

January 1988

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Discussion

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### Recommended Citation

Discussion, *Discussion after the Speeches of Richard Martin Lyon and George W. Adams*, 14 Can.-U.S. L.J. 55 (1988)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol14/iss/11>

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## Discussion After the Speeches of Richard Martin Lyon and George W. Adams

*QUESTION, Professor King:* I have a question for Richard Lyon. You have given us the message of the experience in Japan. In terms of what is done there with messages, what transferability is there here? Do we take the Japanese system and try to emulate it or are there compromises to be made? That is a broad question, but it is probably a question that people might have on their minds.

*ANSWER, Mr. Lyon:* When you come right down to it, the reason that we have had problems in the United States is because there are unions in plants. I know that is a big generalization because General Motors did have non-union plants and did try flexible work systems, to some extent.

We have to educate managers; they must realize that these changes are desirable from a management standpoint, but that is not going to be easy. We also have to educate the employees, and that is not going to be easy. Why is change going to be difficult with management? Because while we are talking today about employment problems primarily in terms of widening units and hourly paid employees, any reader of the Harvard Business Review knows that this same problem will arise within corporate structures that have to adapt to the new economies. Peter Drucker wrote an intriguing article in one of the Review's recent issues. He talked about the corporation of the future being more like an orchestra or like a hospital. He said, "Have you ever seen an executive vice president conductor in an orchestra? You have very few people who are managing the operation and a lot of specialists." And he then referred to the hospital and said, "How many people operate in hospitals? There is an administrative layer, doctors with specialties and paramedical people who help all of those specialties." Our biggest problem is to get the message across that these changes have to come about if these companies are to survive. As I see it, this is really where the Japanese have it over us, because of slow promotions, for years you are underpaid, finally you make it and you get ready to retire, but still the whole organization works as an entity. Obviously that is going to be extremely hard to transfer to the United States, and obviously it is not going to work without some compromises. I know people who have worked for Japanese corporations, quit because they thought the pace was too slow, then moved to an American company operating at a specific pace. Whether or not they will have the same opportunities over the long run, I do not know. We have to primarily make changes in educating hourly paid workers and

the union. Don Hefflin, who is the head of the General Motors department at the UAW, came out with a public statement saying "We will cooperate provided we will not lose jobs."

Well, that is a very hard condition with which to comply. It is going to be a question of learning the best practices from wherever we can get them and follow those practices and proceed. I do not know if there are easy answers to it.

*COMMENT, Mr. Adams:* I am kind of optimistic that change is underway. If you look at any one of those large corporations in the United States and Canada, the people that are on the way up are the industrialization game of the human resource management-type: people with degrees and sensitivity in the areas of psychology and dealing with individual employees. In the 1940s-60s, managers were an expert in talking to a trade union counterpart. You were good at the negotiating table. You did not manage employees. That was done by some line people who "got in the way," and the personnel function was keeping records. You just made sure you had all of their names and ages and addresses, but you managed through the trade union. If you kept the union happy, then they kept the employees happy. We have learned over the last ten years that that is not managing.

You have to manage individual employees; you have to communicate directly to those employees and they have to understand you; you have got to build loyalty in them, not in the union. You have got to build questioning minds so that when militant radicals say, "Let's do this," there is a lot of information available to the employees so they can second guess and they can vote those radicals out of office if they are content with what is happening.

The communication strategies that employers or staffs use have changed dramatically, whether the company is union or non-union. The kind of newspapers that are put out for my employees, the information that is given to them at the time they pick up their paychecks lets them look at the paycheck and realize how significant it is in comparison to other things that are happening. The information keeps them in touch with company difficulties: challenges as well as successes. The fact that the Japanese have come into Ontario and into major states in the United States has helped, too, because it has allowed organized employers to say, "Look. This is what we're competing against." The competition is not in Japan, where you can just read about it, they are right down the street. They do not have all of these job classifications, they do not have this "we agree," they do not have these various restrictions, and they are a lot happier. You cannot organize Japanese factories. We want change. It allows a kind of moral dialogue at the negotiating table and it makes it difficult for the unions to just stay on the straight and narrow as they have for the last thirty years. This kind of change is coming, and things like free trade help.

*QUESTION, Professor King:* I have one question upon which Rich-

ard Lyon might want to comment. We are considering a raise in the minimum wage in the United States. In terms of impact, what is your assessment, Richard, if we do it?

*ANSWER, Mr. Lyon:* I will answer that in line with the comment you made when you opened the conference this morning. You talked about a competitive environment impact statement needed with new legislation. I have a degree in economics, but I have never been able to understand how this can be done effectively.

Recently, with the discussions that have taken place in the United States on the cost of plant shutdown prenotification, my eyes opened for the first time to the real cost impact. In principle, you wonder why would any employer oppose plant shutdown prenotification that is reasonable: thirty days, sixty days. After all, most of us would like to have, if not golden parachutes, at least some idea when a plant will shut down so we will know what happens to us as management.

I was amazed to read the study by the Robert Nathan Association on the fantastic cost, which went into the billions, that was involved in a notification program. So while emotionally, you say employers really should not oppose this, but when you look at the hard numbers, you understand why employers had to oppose it. It was not the concept, but rather the built-in penalties in the legislation.

To a lesser extent, I think you will see that this is true in the change in the minimum wage, but the change in the minimum wage is the kind of thing that employers have gotten used to over time. It happens we are in a non-inflationary period at this time. Where we will be in five years from now is another story. I think that is almost inevitable, if you look at the possible makeup of the Congress, that this is what is happening around us these days in the campaign. I have the same optimistic view that George Adams has; we will manage it. It will be costly. The question is, where do you draw the line between this type of protective standards legislation as compared to some other types of legislation? We have seen what these plant notification statutes provide for in Europe, and in other countries, so you could again say that it will all work itself out.

*COMMENT, Dr. McNiven:* I am going to add one more little piece of provincial confusion to Mr. Adams' view about the impact in terms of labor adjustment.

In Nova Scotia we were asked to go and interview every firm about what number of jobs they thought might be at risk under the FTA implementation. This was part of an extensive seesawing over whether or not the province liked free trade. I cannot give you the exact numbers because they are confidential, but approximately one job in sixty was at risk when we did this survey almost three years ago. By last fall, when we redid the same survey of the people who thought that they would have jobs at risk, the number dropped to one-third of that. When we com-

pared it to what we felt was the normal job loss in a normal year, that is, taking out the seasonal factors and taking out the business-pysche factors, the total over ten years came to about seven months normal job loss in a normal job year. If you string that over ten years, you are hard-pressed to figure out whose job is going to get lost to free trade, and whose job is not. It ends up being totally confusing because the number just falls in among the technology changes, product changes, changes in demand, everything else.

*COMMENT, Mr. Adams:* One of the difficulties with that, needless to say, is not being able to target an assistance program for it and governments are reluctant to develop programs. Therefore, the easiest thing to do if you want to politically respond to the public anxiety, even though the fear is misplaced, is to pass legislation that puts the costs on the employers. It has that cost impact, but it is transferred costs. Canadians in the east and the west are not going to deal with adjustments as severe as those in Ontario and Quebec where there is a terrific amount of U.S. investment right now. Where there is a lot of manufacturing, provinces are just going to have to reshape themselves in order to take advantage of U.S. markets.

*COMMENT, Dr. McNiven:* Possibly so. Our people have suggested, first, that the numbers in Nova Scotia indicate that adjustments were done before the FTA and not after the fact, so that by January 1 the adjustments were already done. The irony is that if the agreement were to fall through, a whole bunch of people who have already adjusted would then be all screwed up.

The second thing is that the rise in the dollar over the last six months or so has probably proved to have a more adverse effect on employment than the whole Free Trade Agreement projections could.

*COMMENT, Mr. Salembier:* I have a couple comments on these same issues. These studies of the Free Trade Agreement really fall into two categories. There is at least two dozen studies by the Economic Counsel and by numerous academics as well. They all predict basically the same sorts of effects. The adjustments can be very, very small relative to what normally goes on in the economy all the time. On the Ontario studies that you mentioned, one of our senior trade negotiators recently said that the imperial government seemed to be turning out these studies at a rate faster than they can be written.

The one that you referred to did really little more than a head count of the industries in Canada that had high rates of imports, then proceeded from there to say that these were vulnerable jobs. That is true. One other comment is that you say the governments are reluctant to introduce the adjustment assistance programs. The Federal Government spent over \$1.5 billion last year on exactly those kinds of assistance projects.

One of the reasons we have come to this judgment that we do not

need to target the new programs is because we have in place programs that work very well. We have the Industrial Adjustment Service that is being considered for emulation by thirty U.S. individual States.

*COMMENT, Mr. Adams:* It has got to be said, though, there has got to be a greater message sent out about what is in place.

I am involved on the employers side of collective bargaining on a day to day basis. It is not well known what exists out there. You get policy pronouncements that there will be a new program, there will be this, there will be that. Unless you are looking for it, the message is not there, and it is certainly missing from the editorials and newspapers. By understanding what is out there and what is available we could reduce the anxiety that exists.

*QUESTION, Mr. Donohue:* Mr. Lyon, you commented that the Japanese have a notably casual attitude toward law in the labor area. They have antitrust laws that are comparable to the U.S. laws, yet have been enforced less than 100 times. They seem to have wshed on the semiconductor agreement in this first instance. Based on your experience, how should North Americans deal with the Japanese? We are used to dealing on the basis of a written document, a handshake and then the other person goes forward. How should we, in trade and commercial negotiations, deal with people of a somewhat different mentality?

*ANSWER, Mr. Lyon:* I would say the first thing required is patience. The second thing that is required is a real feel for the approach that the other side takes.

If you read the Japanese legal literature in English, which is all I can do, the law is sometimes referred to on the same level as the ceremonial sword that each family keeps in their closet. It is not to be used, but it is there to remind you it is available.

When it comes to the law as a profession, the myth is that Canada and the United States have so many more lawyers. In fact, I mentioned the Deputy Secretary of Labor's comments on the efforts that we made to determine whether our laws further or hamper cooperation. Well, the Japanese have never looked at their laws from that standpoint.

I am going to say one other thing in relation to this. In Japan, there are more legally trained people. Here is the connection. The Deputy Secretary said they have fewer lawyers and maybe this is where the problem is: all the lawyers.

If you go to Japan, you would find that there are more people trained in the law than in this country. There are more engineers we always heard that. But you might say, with that many people trained in law, why do they have fewer lawyers? It is very simple: less than two percent pass the bar exams. If less than two percent were to pass the bar exams in the United States, we would have the same situation. What happens in Japan is that many of these people who are doing their undergraduate legal training are not interested in becoming lawyers. Those

who are take the bar exam and flunk. They do not really flunk in the American sense because they walk into corporate law departments, operate there and do everything a corporate lawyer does in this country, except they would not practice in courts or find jobs in the Ministries.

The few people who do, in fact, pass the bar, about 500 a year, go into the judiciary and all the law firms all over Japan. There is a scarcity. When you deal with these people, you are really dealing on the same level that you would deal with any New York, San Francisco, Washington, Chicago, or Cleveland lawyer. The problem is the client. The lawyers have great difficulties transmitting to the client the necessity to do things the way we do it because most clients will not have their lawyer with them when they go into negotiations.

In fact, when the other side appears with lawyers, that in itself can be a problem. I think we need either to encourage the Japanese lawyers we work with to be present and to simplify the proceedings or to do things just a little bit different ourselves when we go in to negotiate.

I will give you one quick example. There was some well known negotiations in the electrical industry. I think ITT was involved, and people talk about it a great deal when you go to Tokyo. There was not much disagreement as to the product to be sold, but there was some disagreement on the price.

The American negotiators made one very unfortunate mistake. When the price matter was discussed, the Americans immediately responded to what the Japanese told them. At this point, there was silence. It appeared to go on for hours, but it may have been only two minutes, when the American lawyer said, "We will cut it by \$250,000, will that do it?" Well, the Japanese were not about to suggest a lower price. They have a wonderful way of using silence as part of the proceedings.

You need to know that you have got to deal with it. I had the same thing happen to me in labor negotiations representing a Japanese client. The union representative said "Before we talk, we'll go out into the warehouse and show your lawyer how cold it is out there." They literally dragged me to the warehouse, and the temperature was horrible.

I went back into the negotiations and the teamster representative said, "Mr. Lyon, tell him." I said, "I'm not telling him anything. You dragged me out there, I saw what I saw, whatever you have to say, say." Well, there was silence. He made his presentation. The Japanese client, Mr. Ewatto, was as quiet as could be, and I was new at the game, so I said, "Mr. Ewatto, do you understand Mr. Kelley?" It never happened again I can assure you. Mr. Ewatto looked at me and said, "I'm thinking." With that, silence fell on the room. After a few minutes, he said, "Let's go on and negotiate the contract."

I think you see the same thing in all negotiations. It is a question of training, a question of experience, and a question of writing things readably.

When I write a letter of opinion to a Japanese company, you might think I am writing it for the local high school. I go over that letter four or five times. The letter that I send to their general counsel is very different from the letter I send to the operating person, because I know how it is being analyzed.

It is a question, as George pointed out, of communication, learning these cultural habits, being into it. Experience will tell you that you can do it. With respect to the force of the law, that will simply take time.

