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STATEMENT OF
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HUMAN RESOURCES DIVISION
UNITED STATES GENERAL ACCOUNTING OFFICE
BEFORE THE
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
COMMITTEE ON BANKING, HOUSING AND
URBAN AFFAIRS
UNITED STATES SENATE
ON THE
REVIEW OF SECTION 13(c)
EMPLOYEE PROTECTION AGREEMENTS
UNDER THE
URBAN MASS TRANSPORTATION ACT OF 1964



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SUMMARY OF GAO STATEMENT
SUBMITTED TO THE
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
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UNITED STATES SENATE
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- The Urban Mass Transportation Act of 1964 authorizes the Urban Mass Transportation Administration to make grants to States and local public bodies to acquire, construct or reconstruct and improve mass transportation in urban and rural areas.
- Section 13(c) of the act requires that before any financial assistance is provided Labor shall certify that fair and equitable arrangements are made to protect employees from losing any benefits or rights and against a worsening of their employment positions.
- The Congress in enacting section 13(c) intended to maintain "the status quo" of the affected employees, and not to improve employees' benefits or labor unions' positions.
- GAO was requested to gather information on the effects of section 13(c) by several congressmen who stated that section 13(c) as implemented by Labor, was reported to be among the most costly and intrusive of Federal laws and may cause transit salary increases exceeding increases to comparable workers in private and public sectors.
- The information GAO obtained shows that in some cases section 13(c) agreements--particularly interest arbitration provisions at 6 of 12 transit authorities visited--which were not necessary to maintain the "status quo" but which could be used in reaching agreements on future collective bargaining issues. Also, GAO believes that, in some cases, the section 13(c) requirements was used to deal with issues section 13(c) was not intended to reach.
- GAO could not determine the extent to which project and/or operating costs may have been increased through the operation of section 13(c), primarily because it is not possible to determine what might have happened in its absence.



Mr. Chairman and
Members of the Subcommittee

We are pleased to appear here today to report the results of our work requested jointly by you and Senators William Armstrong, Jake Garn, Don Nickles, Dan Quayle, and John Tower, to obtain information on the Department of Labor's administration of the employee protection program under section 13(c) of the Urban Mass Transportation Act of 1964.

Under the act, the Secretary of Transportation is authorized to make grants to help States and local public bodies (and their agencies) to acquire, construct, or reconstruct and improve mass transportation facilities (bus, rail, subway, or other) and services in urban and rural areas.

Section 13(c) of the act provides that, before any assistance is granted, fair and equitable arrangements be made to protect the interests of employees affected by such assistance. The Department of Transportation may not provide financial assistance to any State or local public body unless the Secretary of Labor has certified that the section 13(c) requirements of the act have been met.

Before a request for assistance is approved, the Department's Urban Mass Transportation Administration (UMTA) forwards the grant application to the Labor-Management Services Administration (LMSA) in the Department of Labor to certify the employee protective arrangements.

When the protective arrangements have been agreed to by the grantee and a labor union, LMSA reviews the agreement reached to insure that it meets the requirements of section 13(c). In

the absence of concurrence by either the grantee or labor union, LMSA has the authority to determine the employee protective conditions. If the affected employees are not represented by a labor union, LMSA establishes the employee protection arrangements. The protective arrangements ultimately certified are made a condition of the grant.

CONGRESSIONAL INTENT ON SECTION 13(c)

Section 13(c) of the Urban Mass Transportation Act requires that the employee protective arrangements must provide for:

1. The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise.
2. The continuation of collective bargaining rights.
3. The protection of individual employees against a worsening of their positions with respect to their employment.
4. Assurances of employment to employees of acquired mass transportation systems and priority of re-employment of employees terminated or laid off.
5. Paid training or re-training programs for employees who had to change jobs.

Section 13(c) also states that in no event shall the protective arrangements provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) for the protection of railroad employees. Section 5(2)(f) provides that fair and equitable arrangements be made to protect the interests of railroad employees affected

by any transaction involving a takeover, merger, or consolidation of a railroad system and that such transactions not result in employees being put in a worse employment position.

Section 13(c) was included in the Urban Mass Transportation Act to protect transit employees who lost benefits and rights as a result of the public takeover of major private transit firms. In many cases, transit employees, by virtue of public acquisition became employees of a political subdivision of a State, and because of State laws, union representation for the workers was invalidated.

The legislative history of section 13(c) shows that the congressional intent was to preserve and continue the existing rights, privileges, and benefits of the employees. It does not show any intent that section 13(c) would operate to improve transit employees' benefits or the labor unions' position. For example, the related legislative reports 1/ and congressional debate 2/ included statements that the intent of the legislation was to maintain the status quo concerning rights, benefits, and privileges which labor had acquired in the transit industry under private ownership.

SCOPE, METHODOLOGY AND OVERVIEW

In their letter requesting our work, the requestors stated that section 13(c) as implemented by Labor, was reputed to be among the most costly and intrusive of Federal laws. They pointed

1/Senate Report 82, 88th Congress, 1st sess. (1963).

2/Congressional record, 88th Congress, 1st sess. p. 5683--
Senate debate on the Urban Mass Transportation Act (April 1963).

out that the provision was said to be the cause of transit salary increases exceeding such increases to comparable workers in the private and public sectors, as well as other unjustified transit labor cost increases. Stating their concern that there was insufficient available information to make an informed decision on the issue, they requested our assistance in developing data and other information to evaluate the effects of section 13(c).

The short time-frame and early need for the results of our work did not permit us to use techniques which would assure representativeness in selecting transit authorities and projects for review. Instead, we concentrated our work at twelve transit authorities selected primarily on the basis of information provided by the requestors' offices, a review of LMSA files in Washington, and discussions with LMSA, UMTA, transit authorities, and the American Public Transit Association. Most of the transit authorities were reputed to have had problems in negotiating section 13(c) agreements. Although our work was primarily done at the selected transit authorities, we also performed work at LMSA's national office in Washington, D.C., and at UMTA's Washington, D.C., office and several regional offices.

At the 12 transit authorities, we focused our work in gathering information on whether section 13(c) resulted in additional employee protection benefits, and increased costs for the transit systems.

In summary, the transit authorities claimed that the union(s)--through their negotiations and bargaining for,

and use of section 13(c) agreements--have gained for transit employees and unions, additional benefits, rights and privileges beyond protecting the employees economic position. According to some transit authorities, the additional benefits or rights gained through the operation of section 13(c) have increased or may potentially increase transit operating costs and affect transit riders.

Before presenting the information we obtained during our visits at the 12 transit authorities, we need to point out that for the most part our information was developed at or provided by transit authorities' officials. As such, it may well reflect some bias on the section 13(c) agreements issue. We did discuss the 13(c) problems and issues raised by transit authorities with the officials of the local unions representing the transit employees. But, because of the time constraints, we have not discussed the information developed with LMSA or UMTA, or with the international unions officials who were involved in negotiating the section 13(c) agreements. 1/

LMSA'S POLICIES REGARDING SECTION 13(c)

Throughout the history of section 13(c)--during which the employee protection agreements, under LMSA's administration, have evolved from simple documents containing a warranty paragraph in the early years to agreements numbering many pages containing numerous provisions--LMSA's policy has been one of somewhat limited involvement. Since inception

1/A schedule showing the 12 transit authorities and local unions we visited is in appendix I.

of the section 13(c) program, LMSA's role essentially was to evaluate the sufficiency of terms agreed upon by transit authorities and unions, and to render determinations with respect to matters on which the parties found themselves in disagreement.

Basically, LMSA has relied on transit authorities and unions to negotiate section 13(c) matters and will assist or mediate in negotiations when needed. If the parties can not agree, then LMSA may impose "fair and equitable" terms of employee protection. The Secretary of Labor has exercised his authority to establish the terms of a 13(c) agreement sparingly. As a result, the terms of section 13(c) protective arrangements have been largely the result of labor-management negotiations.

Some transit authorities believe LMSA's policy of requiring the union and the transit authority to negotiate the section 13(c) agreement, and only becoming involved to help mediate issues the parties are not able to resolve, has contributed to their section 13(c) problems. According to some transit authorities, the need to reach agreement as a condition precedent to receiving financial assistance tends to place pressure on transit authorities to agree to union demands.

SECTION 13(c) AGREEMENTS INCLUDE
INTEREST ARBITRATION PROVISIONS

At 6 of the 12 transit authorities we found that section 13(c) agreements included the right for either party to invoke

interest arbitration, 1/ which did not exist in previous collective bargaining agreements.

For example, the Nashville Metropolitan Transit Authority was created in 1963 when Nashville and Davidson County formed the Metropolitan Government, and in September 1973, it officially took over operation of the transit system. In 1973, the authority entered into a contract with a management service company under which the company agreed to manage the transit system. In turn, the company formed a subsidiary corporation to employ all employees necessary for the transit system's operation, thereby maintaining the transit employees' status as private employees with the attendant rights to both collectively bargain and strike. These employees had been represented by the Amalgamated Transit Union (ATU) local 1235 since 1940 and collective bargaining agreements negotiated by the union have governed employee wages and employment conditions.

From 1973 to June 30, 1981, UMTA has provided Nashville \$26.4 million in Federal grants. As a condition for receiving the grants, the Mayor of the Metropolitan Government of Nashville-Davidson County and a local 1235 representative executed section 13(c) employee protection agreements in April 1973, June 1975, and July 1975. All three agreements contain similar provisions allowing either party to invoke interest arbitration to settle a dispute. The local unions' previous collective bargaining agreement with the authority

1/See appendix II for a definition of interest arbitration.

and its predecessor--the Nashville Transit Authority--did not contain such a right.

Local union officials believed that section 13(c) agreements gave the union the right to invoke arbitration to resolve disputes over the terms of a new labor contract. For example, in March 1979 the company and local 1235 officials began negotiations over the terms of a new 3-year collective bargaining agreement. Finally, following the contract's expiration on May 25, 1979 and the failure to resolve contract bargaining impasses, the union invoked the interest arbitration provision of the section 13(c) agreement.

The company and the authority, however, refused to arbitrate. The company's general manager said he adamantly resisted submitting the terms of the new collective bargaining agreement to arbitration primarily because:

- local 1235 had never won the right to demand interest arbitration through collective bargaining and the company had no intention of conceding the right;
- arbitration would have irrevocably undercut the strong tradition of collective bargaining in Nashville; and
- management was unwilling to relinquish control over its operating budget.

In August 1979, on the basis of the union's complaint, a U.S. District Court ordered the authority to enter into binding interest arbitration in accordance with the provisions of its section 13(c) agreement. As a result, the union and the company entered into binding interest arbitration to settle labor disputes in the collective bargaining agreement.

According to company officials, local 1235 members made significant gains through interest arbitration. The officials contended the arbitration award gave union members an initial 17 percent pay increase (the wage increase was 27 percent for 3-year period of the contract) and made extensive improvements in their health care benefits and coverage. They calculated that the arbitration award increased employee wages and benefits by about \$779,000 for fiscal year 1981, and that company costs of arbitration and litigation amounted to \$112,900.

Our analysis showed, however, that the company's estimated 1981 wage increases resulting from arbitration, were substantially overstated since, because of the delay in the effective date of the wage increase, 1981 costs embodied a substantial "catch-up" component. Also, \$29,000 should be excluded because it represented improvement costs in union medical insurance benefits the company offered the union in its final contract proposal during bargaining talks. We were unable to determine what costs the company would have incurred through its regular collective bargaining negotiations.

Company officials do not dispute that the section 13(c) agreements provide for arbitration but they interpreted the agreements more narrowly than the local union. They believe that the agreements were supposed to only protect employee rights, privileges and benefits which might be affected by the UMTA assistance. When it signed the agreement, it did not anticipate that evolving Federal interpretation would

permit local 1235 employees to obtain rights which the union had not previously bargained for.

We were able to obtain data comparing the Nashville transit operators' hourly wage rates with other municipal employees such as school teachers, police officers, and firefighters as of March 1982. Our analysis shows that the transit operators' hourly wage of \$9.42 was only exceeded by the school teachers who earn \$11.86 per hour.

SECTION 13(c) PROVISIONS ON
CONTRACTING OUT PROCEDURES

At 5 of the 12 transit authorities, we found that some of the section 13(c) agreements had an effect on the transit authorities contracting out certain work.

For example, in June 1970, the city of Eugene, Oregon organized the Lane County Mass Transit District and in December 1971, using an UMTA capital grant, the transit district acquired the privately-owned transportation system which served the area. Since the takeover, the transit district has received about \$9.5 million in UMTA capital and operating assistance grants. In 1971, the transit district and ATU local 757 signed the first section 13(c) agreement; in June 1975 and July 1975 they executed two additional agreements.

In March 1980 the transit district submitted a grant application to UMTA that included \$280,000 to rehabilitate six buses, adding 5 to 10 years to their service life. In June 1980 local 757 informed the transit district that it would not certify the project (i.e., sign the section 13(c) agreement) if it contracted out certain work that its members historically

had performed. In July the transit district informed local 757 that the district did not possess the specialized equipment, space or skilled labor to rehabilitate the buses in house, and contended that the contracting for work would not raise a section 13(c) issue since it would not impair the working conditions, security, or other rights of district employees.

During subsequent negotiations, local 757 notified LMSA that it did not object to certifying part of the project, but that it could not certify the bus rehabilitation work. Later in August 1980, the local informed LMSA that since its members historically had not done certain kinds of the rehabilitation work, it would not object if the transit district contracted out the exterior bodywork (including retrofitting lifts and rear doors), machine tooling, frame work, and painting; but that all other work must be done in-house. The local's position was unacceptable to the transit district since it believed it was not economically feasible to separate the rehabilitation project. As a result of local 757's position, in September 1980 the transit district modified its grant application by deleting the bus rehabilitation project.

Transit district officials estimated that it would have cost the district about \$500,000 more to purchase six new buses than the cost of rehabilitating the six old buses. However, the district later amended the UMTA grant to provide for other capital improvements rather than for the purchase of new buses. An official said that bus manufacturers were reluctant to bid on such a small number of buses and that the district equally needed other transit equipment and facilities.

SECTION 13(c) AGREEMENTS PROVISIONS ON
PARATRANSIT SERVICES

Paratransit is defined as nonconventional form of public transportation such as van pools, shared ride taxi services and special services for the elderly and handicapped. At 4 of the 12 transit authorities, we found section 13(c) agreements contained provisions affecting the authorities' management of paratransit projects.

The Tidewater Transportation District Commission, for example, had received grants for three paratransit projects. On one project the commission wanted to demonstrate that the Navy could use van pools to meet transportation needs not served by conventional fixed-route buses. To accomplish this objective, the commission planned to purchase 50 vans and lease them to the Navy. Consequently, in October 1975, it applied for a demonstration grant of \$550,000. Nine months later, in August 1976, LMSA certified the grant after the commission and the local 1177 negotiated a section 13(c) agreement which provided that (1) the project would not compete with existing bus routes, (2) the van pools would be restricted to routes not served by a fixed-route bus, (3) ridership would be restricted to the military and related civilian personnel, and (4) local union personnel would maintain the vans.

The commission estimated that because of the delay in certifying the project the cost of the vans increased by about \$25,000 due to inflation. Also, the commission said it planned to use nonunion personnel to maintain the vans.

However, because it had to use union personnel this increased its operating costs by about \$20,000.

When it initiated the project, the commission intended to transport military related personnel only, and to limit the project's operation. After the project was started, the commission received additional requests from other employers for this type of service. According to commission officials, however, it was unable to assist these employers because the August 1976, section 13(c) agreement prevented it from using Federal funds to expand the van-pooling project to areas served by a fixed-route carrier.

In another case, the commission requested a grant of about \$932,000 from UMTA to buy 15 vans and 2 light-duty buses--with wheel chair lifts--to transport the elderly and handicapped. Local 1177 officials agreed that the 15 vans could be operated by nonunion employees but maintained by union personnel. It insisted, however, that the two buses should be operated as well as maintained by union employees. The commission would not agree and it dropped the two buses from its application.

OTHER EFFECTS OF SECTION 13(c) AGREEMENTS

In addition to issues discussed above, we noted other effects of section 13(c) agreements.

For example, in Albuquerque, the United Transit Union in late 1980 would not sign section 13(c) agreements applicable to three operating assistance grants--totaling \$5.5 million--the Albuquerque Transit System had requested from UMTA in July 1980 until it obtained certain concessions from the city. On their face value, it appears that certain of

the issues involved were beyond the intended scope of section 13(c).

For example, local union officials contended that three Albuquerque transit supervisors were creating "ill will" among the employees. According to transit system officials, the union demanded the three supervisors be fired or it would not sign the agreement. The union signed the agreement after one of the supervisors was fired and the others were disciplined.

Also, union officials claimed that the transit system violated the collective bargaining agreement by allowing six part-time employees to work periods (1) other than during summer vacation and (2) in excess of 32 hours per week. Transit system officials admitted the violations. However, they believed that the violation of the collective bargaining agreement should not have an effect on the 13(c) agreement for operating grants. Nevertheless, transit system officials acceded to the union's request that the six employees be converted to full-time employees. By converting the six employees to full time, the transit system officials said it would incur additional costs of \$8,530 per employee or a total annual increase of \$51,180. Also, the six employees went from non-union as part-time employees to union members as full-time employees.

Protracted negotiations on 13(c) agreement

In July 1979, the New Jersey State legislature created the New Jersey Transit Corporation to operate public transportation service in the State by taking over various private bus firms. During deliberations on the proposed legislation, ATU officials unsuccessfully attempted to persuade the State

legislature to adopt certain employee protection rights such as the right to invoke interest arbitration. However, some of these rights were obtained during negotiations for a section 13(c) agreement in connection with the transit corporation's request for two UMTA grants.

The transit corporation and its predecessor agency had submitted requests to UMTA in 1979 for funds to acquire two private bus systems and to purchase new buses. The negotiations for a 13(c) agreement lasted over 18 months. Finally, on September 15, 1980, a 13(c) agreement was reached regarding the purchase of new buses, and on November 24, 1980, another agreement was reached relating to the purchase of the two transit authorities. Both agreements contained provisions allowing either party to invoke interest arbitration relating to disputes for benefits and work rules.

In another case, the Metropolitan Transit Development Board in San Diego was seeking to contract with a private or public firm to operate its new trolley system from downtown San Diego to the Mexican border. The Board was created by the California legislature to create and operate the trolley system which was to be funded by State gasoline and sales taxes.

Prior to opening the trolley system in 1981, the San Diego Transit Corporation submitted a proposal to the Board to operate the trolley facility. The corporation's general manager believed that the corporation was the logical choice to operate the trolley since it would be able to provide an integrated transportation system for the San Diego area.

However, the Board rejected the proposal. Corporation officials believed that its proposal was rejected because the Board feared that the local union could have used its section 13(c) agreement with the corporation to unionize the Board's trolley employees and thus obtain higher salaries for them.

The Board's general manager confirmed that, although section 13(c) was not the only factor, it was a major factor in influencing the Board's decision not to choose the corporation. He said Board members feared that if the corporation operated the trolley system, the unions could use section 13(c) agreement to obtain bargaining leverage to gain increased wages and other benefits. He said that the Board wanted to pay the trolley employees wages and benefits that were more comparable to other public employees rather than corporation's employees' salaries.

INABILITY TO NEGOTIATE SECTION 13(c)

We found that the Snohomish County Public Transit Benefit Area Corporation, near Seattle, Washington, did not obtain a \$1.4 million Federal grant because it and the ATU local 1576 could not agree on a section 13(c) agreement. As a result, the county's capital improvement program was delayed and, according to corporation officials, its capital expenditures will be increased by about \$3 million.

In 1975, Snohomish County formed the Snohomish County Public Transit Benefit Area Corporation to provide mass transit service to part of the county. In March 1977, the corporation applied to UMTA for a \$1.4 million grant to purchase new buses and other transit equipment. Corporation officials considered

this application to be the first phase of a 4-year capital improvement program costing \$8.4 million.

In June 1977, the corporation and ATU local 1576--which was the bargaining agent for transit employees in the area--began negotiations on a section 13(c) agreement but they were unable to come to an agreement. Because of the impasse, the corporation in July 1977, began negotiating with ATU's general counsel and LMSA in Washington, D.C. These negotiations lasted until March 2, 1978, and again they were unsuccessful.

Corporation officials said they could not sign the section 13(c) agreement proposed by the ATU because the agreement required them to submit to onerous legal liabilities. For example, they objected to including an interest arbitration clause in the section 13(c) agreement since it would obligate the corporation to arbitrate existing collective bargaining agreements. The corporation, however, said that interest arbitration is contrary to Washington State laws and that existing collective bargaining agreements do not provide for it.

As a result, the corporation withdrew its application for the UMTA grant. Corporation officials said that losing the \$1.4 million in Federal funds has had a significant impact on the district's capital improvement program by delaying its completion and thereby increasing costs due to inflation. For example, it took 2 years longer than planned to acquire the buses needed to provide route coverage and it has been unable to acquire bus signs and other transit equipment necessary for an efficient operation. Officials estimated

that the these delays will result in increased costs of about \$3 million.

OBSERVATIONS

Section 13(c) was enacted to protect transit employees from losing benefits and attain rights--including collective bargaining rights--and worsening their employment positions, as a result of the public takeover of private transit firms with Federal funds. Since the passage of the act, the employee protection agreements evolved from a simple document containing a warranty statement, in the early years, to agreements numbering many pages with numerous provisions.

Some agreements negotiated under section 13(c) included provisions gained beyond the original intent of the legislation--not only to protect the employee at takeover, but to gain additional benefits for transit employees and the transit unions. Furthermore, these additional benefits have, or could increase some transit system costs.

We also believe that in some cases, the necessity of negotiating a section 13(c) agreement was used to deal with issues section 13(c) was not intended to reach. Also, it seems clear that in some cases, the transit authorities and unions negotiated section 13(c) agreements that included provisions--particularly interest arbitration provisions at 6 of 12 transit authorities we visited which were not necessary to maintain the "status quo" but which could be used in reaching agreements on future collective bargaining issues. To try to compare the results of bargaining with

the benefit of these provisions with what would have been the results in their absence would of course be quite speculative.

Mr. Chairman, this concludes our prepared statement. We will be pleased to respond to any questions that you or other members of the Subcommittee may have.

12 SELECTEDTRANSIT AUTHORITIES AND UNION LOCALSVISITED BY GAO

<u>Transit authorities</u>	<u>Local union organizations</u>
1. Metropolitan Atlanta Rapid Transit Authority, Atlanta, Georgia	Local 732 <u>a/</u>
2. Metropolitan Transit Authority, Nashville, Tennessee	Local 1235 <u>a/</u>
3. San Diego Transit Corporation, San Diego, California	Local 1309 <u>a/</u>
4. Southern California Rapid Transit District, Los Angeles, California	Local 1277 <u>a/</u>
5. Tidewater Transportation District Commission, Norfolk, Virginia	Local 1177 <u>a/</u>
6. Port Authority of Allegheny County, Pittsburgh, Pennsylvania	Local 85 <u>a/</u>
7. New Jersey Transit Corporation, Newark, New Jersey	Local 819 <u>a/</u>
8. Lane County Mass Transit District, Eugene, Oregon	Local 757 <u>a/</u>
9. Snohomish County Public Transportation Benefit Association, Everett, Washington	Local 1576 <u>a/</u>
10. Municipality of Metropolitan Seattle, Seattle, Washington	Local 587 <u>a/</u>
11. City of Everett, Transit Division, Everett, Washington	Local 883 <u>a/</u>
12. Albuquerque Transit System (Sun Tran), Albuquerque, New Mexico	Local 1745 <u>b/</u>

a/These local union organizations are affiliated with the Amalgamated Transit Union, Washington, D.C. In some cases, international officials were present during GAO's visits.

b/This local union organization is affiliated with the United Transportation Union, Cleveland, Ohio.

DEFINITION OF
INTEREST ARBITRATION 1/

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 final and binding.

The distinction between "rights" and "interests" is basic in the classification of labor disputes and in views as to arbitrability. Disputes as to "rights" involve the interpretation or application of laws, agreements, or customary practices, whereas disputes as to "interests" involve the question of what shall be the basic terms and conditions to employment.

The U.S. Supreme Court has explained, the fundamental distinction between "interests" and "rights" disputes in a 1945 decision 2/.

"The first relates to disputes over the formation of collective agreements or efforts to secure them. They arise where there is no such agreement or where it is sought to change the terms of one, and, therefore, the issue is not whether an existing agreement controls the controversy. They look to the acquisition of rights for the future, not to assertion of rights claimed to have vested in the past.

"The second class, however, contemplates the existence of a collective agreement already concluded or, at any rate, a situation in which no effort is made to bring about a formal change in terms or to create a new one. The dispute relates either to the meaning or proper application of a particular provision with reference to a specific situation or to an omitted case. In the latter event the claim is founded upon some incident of the employment relation, or asserted one, independent of those covered by the collective agreement * * *. In either case the claim is to rights accrued, not merely to have new ones created for the future."

1/Frank Elkouri and Edna Asper Elkouri, How Arbitration Works, Third Edition, 1973, The Bureau of National Affairs, Inc., Washington, D.C., p. 2 - 47.

2/Elgin, J. & E. Ry. Co. v. Burley, (65 S.Ct. 1282, 1290, 16 LRRM 749, 1945), involving the Railway Labor Act. The Court noted that the two basic types of disputes are traditionally called "major" and "minor" disputes in the railroad industry.

