PUBLIC EMPLOYEE STRIKES DEMANDING THEIR LEGISLATION AND THEIR SAFETY: A COMPARATIVE STUDY ON JAPANESE AND THE U.S. LAWS

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The nature and scope of this paper should be made explicit at the outset. This paper presents case studies of public corporation employee strikes since the early 1970's, classified into two groups according to their demands:

1) strikes demanding legislative action.
2) strikes over safety and health issues.

I. STRIKE PROHIBITION - LEGAL FRAMEWORK AND JURISDICTION

Just as U. S. laws in the federal public sector prohibit public employees from striking, Japanese laws in the public sector prohibit public corporation employees as well as civil servants from striking. The similar legal provisions of the two countries may be attributable to the historical circumstances by which the U. S. Occupation Forces after World War II brought to Japan the type of laws in the public sector then existing in the U. S. (1)

Both the Japanese Public Corporation and National Enterprise Labor Relations Act (PCNELRA) and U. S. laws(2) flatly prohibit strikes under penalties whose constitutionality have been sustained by the respective Supreme Courts. (3)

Article 17, paragraph 1 of the PCNELRA provides that

> Employee and unions shall not engage in a strike, slowdown or any other acts of dispute hampering the normal course of operation of the public corporation and national enterprise against it, nor shall any employees as well as union members and union officers conspire to effect, instigate or incite such prohibited conduct.

This anti-strike provision was held constitutional by the Supreme Court of Japan in the *Nagoya Central Post Office (Nagoya Chū-Yū)* case on May 4, 1977. [4] The Court's reasoning upholding the constitutionality of the prohibition was somewhat similar to that used in the U. S. Supreme Court decision in *Abood v. Detroit Bd. of Education* in 1977. [5] The Japanese Supreme Court in the *Nagoya Central Post Office* case found the public sector employment and private sector employment to warrant different treatment of strikes in the two sectors.

The Court gave five basic justifications for this difference in legality of strikes. Firstly, the resources for salaries and wages of public corporations are derived from public corporations' assets which belong to the nation. These resources are not profits earned by private establishments. Secondly, terms and conditions of employment of public employees should be decided using political, financial and social criteria. The decision-making process of terms and conditions of public employment should be subject to debate in the legislature in accordance with the rules of a democratic nation, the process of which is not based on agreement through autonomous collective bargaining as in the private sector. Further, the terms and conditions of employment in the public corporations should be determined by legislative debate in accordance with the principle provided in article 83 of the Constitution of Japan that "the power to administer national finances shall be exercised as the National Assembly shall determine."

Thirdly, strikes in the public sector distort the legislative decision-making process, and therefore violate the principles of legislative and judicial supremacy provided for in articles 41 and 81 of the Constitution. Strikes in the public sector could interfere with the representatives' voting right in the National Assembly.

Fourthly, the restraint of the market does not function in the

public sector. The right to strike would put unrestricted pressure on the Governmental Administration and the National Assembly in determining public employees' terms and conditions of employment. The pressure from strikes increases the dangers of distorting decision-making because of public corporations' market monopoly and resulting publicity. These factors differentiate public sector employment from that in the private sector where the profit motive is the primary determinant.

Lastly, employees in the public sector are hired by the government upon delegation by the public. Their employers are the public and their services are performed for the interests of the general public.

Strikes cause public services to more or less cease and they bring or might bring serious detriment to the common interests of the general public, including workers.

By using the above legal reasoning, the Supreme Court ruled that the flat strike prohibition provisions with their penalties were constitutional. As this case concerned strikes which disturbed the ordinary operation of postal services, in violation of the Postal Service Act which provides for criminal penalties as well as in violation of the PCNELRA, the criminal convictions of the union leaders of the Postal Workers' Union were affirmed.

The strong similarities between this Japanese Supreme Court decision and the U.S. Supreme Court decision in the *Adood* case are noticeable in at least two of the legal justifications cited above. The similar legal theories are that public sector strikes distort the political process of decision-making through budgetary appropriations, and that public sector strikes induce excessive pressure because of the lack of market constraints. These theories are also found in the New York Court of Appeals case of *Rankin v. Shanker* and *City of New York v. DeLury* both of which were decided in 1968.[6] Judge Fuld affirmed in these cases the constitutionality of the Taylor Law of New York State which flatly prohibits public employee strikes. Judge Fuld used reasons similar to the two mentioned above, the Taylor Report[7] which was the basis of the Taylor Law when enacted in 1966.

The Taylor Report was discussed in detail in 1967 in Professor George Taylor's paper[8], the author of which was the chairman of the

Taylor Committee which published the Taylor Report. This Professor's thesis was later espoused by Professors Wellington and Winter in their writings.[9] The "striking similarities between the (Japanese) court's logic and the views expressed in the Taylor Report (and. . .) the thesis espoused by Professors Wellington and Winter"[10] are also pointed out by Tokyo University Professor Kazuo Sugeno, former visiting scholar to Yale Law School.

Differences exist, however, between the Japanese PCNELRA and the U.S. law concerning strike prohibition in the public sector. First, the coverage of the laws are different. The PCNELRA is applied to the "three public corporations" and the "five national enterprises". The Japan National Railways (JNR), the Japan Telegraph and Telephone Public Corporation and the Japan Tobacco and Salt Monopoly Corporation are the three public corporations. The postal services, the state-owned Forestry Agency, the Government Printing Office, which includes the Currency Printing Office, the Currency Mint, and the Alcohol Monopoly are the five national enterprises.[11]

Secondly, the differences will be found in the number of illegal strikes, and the number of employees disciplined because of them. The number of strikes by public corporations, including the JNR and the Postal and Telecommunications Department from 1965 to 1976 is 90, while that of other concerted activities such as slowdowns is 84.[12] 2,476,969 employees were disciplined in some form from 1949 to 1976 because of illegal strikes.[13] Most of the disciplinary actions were warnings, (1,913,630), while only 92 employees were discharged because of illegal strikes.[14]

The main difference between Japanese laws and the U.S. law in the public sector lies in the provisions of the Japanese Constitution and its interpretation by the Supreme Court. The Japanese Constitution provides in Article 25 that "All people shall have the right to maintain the minimum standards of wholesome and cultured living" and in Article 28 that "The right of workers to organize and to bargain and act collectively is guaranteed." The interpretation of these articles by the Supreme Court as well as by the government is that public corporation and national enterprise employees have the right to maintain minimum standards of daily life under Article 25, but they have not Article 28

rights to bargain collectively or to act concertedly. Therefore, they do not have any right to strike. This is the interpretation adopted by the Supreme Court in the *Nagoya Central Post Office* case mentioned above.

In my opinion, strikes by public corporation or national enterprise employees should not be prohibited unless they endanger the public health and safety. Such judgment should be made on a case by case basis. This opinion derives from a progressive interpretation of the Japanese Constitution.

Article 28 of the Constitution, which guarantees workers' rights to organize, to bargain collectively and to act concertedly, does not explicitly exclude public corporation and national enterprise employees from its coverage. Article 14 of the Constitution provides for equal treatment of people regardless of political, social or economic status. This article guarantees equal treatment of public corporation and national enterprise employees and private industry workers, who enjoy the rights to bargain collectively and to strike under the Trade Union Act of 1945.

The other constitutional provisions supporting this interpretation are article 25 providing the right to maintain a minimum level of daily life, and article 13. Article 13 guarantees every person the rights to be respected as an individual and to pursue his own happiness and freedom unless the right interferes with the public welfare.

According to the articles, public corporation and national enterprise employees should have the rights to maintain a minimum level of daily life and to pursue their happiness unless they interfere with the public welfare. The important right is that of being respected as an individual by one's employer. This right contains the right of the individual as a worker to preserve her dignity when it is neglected by her employer. Such situation might occur if she was underpaid, or when her employer does not bargain in good faith.

In some cases, the only method to get rid of such a situation will be to strike. It is a weapon of last resort. Even public corporation and national enterprise employees should have the right to strike as a last resort to preserve their dignity as workers and by doing so they can enjoy the rights to maintain a minimum level of daily life and to

pursue their happiness.

The argument will be raised when public employees take strike actions bringing inconvenience to the public that the public also has the right to pursue his own happiness. When the conflict between the public employees' strike and the public inconvenience arises, the strike should be protected by the law if the demands of the strike are sufficiently compelling to outweigh the public inconvenience. This may occur because employees' health and minimum living standards depends on their earnings, which sometimes can only be protected by strike action. However, there should be a limitation of the public health and safety on such strikes. No one can endanger the health and life of others because these are fundamental to the dignity of a human being.

II. CASE STUDIES OF TWO STRIKES

A) *The Political Demands of the 1975 Public Sector Strike*

For eight days from November 26 to December 3, 1975 a political strike officially organized by the Council of Public Corporation and National Enterprise Union (CPCNEU) (Kōrōkyō) was carried out.[15] The characteristics of this strike in comparison with those of the 1970 Postal Strike in the U.S. differ in three aspects : object, methods and results.

First, the demand of the 1975 Japanese strike was mainly political, yet related to economic concerns because fulfillment of the political demand would likely raise worker's economic status. The demands were ; that the government propose to the National Assembly special legislation abolishing the existing PCNELRA legislation prohibiting strikes by public corporation and national enterprise employees ; that the government not take any disciplinary actions against union members and union activities until the new legislation had passed the National Assembly, even if "illegal" strikes occurred; and that the government revoke all disciplinary actions taken because of past "illegal" strikes.[16] There was no simple economic demand such a pay raise, but rather a complicated political demand for a change in legislation, which could be accomplished, the CPCNEU thought, by direct negotiation with the Government.

Secondly, the method used by the CPCNEU in this strike was an

authorized one, that is to say, elected union officers called the strike upon authorization by the members. The strike was called following union procedures unlike the 1970 U.S. postal strike.

Thirdly, the result of the Japanese strike yield nothing for the union; the Government refused even to negotiate the matter. The Conservative Government refused to sit at the bargaining table with the CPCNEU on the ground that the strike was illegal. This position was taken under pressure from the militant conservative wing of the Liberal Democratic Party (LDP), which controlled a majority of factions opposed to the then Prime Minister Miki who was also President of the LDP.[17]

In the case of the 1975 strike in Japan, the Government reacted to the strike by simply publicizing a unilateral statement that the strike should be called off.[18] The Government refused to negotiate with the CPCNEU for three reasons.

The Government first emphasized its view that abiding by the laws is a fundamental precept for a democratic country like Japan. After this general admonition, the statement gave its three reasons for refusing to negotiate. First, any strike by public corporation or national enterprise employees was prohibited under the law. Therefore, the strike at that very moment was undoubtedly illegal. Second, such strike which was causing suspension of both transportation and communications was damaging the daily lives of the public during a time of economic depression. Third, this strike was demanding the amendment of a law which should not be made under such illegal pressure as this strike.

However, the Government stated its readiness to review and to amend, as a whole, necessary parts of the relevant law, the PCNELRA, through debates in the National Assembly. The Government decided in an emergency cabinet meeting held on the sixth day of the strike that it would respect the recommendation and report made by the Expert Committee of the Ministerial Council on Public Corporations and National Enterprises which had been published on Novemeber 26, 1975, the day the strike had started.

Further, the Government promised to examine necessary measures to reinforce the three public corporations and the national enterprises,

such as reorganization of management, and new procedures for rate-setting decisions. Finally, the Government said it would try to implement these committments as soon as possible and submit necessary bills for administrative reform and amendment of the laws. (19)

The end of the strike was brought on by the pressure of public opinion, according to the CPCNEU. The CPCNEU decided to call off the week-long strike, with the reasoning that the CPCNEU sincerely understood that the public had been suffering from the strike, especially from its occurrence near the time of the year's end. (20) The Government had already strongly urged the CPCNEU to call off the strike by sending the CPCNEU the December 1 statement on the morning of December third. (21)

The unions gained nothing from the strike except reinforcement of their solidarity and their power to continue strikes for seven days, their longest strike to that date. Disciplinary actions were taken by the employers who were stung by CPCNEU's political demand for right to strike legislation. The number of workers disciplined reached almost eighty-five percent to ninety-five percent of union membership of the unions affiliated to the CPCNEU. The JNR decided to discipline more than 80,000 workers on January 19, 1976, (22) the Post and Telecommunications Department disciplined 168,000 workers on March 16, (23) the Telegraph and Telephone Public Corporation disciplined 267,000 workers on April 22, (24) and so on.

Another measure to penalize the unions was taken by some employers. A civil damage suit was filed by JNR claiming 20,248,000,000 yen ($ 101.24 million at the exchange rate of 200 yen to $ 1) against the Kokurō (the National Railway Workers' Union) and the Dōryokusha (the National Railway Locomotive Engineers' Union). Also, third parties claimed civil damages. Passengers who would have taken JNR trains as their commuting transportation claimed 4,250 yen for travelling expenses incurred by shifting the JNR to the privately owned railways or claimed 2,160 yen for a taxi fare.

The Fruit Growers' Association brought a suit against the JNR and the union claiming 54,860,000 yen for damages caused by differences in costs required to ship its tangerines.

A commercial newspaper company sued the JNR and the union for

700,000 yen comprising the loss of advertising revenue. (25)

The other type of penalty against illegal strikers – criminal sanctions against strike leaders was thought to be unavailable because there was no explicit provision for it in the PCNELRA and there were no court decisions that would justify criminal penalties imposed on illegal strike leaders under the PCNELRA at that time.

B) *The Safety Demands of the JNR Union's Strike*

There are recent court decisions in which a public corporation employee union took strike actions against its employer with demands for both the protection of their own safety as well as the public safety. All these strikes were directed by the Locomotive Engineering Workers' Union (LEWU) organized by employees of the Japan National Railroad (JNR). The court decisions in these cases have been divided. The Takamatsu High Court did not support an employer's disciplinary actions against union leaders who had directed the trains slow down at dangerous crossings.

In the first case, the LEWU adopted slow down tactics, specifying that train drivers who were union members should reduce train speed when approaching crossings designated as "Be Careful" crossings by the employer, JNR. Their goals were the protection of both their union members and the public. The LEWU demanded that the JNR should make dangerous crossings safer immediately but the JNR refused the LEWU's demand. Therefore, the LEWU took collective actions, such as slowing down trains, to achieve their goals.

The JNR as an employer took disciplinary action against union leaders who directed these slow down tactics by ordering them suspensed. The main reason for suspensions was that the LEWU leaders ordered the membership not to follow the Train Driving Manual published by the JNR which prohibited any slow down without a suprevisor's direction. The Takamatsu High Court refused to support the JNR's position. The court said that, even though the unions' slow down tactics violated the Train Driving Manual "the union's motive and the objective of the slow down tactics cannot be ignored". Therefore, the court concluded that even though the union's tactics of slowing down trains would justify a light degree of disciplinary action, suspensions

of union leaders were so heavy a punishment that the employer abused his authority to discipline. The suspensions of union leaders were held void. (26)

The Takamatsu High Court in this decision found a slow down collective action taken by a union as justified despite the provision of the Public Corporation National Enterprise Labor Relations Act (PCNELRA) that any kind of concerted activities against a public corporation which interrupts normal operation of business is prohibited.

It is important to note that this High Court put the stress on the motive and objective of the slow down actions at dangerous crossings taken by the LEWU, which aimed at the maintenance of the safety of union membership and the public. However, this argument is still weak because the Japanese Public Employee Labor Relations Laws do not spell out the legality of collective actions whose goal is the protection of the safety and health. The provisions on public collective actions contain a flat prohibition of any sort of collective actions taken by public employees. Therefore, there was a possibility that the courts could interpret these provisions to mean that they prohibit any sort of collective actions regardless of their motive and objectives, if the courts think that the methods that employees used were excessive for achieving their objectives. In my opinion the court should have considered the possibility of a constitutional argument for an exception to the strike prohibition provision based on the worker's right to safe working conditions: such an argument for a positive right to refuse dangerous work was not discussed in this High Court decision.

In the second case, the Maebashi District Court made a decision on the method that the LEWU had taken to demand security of the safety of their own membership and the public. The method the LEWU took was a strike. The LEWU directed its membership of train drivers to stop trains when an automatic danger warning system (ATS) installed in each train sounded a warning. ATS would prevent a possible accident. On the contrary, the JNR authority ordered train drivers not to stop trains unless there was a specific situation that required train drivers to stop trains, to switch off ATSs and to use manual emergency brake systems when the ATSs alarm sounded. As LEWU directed its memberships not to follow the JNR's direction, several

train drivers of LEWU membership stopped trains when ATSs alarm sounded. These actions were taken as trade union activity under the LEWU's direction. Responding to these activities, the JNR authority took disciplinary actions against drivers who stopped trains. Disciplinary actions were penalties that warned train drivers not to repeat such activities. The LEWU brought the case into the court by insisting that these penalties were void on the ground that the JNR's direction that train drivers should not stop trains unless there was a specific situation requiring train stoppage was not based on any regulation, so that the JNR's direction was legally groundless. Moreover, the JNR's direction was against the ATS's purpose in preventing any accidents. Therefore, train drivers had no obligation to follow the JNR's direction and in fact the activities that had stopped the trains were legal and proper. Thus, the LEWU concluded that the penalties imposed on the drivers were void.

The Maebashi District Court ruled that the penalties imposed on train drivers were legal and proper on the ground that firstly the JNR's direction was legal , proper, and appropriate in view of the overall circumstances. Secondly, the court held that the penalized train drivers' activities fell under the strike prohibition provision of the PCNELRA 17, so that such activities were illegal.

Thirdly, the court stated that the actions which stopped the trains were contrary to the employer's directions. The penalized drivers put trains under their control in accordance with the LEWU directions. This meant that the drivers went beyond withdrawing their services to the point of exercising workers' control over management functions. Such activities are not guaranteed by the Constitution, the court said. Article 28 only provides the workers' right to organize, bargain collectively and take collective actions. Therefore, the penalized train drivers' activities infringed on management prerogatives, and therefore constituted an illegal breach of their employer's right of job direction or constituted an illegal obstruction of a normal business operation. The court, further condemned the drivers' actions as inconsistent with the special obligation imposed on transportation workers. The court stated that transportation workers should drive trains strictly in accordance with their employer's directions because the drivers were re-

sponsible for the life and health of passengers in their transportation Nonetheless, the penalized train drivers publicly violated this heavy obligation by concerted activity. The effect of these violations was so serious that the working morale among train drivers had deteriorated and the public reliance on the services supplied by the JNR had also deteriorated. Thus, in the court's opinion, the LEWU's contention that the penalized train workers' activities which had stopped trains were legal was a deception and affront to the public. Therefore, the court concluded the JNR's penalties imposed on train drivers who stopped trains were entirely proqer. [27] This was affirmed by the High Court.

It is my observation that this court decision raised many legal is sues concerning worker's special rights to refuse dangerous work, suchas transportation workers' special obligation to take care of passengers, a worker's contractual duty at time of a dangerous situation public employee union's right to strike action pressing safety demands and a constitutional argument on public employees' strike action.

The important goal should be to prevent accidents as much as possible. Then, when the ATS alarm sounds, it is better to stop trains because ATS warns a train driver that something is wrong with the train. The condition giving rise to the alarm may turn out not to be serious, but until investigated further it is always potentially very dangerous. Once any possibility of a train accident is shown by ATS, a train driver should stop the train regardless of employer's direction not to do so. In fact, there were cases whereby train accidents happened when train drivers did not stop their train when ATS warned of the accident. For example, on December 22, 1974, a train collided head on with another train in Kokubunji Station. In the same type of accidents 210 passengers were injured in the Ochanomizu Station in July, 1968, 758 passengers were injured in the Funabashi Station in March, 1972, 160 passengers were injured in Nippori Station in June, 1972, and a train was derailed in Kokubunji Station in December, 1974. [28] In these accidents, train drivers followed their employer's direction that train drivers should switch off ATS's warning of accidents and used manual accident prevention systems while driving trains. These accidents

might not have happened if the drivers had stopped in spite of their employer's directions. To stop trains when ATS warns of the possibility of a train accident is the obligation of train drivers who are responsible not only for their passengers and the public but also for their own safety. On this point, the Maebashi court's contention, that the penalized train drivers should not have stopped the trains when ATS sounded because of their strict obligation to take care of life and health of passengers, cannot be accepted. On the contrary, even though the train drivers, actions stopping trains against JNR's directions superficially looks like an infringement of management prerogative as the court said such actions should be considered as the train driver's exercise of a proper right to do so. This right to refuse dangerous work is based on OSHA article 25 and a reasonable interpretation of the individual contract between each driver and JNR.

The next important issue raised in the Maebashi Court decision is that the court considered the workers' actions as a strike prohibited by the PCNELRA. However, the workers' action in stopping the trains in a dangerous situation were actions taken in order to refuse excessively dangerous work. In the situation where workers refuse excessively dangerous work, their right to do so is reasonable because workers have no obligation to work in such a situation. Workers only offer their labor to their employer, not their life and health. This principle applies to even public employees because they are first of all workers and citizens.

The Supreme Court in the *Chiyoda Maru* case ruled that a worker has no obligation to work under an unavoidable and unforeseenable danger which is not attached to the specific work.[29]

III. In conclusion, the Japanese PCNELRA and the leading Supreme or lower court decision are similar in nature to those of the U.S. in the federal sector in that strikes are flatly prohibited with reasoning which is irrelevant to the employees' right of maintaining their dignity and irrelevant to industrial relations. This legal framework has not functioned well to protect the public workers' dignity and therefore have not eliminated strikes. A more realistic approach is required to solve the problem. Strikes are unavoidable when strikers, such as the

CPCNEU members, believe that strike action is the best method to solve issues, especially when their safety and health is at stake. The liberalization of the strike right to some extent will be the answer.

1. Kazuo Sugeno, *Public Employee Strike Problem and Its Legal Regulation in Japan,* 3-6 (unpublished paper, 1976) ; Mitsufuji, *Industrial Relations in the Public Sector in Japan* in A. Cooke, S. Levine and T. Mitsufuji, PUBLIC EMPLOYEE LABOR RELATIONS IN JAPAN 4-9, (Institute of Lab. and Ind. Rel., Univ. of Mich. 1971). Cook, *Labor Relations in Local Government in Japan, id.* at 29, 30 ; Levine, *Teacher Unionism in Japan,* in *id.* at 38-40 ; Morrison and Handsaker, *The ILO and Japanese Public Employee Unions,* 7:1 INDUS. REL. 80, 81 (1967).[30]

2. 5 U.S.C. § 7311 (3), 18 U.S.C. § 1918

3. *United Fed. of Postal Clerk v. Winton M. Blount,* 25 F. Supp. 879 (D.D.C. 1971), aff'd, 92 S. Ct. 80, 404 U. S. 802, 30 L. Ed. 2d 38 (1971).[30]

4. *Nagoya Central Post Office,* 274 Rō. Han. (S. Ct. May 4, 1977).

5. *Aboodv. Detroit Bd. of Educ.,* 97 S. Ct. 1782 (1977).

6. *Rankin v. Shanker* 242 N. E. 2d. 802, 806 (1968) ; *City of New York v. J. DeLury,* 23 N.Y. 2d 175, 243 N.E. 2d 128, 132 (1968).

7. NEW YORK STATE ASSEMBLY, FINAL REPORT OF THE GOVERNOR'S COMMITTEE ON PUBLIC EMPLOYEE RELATIONS March 31, 1966 GERR No. 135 Apr 11, 1966. B–1. D–1.

8. George W. Taylor, *Public Employment: Strikes and Procedures.* 20 IND. and LAB. REL. REV. 4, 617 (1967).

9. H. WELLINGTON, THE UNIONS AND THE CITIES 7-32 (THE BROOKINGS INSTITUTION, 1971) ; *The Limits of Collective Bar-*

gaining in Public Employment, 78 YALE L.J. 1107 (1969).

10. Sugeno, *supra* note 1, at 32.

11. Public Corporation and National Enterprise Labor Relations Act, Article 2.

12. THE LABOR DEPARTMENT'S RESEARCH GROUP ON INDUSTRIAL RELATIONS, 2 THE REALITIES AND ISSUES OF INDUSTRIAL RELATIONS LAW [PUBLIC SECTOR] 28, tables 1 and 2 (JAPAN LABOR ASSOCIATION, 1977) (in Japanese).

13. *Id.* at 75, table 3.

14. *Id.*

15. 15 JAPAN LAB. BULL. No. 1, at 2 (Jan. 1976); 14 JAPAN LAB. BULL. No. 12, at 4 (Dec. 1975); 14 JAPAN LAB. BULL. No. 11, at 3 (Nov. 1975); NIHON RŌ DŌ NENKAN (JAPAN LABOR YEARBOOK) 104-09 (1976).

16. The CPCNEU statement was issued on November 1, 1975. The CPCNEU handed the statement of its demands to Cabinet Press Secretary Ide on November 1, 1975 with a deadline of November 25, 1975. On November 21, 1975, Press Secretary Ide responded to the demand by delivering the Cabinet's statement at a CPCNEU meeting that the Government wanted to postpone its answer to the CPCNEU to await the submission of the Report by the Ministerial Council on the Public Corporations and the National Enterprises Expert Committee (the Expert Committee Report), which was supposed to be submitted to the Government imminently. On Nov. 25, 1975, the CPCNEU started its strike action. JAPAN LABOR YEARBOOK, *supra* note 1, at 106-107.

17. See 14 JAPAN LAB. BULL. No. 12, at 4 (Dec. 1975); Yamaguchi, *Right to Strike Issue in the Public Sector,* 15 JAPAN

LAB. BULL. No. 2, at 7 (Feb. 1976).

18. The Government statement was issued on November 26, 1975 when the strike by the CPCNEU started. JAPAN LABOR YEARBOOK, *supra* note 1, at 182 (1976).

19. Emergency Cabinet Meeting, *The Government's Basic Policy* (on the Right to Strike) id. at 178-79 (Dec. 1, 1975).

20. The CPCNEU, *Statement Calling Off the Strike for the Right to Strike*, id. at 182-83 (Dec. 3, 1975).

21. *Id.* at 108.

22. 15 JAPAN LAB. BULL. No. 3, at 6 (Mar. 1976).

23. 15 JAPAN LAB. BULL. No. 5, at 7 (May 1976).

24. 15 JAPAN LAB. BULL. No. 7, at 3 (Jul. 1976).

25. Yamaguchi, *Strikes and Liability for Strike-related Damages*, 15 JAPAN LAB. BULL. No. 7, at 7 (July 1976).

26. *LEWU Shikoku Local*, 21 Rō. Min. 137. (Takamatsu H. Ct., Jan. 22, 1967).

27. *LEWU Takasaki Local*, 1743 Han. Ji. 28. (Maebashi D. Ct., Apr. 3, 1974). aff'd 276 Rō. Han. (Tokyo H. Ct. Mar. 29, 1977).

28. Mainichi (Newspaper) Dec. 23, 1974.

29. *Chiyoda Maru*, 22 : 13 Min. Shū. 3059 (S. Ct., Dec. 24, 1968).

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