

Caterpillar's Prolonged Dispute Ends

This spring, members of various United Automobile Workers locals at Caterpillar Inc. ratified a contract proposal that ended a 6½-year struggle, which demonstrated the weakness of confrontational labor tactics in the 1990s.

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Last March, a 6½-year dispute ended when members of the United Automobile Workers at Caterpillar Inc. ratified a 6-year agreement that replaced an agreement that expired in September 1991. The dispute was one of the most contentious and highly publicized labor-management conflicts in recent years. It reverberated from Caterpillar's factory floors to its executive boardroom. It involved a highly sophisticated corporate campaign that reached from the heartland of the United States to several foreign countries. And it spoke about the right of free speech during industrial disputes.

The accord followed on the heels of a proposed settlement that was soundly rejected by the rank-and-file a month earlier. The workers rejected the settlement because it failed to provide the guaranteed reinstatement of all 160 union members, whom the union said were illegally fired during the dispute. That was a major issue for the vast majority of the rank-and-file who felt honor bound to fight for

their discharged comrades.¹ The new pact assures the return of the 160 workers and the arbitration of additional cases involving another 200 workers whose dismissals were not as a result of the contract dispute.

Except for the effective dates, other terms of the new agreement parallel those of the rejected pact. Key economic provisions, which apply to most covered workers, include an immediate wage increase, ranging from 2 to 4 percent, depending on a worker's job classification; lump-sum payments in 1999, 2001, and 2003, equal to 3 percent of an employee's previous year's earnings; and continuation of the cost-of-living allowance provision, which is expected to generate, on average, about \$2.07 per hour in increased wages over the term of the agreement.

Several improvements were made in the pension area as well. The monthly pension benefit for future retirees increases in five stages, reaching \$38.50 for each year of credited service for employees who retire on or after April 1, 2003. Basic pensions

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are supplemented, up to \$5 per month for each year of credited service, for employees who retire on or after October 1, 1994, and up to \$7 per month for each year of credited service for retirements on or after April 1, 2002. Other pension enhancements include increases in early retirement supplements; credited service for periods of the strike between May 31, 1995 and March 1, 1998; and lump-sum payments for workers who retired before the agreement was ratified.

Other contract changes favorable to the union included a moratorium on most plant closings, the reinstatement of grievance procedures, enhancements in provisions dealing with union representation, increases in sickness and accident benefits and in long-term disability benefits, and improvements in dental and vision care benefits.

In return, the union agreed to drop 443 unfair labor practice complaints filed during the strike with the National Labor Relations Board (NLRB), the Federal agency responsible for processing them. Some of the complaints had already reached the advanced stages of processing in the NLRB and had even been submitted to the courts. But the most politically sensitive concession agreed to by the Auto Workers was the granting of amnesty to some 4,000 union members who crossed picket lines during the strike and, thus, could be expelled from the union.

In addition, the union accepted terms that allow the company to pay new employees lower wages, institute more flexible work schedules, use more temporary employees, and require current retirees to pay insurance copayments.

Parties to the dispute

Caterpillar, headquartered in Peoria, Illinois, is the world's largest manufacturer of construction, farm, and mining equipment and natural gas and industrial gas turbine engines, and is a leading producer of diesel engines. The company employs more than 57,000 workers worldwide, including about 16,500 in the United States, and

has more than 70 manufacturing facilities around the world. In 1997, Caterpillar had revenues of \$18.9 billion and had profits of \$1.7 billion. About one-half of the company's sales were outside the United States.

The United Auto Workers, a prominent union in the transportation equipment manufacturing sector, represents about 13,000 Caterpillar employees at plants in and around Aurora, Decatur, Peoria, and Pontiac, Illinois; York, Pennsylvania; Denver, Colorado; and Memphis, Tennessee.

History of the dispute—1991

Overview. The 1991 contract negotiations between Caterpillar and the Auto Workers came during a period of changing times. The company was facing strong foreign competition and slumps in construction and farming. It was operating in the red, in contrast to the profits it had earned in the mid-to late-1980s. Complicating the situation, the company had reorganized in 1990, creating a number of profit centers with different competitive positions, labor costs, and other needs that would have to be met in a single contract. In addition, Caterpillar had a new chief executive officer (CEO), Donald Fites, who was known as a hard liner with little regard for unions.²

The Auto Workers were also experiencing rough times. In 1979, union locals at Caterpillar had 40,500 members. By 1991, that number had plunged to 15,100. The union felt its survival was at stake.

The 1991 bargaining round began on July 10, when company and union negotiators met to discuss ground rules for renegotiating their collective bargaining agreement that was set to expire on September 30.

A sign of trouble came early, when Caterpillar and the Auto Workers could not agree on where to hold formal contract talks, which were to begin in mid-August. In addition, other problems were lurking in the background of the dispute. The company, through a series of ads in local news-

papers, made known its concerns about the prolonged slump in its domestic markets, its competitive position in world markets, and the possibility of being forced into a settlement similar to the one the union might concurrently negotiate with Deere & Co., Caterpillar's major domestic rival.

Little progress was made in initial contract talks, so the union turned its attention to Deere, whose contract was also up for renegotiation in 1991. After an agreement was reached with Deere in October—which the Auto Workers were committed to use as a pattern—the union intensified negotiations with Caterpillar.

Caterpillar's contract offer at that time asked for one concession after another: No pattern on wages; employee contributions towards health insurance premiums; no guaranteed minimum number of union jobs; a two-tiered wage system; and flexible work schedules. These were items the union had won in past negotiations. Now, the company wanted to take them back and break from pattern bargaining.

Strike ensues. Formal contract talks ended on November 3. On November 4, immediately after the expiration of a strike deadline, about 2,400 union members at two plants in Decatur and East Peoria, Illinois walked off their jobs. A few days later, the company locked out 5,650 union members at non-struck plants in Aurora, Peoria, and East Peoria, Illinois. This became the 10th work stoppage between the parties in 43 years.

1992

Overview. It was a bad year for the strikers. Five months into the walk-out, Caterpillar did what most union members thought unthinkable: The company sent letters to the strikers warning them that, unless they returned to work in 1 week, they could be permanently replaced. Whether to return to work or continue to strike was not an easy decision for workers to make. Most of them were in their mid-40's, and more than half were within

6 years of retirement. Thirty percent had already crossed the picket lines.³ The strike was lost.

On February 7, Caterpillar announced that as a “good faith effort” to break the 3-month stalemate it would terminate the lockout of workers in Aurora and East Peoria and would stand ready to resume negotiations. The union agreed to meet with the company, but inexplicably extended its strike to include the previously locked out plants.

When contract talks resumed on February 19, Caterpillar presented its final offer to the Auto Workers. The proposal included general wage increases of 13 percent over 3 years (but only 3 to 4 percent for skilled workers over the same period), a cost-of-living allowance, and a two-tier wage structure for new employees; fully paid health benefits for workers using preferred provider services; enhanced job security, including a 6-year job guarantee for current employees and a 6-year plant closing moratorium; changes in work rules to allow work on weekends and 10-hour workdays without overtime pay; and improved pension benefits for active and retired workers.

The union, adamant on the issue of a pattern settlement, rejected the contract offer, which it characterized as a “pittance and a continued avoidance of serious, traditional bargaining.”⁴ It threatened a companywide strike to begin later in March.

On March 8, Caterpillar announced that it had reached an impasse in bargaining with the Auto Workers. However, the union disagreed, saying that it had not submitted its final offer to the company.

After squabbling over meeting dates, the parties resumed contract talks on March 25; but both sides continued to take a hard line in negotiations. Two days later, the union filed unfair labor practice charges, alleging that the company conducted improper surveillance, intimidated and threatened striking and locked-out workers

at two plants (Aurora, Illinois and York, Pennsylvania), and failed to bargain in “good faith.” (The NLRB later dismissed these charges.)

On April 2, Caterpillar sent letters to its 10,700 striking workers telling them to return to work by April 6 or potentially “lose their place in a reduced workforce. They could be replaced by a returning striker, an employee recalled from layoff, or a permanent new hire.”⁵ The company also ran advertisements in local newspapers for replacement workers. In turn, the union extended its strike to four additional plants in Illinois, bringing the number of workers idled to 12,600.

At the request of the Federal Mediation and Conciliation Service—the Federal agency that mediates labor disputes in most industries—the parties met on April 13, but little or no progress was made. The Federal mediator proposed a compromise: The strikers would return to work, the company would stop trying to hire replacements, and the parties would withdraw their last contract offers and return to the bargaining table within 90 days. The company agreed to stop hiring replacements, but only if the union would return to work under the imposed agreement. The union refused to accept the terms.

Strikers return to work. One day later, the Auto Workers, in a surprise move, called off their 5-month strike and agreed to return to work “unconditionally” under the terms of the company’s final offer, while the parties continued to bargain. In turn, Caterpillar agreed to stop hiring permanent strike replacements and to allow strikers to return to work. Six days later, striking employees began returning to work.

During May, the parties held informal, low-level contract talks that reportedly centered on health care and job security issues. The negotiators reported that little or no progress was made in the talks.

In June, the union’s bargaining strategy focused on attempts to pres-

sure Caterpillar to withdraw its final offer and to agree to concessions. The union began to use in-plant actions, such as slowdowns or “work-to-rules,”⁶ to induce concessions, and a corporate campaign (which included picketing businesses selling the company’s products) to focus public attention on the dispute.

On July 2, the NLRB (Region 33) dismissed three unfair labor practice charges filed by the Auto Workers against Caterpillar.⁷ In those charges, the union alleged that the company had conducted improper surveillance of union officials and employees and had intimidated and threatened striking and locked-out workers. Three weeks later, the Auto Workers withdrew charges of bad-faith bargaining by the company because it believed it would lose the case.⁸

On September 1, Caterpillar made a modified contract offer, extending for 3 more years the terms it imposed on strikers when they returned to work in April. The union rejected the proposal, the first made by either party since the strike ended. Meanwhile, the union continued to pressure Caterpillar with work slowdowns. Some industry analysts speculated that the slowdowns had cut production at the company’s three major plants by as much as 40 percent.⁹ Caterpillar denied that the slowdowns were effective and said that production and quality had increased since the union began conducting its work slowdown campaign.

On December 1, Caterpillar implemented most of the remaining terms of its final offer of February 19, 1992. Among them was a flexible scheduling provision under which employees’ work schedules could include weekend work, shift work, or four shifts of 10 hours each without overtime. Other terms included improved pensions, various changes in health care benefits, and limitations on employer contributions to retirees’ health insurance expenses.

A few days later, the NLRB (Region 33) issued an unfair labor prac-

tice complaint against Caterpillar after the company barred employees from wearing “prounion expressions” on certain clothing items (buttons, hats, and black armbands). The company said it banned the items because they were “personalized attacks and messages that seem divisive to any employee.”¹⁰ Later in the month, the Board (Region 33) filed another unfair labor practice complaint against Caterpillar, alleging that the company refused union members representation by no longer paying the salaries and benefits of 29 full-time union committee members. (An administrative law judge subsequently ruled that the company was within its rights to do so.)

1993

Overview. During the year, Caterpillar and the union made little progress in resolving the dispute; in fact, they did not hold formal contract talks at all. Instead, they continued their “cold war,” resulting in a further rash of unfair labor practice charges and complaints issued against both parties by the NLRB.

By January, the union had filed 58 unfair labor practice charges against Caterpillar with the NLRB. The Board had issued five complaints based on these charges.

On February 25, the NLRB (Region 5) issued an unfair labor practice complaint against Caterpillar. It alleged a “top-to-bottom pattern of assault against workers’ rights” through a series of actions, including unlawful suspension of several union members because of protected union activities, discouraging employees from using the grievance procedures, and limiting employees’ right to free speech.¹¹

On March 2, the NLRB (Region 33) filed an unfair labor practice complaint against Caterpillar because the company refused to provide the union with information on job assignments. The union claimed that Caterpillar had given preferential treatment in job assignments to workers who had crossed the picket lines during the 1992 strike.

The NLRB found that “the requested information is necessary and relevant to the union’s function as bargaining representative to monitor job assignments.”¹²

Two weeks later, under a settlement reached with the NLRB (Region 33), the Auto Workers agreed to stop picketing independently owned and operated Caterpillar dealerships. The union had picketed various Caterpillar dealers, including some independent operators, as part of its corporate campaign to bring the company back to the bargaining table and negotiate more favorable contract terms.

“Cold war” escalates. In late April, the cold war escalated when Caterpillar indefinitely suspended 140 workers at its Mapleton, Illinois foundry because they were wearing T-shirts reading, “Permanently Replace Fites,” referring to Donald Fites, Caterpillar’s CEO. There had already been a number of instances when Caterpillar had employees and union representatives arrested for wearing T-shirts with similar messages while on company property.

In early May, Caterpillar announced that it would no longer discipline workers for wearing controversial T-shirts while the issue was pending before the NLRB, which had issued several complaints against the company over this issue.

On May 21, the NLRB (Region 33) issued an unfair labor practice complaint against Caterpillar for discriminating against union members in its hiring and tenure practices. The complaint stemmed from Caterpillar’s action at its East Peoria, Illinois plant in June 1992, when it gave “superseniority” for shift purposes and job classification to employees who crossed the picket lines during the strike.

On September 9, 715 workers at Pontiac walked off their jobs to protest the suspension of a union official who was in the process of filing a grievance. Later that day, almost 2,000 workers at Caterpillar’s Aurora facilities went out in support of their fellow union members.

Two months later, the tension and acrimony between the parties spilled over into a 3-day walkout by 12,000 workers at 8 plants in 3 States. The strike began on November 12 at Caterpillar’s Mossville, Illinois plant in protest over the suspension of a union official for allegedly shoving a supervisor during an argument at the plant. It quickly spread to the other seven plants.

On December 15, the NLRB (Region 33) issued another complaint against Caterpillar, this time alleging that the company unlawfully suspended and then fired a union official who had testified against Caterpillar during an on-going unfair labor practices trial. The Board also sought injunctive relief to compel Caterpillar to immediately reinstate the discharged employee.

1994

Overview. During the year the union continued its efforts to force Caterpillar to renegotiate a new collective bargaining agreement. It did so primarily through its in-plant campaign and by filing unfair labor practice charges with the NLRB, which by January had issued 62 complaints against the company. As tensions mounted, a rash of selective, short strikes took place over alleged unfair labor practices by Caterpillar. These were followed by a nationwide walkout in June, the second in 3 years. Unlike the 1991 strike, which was over economic issues, the union hoped that in this dispute the unfair labor practice charges would bar Caterpillar from permanently replacing its striking union workers.

On April 26, about 2,800 workers in Decatur and Aurora, Illinois, staged a 1-day spontaneous walkout in protest of the suspension of an employee’s right to act as a shop steward. Caterpillar alleged it had suspended the shop steward’s privileges because the individual had abused the grievance procedures.

Two weeks later, some 750 employees in Pontiac, Illinois, walked off their jobs for 2 days when the company al-

legedly suspended an employee without the benefit of proper union representation. Just as those workers were returning to work, some 1,100 workers in York, Pennsylvania, struck over the alleged mistreatment of a union steward. The walkout lasted 1 day.

On May 16, a number of workers on the first shift at Caterpillar's Mossville facilities struck over the indefinite suspension of 37 workers who brought in balloons with union slogans and refused to deflate them. The 4-day walkout quickly spread to other Caterpillar facilities in the Peoria, Illinois area, idling some 7,000 workers.

Meanwhile, on May 13, Caterpillar proposed resumption of contract talks, but the union rejected the overture because of a condition set by the company: Caterpillar agreed to withdraw its final contract offer and return to the bargaining table on the condition that the union agree to a binding membership vote on a subsequent final company proposal if bargaining negotiations reached a stalemate. The union claimed that this would impose "unprecedented interference with internal union procedures" and suggested that its membership be allowed to choose between the terms of the currently imposed contract and the one in effect between 1988 and 1991.¹³ If Caterpillar rejected that proposal, the union said it would put the company's current offer to a vote. Caterpillar rejected that scheme, and demanded that workers only vote on the currently imposed contract.

Although nothing came from these overtures, the parties agreed to continue to seek a resolution of the then 2½-year old dispute, which, since September 1993, had led to eight selected walkouts by union members over alleged unfair labor practices.¹⁴

On June 7, the union conducted its ninth selected strike, this time in protest over alleged illegal suspension of four workers at a plant near Aurora, Illinois, who refused to remove union picket-type signs from the work place. Three days later, the union agreed to end the stoppage. Caterpillar refused to accept the union's unconditional

offer to have all 1600 strikers return to work, but did invite strikers to return to work on an individual basis.

The union then threatened to conduct a company-wide strike if Caterpillar did not agree to hold contract talks or if the meetings did not lead to a resolution of the 92 unfair labor practice complaints levied against the company by the NLRB.

Workers walkout. On June 20, Caterpillar and the Auto Workers returned to the bargaining table—for the first time in 2 years; but, they only held a 40-minute perfunctory bargaining session. Apparently, the stumbling block to serious negotiations was the parties' disagreement over the reinstatement of 14 union members whom, the union alleged, had been illegally discharged because of union activities.

The union had set a strike date for the third shift on June 21, if an agreement was not reached by then. However, some 7,000 workers at plants in Peoria and Pontiac, Illinois walked out early, on June 20. An additional 6,000 workers joined the strike on June 21. The union said it conducted the walkout to pressure the company to resolve some 150 allegations of unfair labor practices and to agree to a new contract. The company maintained that the strike stemmed from the union's effort to coerce it into a pattern settlement.

In the wake of the walkout, Caterpillar took decisive action. The company warned strikers that they would have to pay the total costs of health insurance during the strike. A couple of days later, Caterpillar began advertising for new full-time employees whom, the company insisted, were not strike replacements. Both parties had dug in for the long haul.

By October, Caterpillar was staffing its eight struck facilities with a makeshift work force. The company had reassigned some 5,000 white-collar employees to work on the factory floors and hired 1,200 full-time new hires and 2,500 temporary workers to make up for the loss of striking workers. These employees were in addition

to some 4,000 workers who crossed the picket lines, evidence of the wide crack in the union's solidarity.

1995

Overview. During 1995, Caterpillar continued to earn record profits with its makeshift work force, while some 9,300 strikers held firm on the picket lines, waiting for some good news. In June, two of the international union's top leaders retired: Owen Bieber, president of the union, who was replaced by Stephen Yokich; and Bill Casstevens, Secretary-Treasurer and chief negotiator for the Caterpillar talks, who was replaced by Richard Shoemaker. In December, the strikers returned to work without a contract.

In early January, the union asked the Federal Mediation and Conciliation Service (FMCS) to arrange formal contract talks with Caterpillar. After sparring over ground rules, the parties agreed to meet on January 20th for the first formal negotiations session in 6 months. Apparently, one of the stumbling blocks was the union's insistence that it reserved the right to discuss all issues facing the parties, including some 120 unfair labor practice charges filed by the NLRB.

On February 5, the FMCS recessed negotiations after 4 days of fruitless meetings. Caterpillar accused the Auto Workers of orchestrating "a charade" with meaningless talks. The company claimed the union had submitted an economic proposal little different from the one it had made in 1991 when the dispute began. The union disagreed, saying its proposal contained "significant modifications" from its previous ones.¹⁵

On March 16 and 17, Caterpillar and the Auto Workers resumed contract talks with the assistance of FMCS mediators. Unlike February's meetings, these negotiations centered on noneconomic issues. The union reportedly amended its position on some 40 items. According to press reports, some progress was made in the talks.

After a 2-month break in negotiations, the union requested that contract talks be held on May 13. Caterpillar rejected the overture, saying the proposed meeting was “hastily planned.”

On May 18, an NLRB administrative law judge dismissed several allegations of unfair labor practice complaints levied against Caterpillar. Among his findings, the judge ruled that Caterpillar’s union-represented workers did not have “the protected right to impair production through such tactics as work-to-rules.” This dealt a blow to the union’s future use of such non-strike actions to pressure Caterpillar into an agreement. The union said it was appealing the decision because it “flies in the face of the facts and the law.”¹⁶ In addition, the judge dismissed several other allegations of unfair labor practices against the company, including a charge that Caterpillar illegally fired a union activist who participated in the union’s in-plant campaign. At the same time, the judge found Caterpillar guilty of discharging an employee for conducting union activities that are protected under the law, and for interfering with union members’ rights to distribute and display union materials and to talk with union officials on the work site.

The next formal negotiation meetings held were on August 29-31. The contract talks were the first for new Auto Workers Vice President Richard Shoemaker. Some labor relations practitioners felt that the leadership change of June could affect the strategies used by both parties.

Subsequent national (master) negotiation sessions were conducted on September 14-15. Based upon the progress of the national talks, meetings were held by local representatives of the union and the company at eight plant locations between September 18 and September 22, sparking speculation that Caterpillar had presented the Auto Workers with a master contract offer at the September 14-15 meetings.

On November 7, Caterpillar notified striking workers that it would stop their accrual of pension credit, retroactive to August 15, 1995. The NLRB

(Region 33) threatened to issue an unfair labor practice complaint against the company, which already had more than 100 filed against it since the dispute began.

On November 28, following a series of “discrete,” high level meetings, Caterpillar presented the union with a comprehensive proposal to end the strike. Five days later, the 17-month strike came to an abrupt end after the union’s Caterpillar Central Bargaining Committee voted to “recess” the strike and make union members “available immediately and unconditionally for return to work,” even though the rank-and-file rejected the contract proposal that same day.¹⁷ The union’s offer to unconditionally return to work was “a significant defeat for the union” and may have reflected the union’s view that the strike had been lost and that it must save its members’ jobs.¹⁸

Terms of the rejected settlement reportedly were substantially the same as those that were on the table before the strike began, but were substantially less generous than those accepted by Caterpillar’s domestic competitors, Deere & Co. and J. I. Case, in their last bargaining round. The 6-year tentative agreement included language that would have restricted job security and union activity, required participation in a managed health care plan, established a two-tiered wage scale, and allowed the company to implement flexible work schedules. It would also have frozen wages, reduced cost-of-living adjustments, capped future retirees’ medical costs after the year 2000, and allowed Caterpillar to hire part-time, temporary employees—up to 15 percent of a business unit’s hourly employment—at new-hire wage rates.

Caterpillar had survived the strike and kept up production and profits. How? The company had prepared for a future strike after the Auto Workers’ 1992 walkout. After the 1994 strike began, Caterpillar supplemented its production workforce with management and office employees (many of whom had worked in the factories dur-

ing the 1992 strike), temporary workers, permanent new hires, union members who crossed picket lines, and skilled workers borrowed from its dealers. The company imported machines from its plants in Europe, Japan, and Brazil; shifted work to nonunion plants; and reaped the benefits of having spent \$1.8 billion to automate its production facilities. Caterpillar also encountered a rising demand for its products and avoided massive customer defection during the strike.

Meanwhile, on December 8, the NLRB (Region 33) moved for the dismissal of charges against Caterpillar concerning the company’s “permanent code of conduct,” which regulated workplace conduct and disciplinary procedures for employees, because the company had modified them so that they would be acceptable under labor law. The NLRB, however, said it would continue to press the company on its “temporary standards,” which, according to the Board, acted as a “broad gag rule” and infringed on workers’ rights of free speech under the law. These rules, which were to be in effect for 8 weeks after the strikers returned to work, “forbade the wearing or displaying of apparel, material, and conduct relating to the labor dispute.”¹⁹

1996

Overview. When the strikers returned to work, they found a new work environment, one in which Caterpillar had strict “temporary” rules of behavior which would limit their conduct and speech. But, even with that, workers continued their in-plant and work-to-rules campaigns. The workplace became a battleground between union activists who complained about the company’s alleged “arbitrary, often vindictive management style” and its “union busting,”²⁰ and management who felt that union activists would do whatever it took to “get your goat—to draw a foul.”²¹ Meanwhile, Caterpillar continued to roll on. In 1996 the company earned record profits for the third year in a row.

In early January, the parties met to discuss issues relating to worker discharges and discipline. Apparently, little or no progress was made in the talks.

In late January, an administrative law judge found, among other things, that Caterpillar discriminatorily disciplined six workers for union activities protected under labor law. This was the fifth in a series of decisions issued in the consolidated hearings. By then, administrative law judges had issued decisions for 25 of the 196 unfair labor practice complaints filed by the NLRB.

In June, an administrative law judge ruled that a local union president had the right to wear a protest button aimed at Caterpillar CEO Donald Fites. The action stemmed from an incident in 1993 in Denver, Colorado, when the local union president was suspended for wearing the button and 30 employees staged a walkout in protest.

Caterpillar declares impasse. On August 27, because of the union's position on employee discharges, Caterpillar declared an impasse in negotiations and announced that, effective October 1, it would unilaterally impose new contract provisions similar to those in the contract proposal that had been rejected by the rank-and-file the previous December. The union had proposed that all discharges occurring before, during, and after the strike be subject to arbitration, while Caterpillar wanted only those that occurred after the strike ended to go to arbitration.

On the same day, the full NLRB (three-member board) issued its first rulings on the various unfair labor practice complaints that had been filed against Caterpillar. Among their decisions, the Board found that Caterpillar discriminated against 500 reinstated strikers in violation of the law by giving union members who crossed the picket lines preferential treatment in job assignments. The Board also upheld several decisions by an administrative law judge involving union members' rights to express pro-union

and anti-company sentiments. In addition, the Board overturned the administrative law judge's ruling that had sustained management in charges that they improperly questioned union members about union activities and improperly prevented employees from filing grievances.

On August 30, the NLRB (Region 33) issued a consolidated unfair labor practice complaint against Caterpillar, alleging that the company violated labor law when it disciplined almost 100 workers following their return to work in December 1995. The company said the actions were justifiable under its new temporary code of conduct. As of that date, the NLRB had issued more than 300 unfair labor practice complaints against Caterpillar.

On October 1, Caterpillar announced that it decided not to impose new terms of employment on its union-represented workers, because it intended to meet with the union to discuss the issue of employee discharges. The parties met on October 7, discussed various options, and recessed the talks without coming to an agreement.

On October 31, an administrative law judge issued two sets of decisions. The judge ruled, among other things, that Caterpillar committed an unfair labor practice when it refused to participate in one of the steps in the grievance procedures in a June 1993 dispute at an East Peoria, Illinois, plant. In a second opinion, the judge found Caterpillar guilty of bad faith bargaining when it instituted an incentive program at another East Peoria, Illinois, plant in June 1993, without bargaining with the union.

On December 10, the full Board issued two rulings relating to decisions made by administrative law judges in June. In the first, among other things, the Board reversed the decision of an administrative law judge and ruled that Caterpillar had unlawfully fired a Mossville, Illinois, plant union activist who was involved in the work-to-rules campaign and was disciplined under the company's gag rule. In the other ruling, the board upheld the

judge's findings on several other violations of employees' rights to free speech. But, the Board declined to issue a ruling on whether the work-to-rule campaign was a protected activity under the law.

1997

Overview. The momentum in the dispute shifted perceptibly during the year because of two events. First, the NLRB issued a complaint against Caterpillar alleging that the 17-month strike resulted from unfair labor practices committed by the company. Second, Federal Mediation and Conciliation Service director John Calhoun Wells entered into the dispute, which put more pressure on the parties to reach an agreement.

On January 16, the NLRB (Region 33) issued a complaint against Caterpillar, alleging that the 17-month strike was based on a pattern of unfair labor practices committed by the company, as evidenced by the 92 unfair labor practice complaints that were filed before the strike began. In the complaint, the NLRB also alleged that the strike was prolonged by the unfair labor practices committed by the company since the strike began. This was important to the union because, under the law, when a strike is caused by an unfair labor practice, strikers must be reinstated; and, in this instance, they were not.

On May 2, FMCS director Wells announced that he would become personally involved in efforts to resolve the long-standing dispute. The director, along with FMCS regional director Scott Beckenbaugh and the director of mediation services Dan O'Leary, met individually and jointly with company and union leaders seven times during the year to discuss the major issues in dispute and search for common ground. Their last meeting was in mid-December, at which time the parties agreed to resume local bargaining.

Meanwhile, on May 28, the NLRB (Region 33) issued another unfair labor practice complaint against Cater-

pillar, alleging, among other things, that the company delayed the return of strikers by up to 26 weeks, while retaining some 1,200 replacement workers. In addition, the Board alleged that Caterpillar discriminated against strikers in terms of shift changes, job assignments, and transfers.

On November 7, tension boiled over at Caterpillar's Mossville, Illinois plant, leading to a brief walkout by several hundred workers in protest of the company's alleged refusal to deal with their concerns over issues such as work schedules, overtime, and the number of hours of work.

1998

Overview. In mid-February, the union and the company finally reached an agreement with the help of the director of FMCS. But why would Caterpillar be willing to agree to a new contract? After all, the company was in control; it had earned record sales and profits with or without the strikers. But, Caterpillar needed to satisfactorily settle the 440-odd unfair labor practice charges which had by then been filed against it by the NLRB. Besides being costly to defend, the company faced huge liabilities if the NLRB found for the workers; and one of the company's demands in any settlement would be the dropping of these charges. Besides, Caterpillar's sales and profits were declining because of a stronger dollar and a slow-

down in growth abroad. The company needed a flexible collective bargaining agreement and a less hostile workforce to sustain itself in the next downturn.

Formal Bargaining resumes. On February 1, Mr. Wells and the parties met for a 12-hour bargaining session, the first formal joint negotiation session between the parties since November 1995. At the request of Mr. Wells, the parties returned to the bargaining table on February 12, worked through the day and into the early hours of the next day, and struck a deal. A 30-member bargaining committee from Caterpillar and 54 representatives from the Auto Workers' local unions participated in the meetings.

The 6-year tentative agreement included several terms that proved to be too hard to sell to the rank-and-file. As part of the deal, the union agreed to drop more than 440 unfair labor practice complaints filed with the NLRB since 1992. Some of the complaints had already reached the advanced stages of processing in the NLRB and had even been submitted to the courts. Another provision would have allowed 110 of the fired strikers to immediately return to work but would have required arbitration to determine the fate of 50 others. But, perhaps the most politically sensitive concession agreed to by the Auto Workers was the granting of amnesty to some 4,000 union members who

crossed the picket line during the strike. The rank-and-file rejected the tentative accord, by a 58-percent majority in voting held February 20-22.

On March 16, Mr. Wells arranged a telephone conference call between the parties; another tentative agreement was struck, letting the 50 fired employees return to work. A week later, the rank-and-file approved the agreement by a slim 54-percent majority. The moment was succinctly captured by George Boze, vice-president of Auto Workers' Local 974, who said, "The real victory in this struggle is the fact that after 6½ years, the membership was able to stay together well enough that the company had to come back to the table to bargain."²²

Legacy of the dispute

Leaving aside its symbolic significance as a test of organized labor's strength in a highly visible dispute, the long-term ramifications of this strike are less certain. It may weaken the solidarity and unity of the Auto Workers, as well as the resolve of other unions to use strikes to enforce contract demands in the face of employers' threats to use strike replacements; or it may only be another sad and bitter chapter in the sometimes tumultuous bargaining history of Caterpillar and the Auto Workers. It may redefine workers' speech and strike rights and reshape labor relations, or it may only be a footnote in the history of labor relations. ■

¹ *Wall Street Journal*, February 23, 1998, p. A3.

² *Los Angeles Times*, May 15, 1995, pp. A14-A16; May 17, 1995, pp. A9-A10.

³ *Los Angeles Times*, May 14, 1995, pp. A1, and A15-A16.

⁴ *Daily Labor Report*, No. 35, February 21, 1992, p. A-9.

⁵ *Daily Labor Report*, No. 65, April 3, 1992, p. A-4.

⁶ In a work-to-rules campaign, employees precisely follow the language of the collective bargaining agreement in an attempt to slow or impede production.

⁷ The procedures for review of an unfair labor practice charge are as follows: After a charge is made, a field examiner in a regional office in-

vestigates it. If the case goes forward and the charge is found to be well grounded, a formal complaint is issued by the regional director. The case is then sent to an administrative law judge who holds public hearings on the complaint. The administrative law judge issues findings and recommendations that are sent to the parties and to the full (three-member) Board in Washington, DC. The full Board reviews the case and issues a decision and order.

⁸ *Star Journal*, July 25, 1992, p. A1.

⁹ *Daily Labor Report*, No. 18, September 18, 1992, pp. 1-2.

¹⁰ *Star Journal*, December 1, 1992, p. A1.

¹¹ *Daily Labor Report*, No. 39, March 2, 1993, p. A-8.

¹² *Daily Labor Report*, No. 43, March 8,

1993, p. A-17.

¹³ *Daily Labor Report*, No. 92, May 16, 1994, p. A-11.

¹⁴ The author was unable to identify one of the stoppages; the other eight are identified in the text.

¹⁵ *Wall Street Journal*, February 6, 1995, p. B2.

¹⁶ *Daily Labor Report*, No. 100, May 24, 1998, p. A-11.

¹⁷ *AFL-CIO News*, December 15, 1995, p. 1.

¹⁸ *Detroit News*, December 5, 1995.

¹⁹ *Daily Labor Report*, No. 170, September 3, 1996, p. A-4.

²⁰ *Union Solidarity*, September 1996, p. 1.

²¹ *Los Angeles Times*, May 16, 1995, p. A10.

²² *Daily Nonpareil*, March 23, 1998.