union dues and the recognition of the employees' organization provided for in section 7-1033 herein shall be immediately terminated.

(g) Upon the failure of any employees' organization described in subsection (c) hereinafter to submit dues authorization cards pursuant to the terms and provisions of subsection (f) on or before the dates specified therein, both the deduction of union dues and the recognition of the employees' organization shall be terminated.


"Deduction of Labor Organization Dues from City Employees' Salaries (1975)" *Atlanta City Codes*, Section 7-1033, Chapter XX: Discussions with Labor Organizations, Sections 1 and 2.

Minutes of the Union and the City Negotiating Meeting, Atlanta, July 2, 1985.


Hood, Leamond, Area Director, American Federation of State, County and Municipal Employees, Interviews and City Information, Atlanta, Georgia, June 2, 1985.


