



The Albert Shanker Institute

THE WAR AGAINST PUBLIC SERVICES AND PUBLIC EMPLOYEE UNIONS

June 9, 2011

Worker Voice

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MATTHEW FINKIN: I want to open the discussion with an autobiographical reference. In 1972 I was in residence at the Yale Law School doing a graduate degree, a very odd degree, and I took courses from three professors: Harry Wellington, who was then dean of the law school; Ralph Winter, who was then elevated by President Reagan onto the Second Circuit; and Clyde Summers, who was probably one of the more influential persons in my career.

Now, Wellington and Summers had written a casebook in labor law, and their research assistant was Ralph Winter. Actually; it's a book about legal process. Wellington had clerked for Frankfurter and was an expert in legal process and constitutional law, and Winter had gone on to specialize in anti-trust law.

So naturally, in 1969, shortly after the Taylor Law was passed along with a wave of public sector collective bargaining laws, the 20th Century Fund asked Wellington and Winter to write a book about the impact of public sector collective bargaining, a subject about which they knew absolutely nothing, not in any practical sense.

I had been a practitioner in New York and I had practiced under the Taylor Law and the New Jersey law, essentially in unit determinations. And, indeed, one of Wellington and Winter's chapters was on unit determinations, by two men who had never had to determine what a bargaining unit is. Oh, by the way, I negotiated the card check agreement that got Rutgers unionized back in '68.

So the book had a seminal influence, I think, on the development of collective bargaining. It was a very sobering book. It's called *The Unions and the Cities*. Here is the title page. It's a small book, only about 280 pages or so. I recently reread it.

And it is based on a very strong theoretical model of a normative notion of democracy—by the way, no practical evidence of any real situation—and the claim is that we have to be very, very careful about public sector collective bargaining because it had the potential to distort democracy. It distorted democracy in a way that resulted in unions having, quote, “too much power,” and therefore the scope of bargaining had to be limited, the right to strike and so on.

There are some references, some websites and articles in your material. You can look up a couple of articles that Wellington and Winter wrote, or one of theirs and one of Clyde Summers' rejoinders.

Typical of Clyde, he says, please describe for me what this normal political process is. You've just heard that if the New York Stock Exchange goes to the state of New York and says, we'll move to New Jersey unless you make the following concession, that's the normal political process, I take it. What is this distorting effect?

And so, *déjà vu* all over again. As I sat in Illinois, in my town we have the Indiana Democratic legislative delegation in exile. I was in Greece, and if you think you have troubles, go to Athens sometime. And I tried to explain the Midwestern situation at the University of Athens. I said, think of Illinois as the Canada of the Midwest. We take everybody's refugees from these American states.

So, surely, if the claim is that public sector unions are parasitical on the body politic, it must be because they have this distorting effect. And so, the question I put, in my capacity as editor of the *Comparative Labor Law and Policy Journal*, is, why only in the United States, pray? So we're hosting a conference for six countries. Jeff Keefe and Marty Malin will be the U.S. presenters, and there will be five other countries, where we will look at public sector collective bargaining on the question of, does it distort democracy in Germany and France, for example, and Greece as well? Do public sector unions get "too much"? And by what metric, by what normative measures do we decide that? That will be in July of 2012—nice timing for that.

But let me just close on this and put this question to both of our speakers. In rereading *Wellington and Winter*, it struck me that there has been a debate in industrial relations for some time about whether labor is simply a cost of doing business, or indeed has value added.

The Labor and Employment Relations Association's public policy forum was just two days ago here in Washington. The theme that sort of permeated all the discussions was of the sort of sea change in private sector unions, which see themselves as value-added partners in the enterprise. There are some fantastic stories involving Communications Workers, Steelworkers, most notably the Auto Workers and their role in the Ford Motor Company, where they are basically co-partners in the enterprise, and Ford could not be what it is today, which is fantastically successful in putting out a high-quality product, without the active participation of the union at every level and in all kinds of decisions, including product design and selection.

Now, that's never discussed in the *Wellington-Winter* thesis. Labor is simply either a cost of doing business or an ideological enemy of the public, distorting, for example, whether there will be a police review board or whether a teacher will have the prerogative to remove an unruly student from the classroom. There is no notion whatever of the role of the union as a value-added co-participant in the management of the enterprise.

Alas, there's more about that in the private sector than in the public sector in that regard. And one of my questions is whether that should not be part of your narrative. And if not, why?

And having said that let me turn first to Marty Malin.

MARTIN MALIN: Thanks, Matt. Thank you very much.

I am just thrilled to be here. It's an incredible conference. I'm learning a tremendous amount. And I'm humbled to be teamed with Matt Finkin and Tom Kochan.

I want to play off two of the many points that [Randi Weingarten made in her speech last night]. The first point she made was that Al Shanker said, we are obligated to make schools good as much as we're obligated to bargain a good contract. And then the second point I want to play off of was her myth number 8, which was the less bargaining, the better.

Now, I also, besides being a full-time labor law professor, have a part-time arbitration practice that sometimes seems like a full-time practice, and a couple of years ago I arbitrated a

dispute between a local teachers union and a suburban school district. The language in the contract provided that pupil classroom contact minutes shall not exceed X—I forget what the X was—number of minutes per week, right?

And the parties had a dispute over whether you start counting those minutes with the second bell, which signaled that the students could come into the building and head to their classrooms, or with the third bell, which signaled that the students were late and instruction was to begin. The difference between the two bells was five minutes.

Now, as a labor relations professional, I understood why this was in arbitration. This was an issue both sides felt very strongly about. It clearly was ambiguous contract language. And as a nerdy law professor, I get off on interpreting clearly ambiguous contract language.

But at the same time, I sort of prayed that enemies of collective bargaining would never get hold of this, because you can imagine how this would be spun to the public: The union is fighting over whether they have to spend five minutes a day with their students, teaching their students.

There was an editorial in the Grand Rapids Press, the newspaper in Grand Rapids, Michigan. I want to quote from it: “The MEA’s legislative long-standing stranglehold on the bargaining process has given teachers a Rolls Royce health insurance plan, some of the highest school salaries in the country, and virtual immunity from the law forbidding public employee strikes. A consequence is that Michigan school costs rose an average of 8.1 percent a year, with the difference being passed along to the citizens.”

That kind of sounds like something in the last month or two, with the debates going on around the world, around the country. That was actually published on April 19, 1994 in support of 1994 Public Act 112, which significantly restricted the scope of bargaining in the state of Michigan.

In the 1990s we saw Michigan, Oregon, Wisconsin, Illinois, and Pennsylvania severely restrict the scope of bargaining in one way or another, and the Wisconsin Act 10 of the 1990s was New Mexico, where the state’s public sector collective bargaining statute sunset when a Republican governor vetoed the enactment of the state legislature that would have extended it.

Now, in the first decade of the current century, New Mexico came back even stronger when Bill Richardson signed an even stronger public sector collective bargaining bill into law, and we saw significant expansions of public employee bargaining rights, including in Wisconsin, which in the prior decade had restricted the scope of bargaining.

So, the backlash we’re experiencing now is much like the backlash we saw in the 1990s. And it focuses on the fight over five minutes of people contact time and ignores all of the ways that employee voice improves public services. These have been categorized numerous places, including somewhat in my article, which is in your materials. I warn you, it’s a law review article, which means it’s very dense. Two sentences should end your insomnia.

But just to throw out a few examples. The Massachusetts Highway Department wanted to contract out maintenance, and employees. Their unions bid on the contract, and were awarded the job, including organizing and managing it. And as a result of that, they achieved a 60 percent reduction in Workers' Comp claims, 70 percent reduction in overtime, and a 49.5 percent reduction in sick time. Improved efficiency saved the state \$7.8 million.

That was reported in the Secretary of Labor's Task Force on Excellence in State and Local Government through Labor-Management Cooperation. The task force quoted one union official as saying, my job used to be go around and ask people what grievances they had. My job is now to go around and ask people what ideas they have to improve the job.

Other examples abound: peer reviews in Toledo and elsewhere, peer review for teachers, the ProComp plan for teacher compensation in the Denver Public Schools, the Clinton administration's labor-management partnerships. And the Office of Personnel Management catalogued numerous successes. I want to highlight one.

The James Haley VA Hospital, in its partnership with the American Federation of Government Employees, the Florida Nurses Association, and the Tampa Professional Nurses' Unit, brought about a reduction in delivery time for critical medications from 92 minutes to 20 minutes. They cut the turnaround time for X-ray reports from eight days to one day. And they reduced processing time for pension and compensation exams from 31 days to 18 days.

Now, all of these successes have occurred, in my view, in spite of, rather than because of, the law. The law has blindly adopted the National Labor Relations Act all-or-nothing model with respect to employee voice. If it is a mandatory subject of bargaining, employees get full rights. But if it is not a mandatory subject of bargaining, then the employer gets complete unilateral control. There's no duty to talk to the employees about it, no duty to supply information and indeed, the employer may bypass the exclusive bargaining representative and deal directly with its favored individual employees.

Concerns in the public sector that collective bargaining over issues of public policy is anti-democratic have led courts and labor boards to severely restrict the scope of bargaining. And what it has done, in my view, is channel the process to bread-and-butter issues and to impact bargaining. It has said that employees and their unions can bargain over what they'll be paid, but they are to be obedient and robotic, rather than creative, in solving problems.

So this means that VA employees, who had that wonderful partnership at that medical center in Florida, may invoke Federal Service Impasses Panel procedures, as they've done several times in the past two years, over whether they can wear blue jeans to work. But they need not be asked about the efficient delivery of critical medication. It means that teachers can grieve and arbitrate five minutes of teaching time per day, but when a school district decides, we want to move to a year-round schedule, teachers don't have any right to have a voice as to whether that's a good thing or not.

What we need to do, I suggest in the article, is to break the mandatory permissive/mandatory prohibited model and find creative ways to ensure public employee voice

in the decisions that affect more critically how they work and how they deliver services, rather than the matters over which bargaining is maintained. And some suggestions of how we can do that are presented in the article, which is reproduced in your materials.

I'm going to do something an academic never does: I'm not going to use all of my time. I'm going to close. I want to close with one example from personal experience. Shortly after the Illinois Public Labor Relations Act was extended to cover local law enforcement, I mediated the negotiations involving a mid-sized city's police department and the union that represented its patrol officers.

One of the hot issues in that mediation was drug testing. And at one point, the union president said something like this, and I approximate his colorful language: I don't want impaired officers out on the street; they're a threat to my safety. And I'll [take a drug test] whenever you want me to. But you have this hotline now where anyone can make an anonymous report and you call the cop in for a drug test based on that report. So now every time I stop someone for speeding, I have to worry that he'll call the hotline and you'll call me in for a drug test. And word of this hotline spreads like wildfire amongst the bad guys. That's bad for morale and it's bad for law enforcement.

For the mayor, who was sitting on the other side of the bargaining table—and I was in the middle, of course—this was an Oprah Winfrey “ah hah” moment. He'd simply never considered the impact of what they were doing or wanted to do and had started doing unilaterally on the overall law enforcement process in the city: how they were arming people with a tool for harassment of legitimate police functions. We proceeded to work out a reasonable drug testing policy that, in my impression, has actually served the parties well for about 25 years now.

Contrast that with decisions out of the Florida Supreme Court that the Miami police department could impose drug testing unilaterally and a decision out of my own state's supreme court, in Illinois, that the Illinois Department of Corrections could do the same. Now, how would we expect those unions to react? They react by protecting their members from the unilaterally imposed policy, which leads them to, tie up the unilateral decision in impact bargaining and then grieving the hell out of whatever comes and resisting any efforts to enforce the unilaterally proposed policy.

As a labor-relations professional, I understand they're doing exactly what their job is to do and the law has channeled them into doing that. And what does it lead to when it comes to the message that the public gets? Well, it is spawned by opponents of employee voice in the public sector workplace: All police unions do is protect drug-impaired cops.

The challenge is to tell the story of the successful collaboration and to move the law in the direction of fostering that collaboration, rather than unilateral imposition. The usual response we saw in the '90s, that we see going on now, is to react by simply restricting the scope of bargaining further. That's the absolute wrong response. Our experiences prove that over and over again. We need to figure out how to turn that response around. And with that, I'll turn it over to Tom.

THOMAS KOCHAN: Thank you, Marty. I'm going to build on your comments about expanding the scope of bargaining in a moment because I completely agree with you. I also want to pick up Matt's question about the role of value-added unionism and collective bargaining, because I believe this is the real challenge that we face in the next couple of years and in the future.

The theme of my remarks is, it's time to build the next-generation labor-management relationship in the public sector collective bargaining process. By using the state-of-the-art tools of negotiations, problem solving, consultation and all of the things that we have learned from both private sector and public sector innovative examples, we can build that system. But we have to make a positive case for it. We've got to demonstrate that it can get good things done. And we need to have a vision for where we need to go. So that's what I'd like to talk about.

Often, we talk about states as laboratories of experimentation because we've got 50 of them and we've got a lot of variety. Well, in the next two years, there's going to be two kinds of experiments: There's going to be the Wisconsin experiment and its progeny, and there's going to be alternatives. And the question is, can we build enough alternatives to demonstrate, in the next couple of years, that you get much, much more constructive problem solving, better improvement in public services, better cost control on the critical issues of health care and other issues, and faster and more comprehensive innovation in public education in the alternatives than in states where they take a sledgehammer approach. That's the challenge.

I think we can get there. So how do we get there? Well, what have we learned from labor-management relations in the last 25 or 30 years that helps us to identify what the model of effective labor-management relations and state-of-the-art practices ought to be?

If you look in the private sector, we've had experiences going back as far back as—this is going to make Tom Donahue really scratch his head—but back as far as the 1980s, when he convened an evolution of work committee in the AFL-CIO and we looked at innovations in the auto industry, in the steel industry, in communications—all the ones that were mentioned earlier.

They consisted of, first of all, employees engaged in problem solving, listening to employees, building work systems at the workplace level where employees were using their knowledge of how to get things done to improve productivity, to improve the quality of the products and services they were delivering, and to develop more satisfying jobs and learn more about their work environment so that their training and their personal development were enhanced at the same time. We now need to build these attributes into the fabric of public services.

What else was going on? We were beginning to see what we now call—perhaps fancy words—Interest-Based Bargaining. Many of the organizations and locals represented here have engaged in that because there's a lot of it going on in education and in the public sector in general. But what is it? It's simply using problem solving tools, using data transparency.

In Massachusetts, we merged seven different transportation agencies: the Mass Turnpike Authority, the Port Authority, the highway department, a number of others. Marty mentioned

“contracting in,” in the highway department. This is a Massachusetts example of doing so. They’ve saved millions of dollars by merging these organizations into one unit, which required about six different unions to work together. It required a lot of mediation; required a lot of effective negotiation, a lot of data collection as to how to make this work? How are we going to build equity in compensation for people doing the same work, coming in sometimes at different levels of pay?

But by using the modern tools and a more transparent approach, we found solutions to those problems. And we now have an integrated transportation agency which is performing very effectively, much more efficiently, contracting even more work back in that had been contracted out, because it can be done more efficiently in-house. That’s the kind of negotiations process that we have learned to use effectively.

And to go to Marty’s point about the scope of bargaining, my best example of this is out at Kaiser Permanente, where they have the Kaiser Permanente Labor Management Partnership that’s now into its fourteenth year—it survived the thirteenth, which was a challenge. But it’s going on its fourteenth year with a process of unit-based teams, nurses and others at the frontline of health care delivery, working together, and with interest-based bargaining.

Three different national contracts have been negotiated using facilitated interest-based processes as well as some tough bargaining over basic wage issues. But they’ve broken out of what their first executive director of the Kaiser union coalition, Pete diCicco, called “the NLRB box.” Pete has a beautiful little diagram of all the issues that are mandatory subjects of bargaining in a square box and then all of the issues they talk about: service delivery, productivity improvement, work and family issues, scope of authority outside the box.

All of those issues have to be part and parcel of how one makes a modern health care organization work. How do you bring new medical records technology in, train the workforce, and make sure that they’re done in sync?

So if we have these three levels of engagement at the workplace, modern tools of negotiations and a broad base of engagement and consultation over how you get the basic work done, I think we can bring innovation into the public sector.

How can we do it in the public sector? Well, we talked a lot this morning about building coalitions. In almost all of the most innovative relationships, it’s like in the transportation example, unions have come together to build coalitions.

In San Francisco, they just faced their issues around pension bargaining by bringing all the unions together and making some changes in their pension programs that are going to make that system sustainable and save big amounts of money. We’re about to do the same thing in Massachusetts on health care. Rocky, difficult issues, but all of the unions working together, negotiating a more effective system.

So the first step is to find the right mix of unions, working together to solve problems in a visible way to demonstrate to the public that we can get things done. Then, I think, one has to go

to the next step of building these ongoing partnerships. The hard work at the local school district level of making sure that once that contract is signed, that the participation in school improvement and all of the school-based, building-based processes are in place so you have the kind of joint governance that will get problems solved and keep the innovation process moving.

In the early years of public sector bargaining, when those laws were first passed, one of the wise things that these states did was to put in place public employee relations boards. That is, they brought in some very skilled mediators, fact-finders, arbitrators, some on the staff, some as ad hoc panel participants. They were the neutrals that helped make that system of collective bargaining work effectively.

We need the same thing again, because a lot of those boards have fallen on hard times, the staffing has gone down, and frankly, the quality of the people has not kept up with the times. We now need to build a new generation of people who can facilitate interest-based bargaining as part of that process. We need to have people who can facilitate ongoing change at the workplace and help to bring about these kinds of changes.

So we need a modern statutory structure and a modern way of engaging the public and the parties at the bargaining table, and support for them through rebuilding these administrative staff structures.

Finally, we need to collect more and better data. Now I'm going to sound like an academic and not be bashful about it. We need to collect the data so that two years from now, three years from now, five years from now, we can compare the results of this horse race between those places which have done this: those that have taken on these issues in a constructive way, and those that have taken them on in a sledgehammer way.

If you, again, go back to the early years of public-sector bargaining, many of those statutes were enacted based on the recommendations and analyses of study commissions of the leading academics of the time—many of the postwar labor board generation scholars. Then a lot of us did the empirical work that demonstrated that arbitration and mediation were adding value to the process. We're going to have to do that again, because someone is going to hold us accountable and we ought to be collecting the information to do so.

If we have a positive agenda, if we take on these issues, if we address them directly and we demonstrate that collective bargaining can be a strategy for bringing about and accelerating the pace of change, then we will have the kind of positive message that we can go out to the public with, we can talk about the issues because we are the experts in those issues and we've got the evidence to demonstrate that there's something behind it.

We put together, finally, a paper that is in this packet. A great range of academics have come together under a rubric called the Employment Policy Research Network because we saw a vacuum in this field. And we put together the evidence that we know is defensible on the effects of wages—you're going to hear from Jeff Keefe, who did most of the key work on this, later this afternoon—and we looked at the impasse resolution history.

If we build the facts experiences, then I think we will set the agenda for the next generation. Thank you.

MR. FINKIN: Questions or comments?

Q: For years, in the University of Wisconsin system, we've had shared governance. And because there is a faculty senate, there has been the argument that we didn't need to have a union. We finally got union rights a couple years ago and organized all these unions. Well, one of the things that we have seen, we've had discussions about Walker's budget repair bill, is that if this gets passed, all the existing unions will only be able to bargain over base wages and everything else is off the table.

But for faculty, admin and staff, we actually had repealed the right to do that two years ago. And what we have said, among our members, as we've been building off these unions and moving to our elections, is that we're actually going to be in a better place, faculty, admin and staff, than the other employees, who can only bargain over base wages, because technically, we can't bargain over anything at all, but we have a shared governance structure and a senate that we can work hand-in-hand with. We can actually force the administrations to meet and confer over tons of different issues because we can use the governance structure.

And so you were talking about a lot of these different issues--everything from academic freedom and campus climate to student aid to compensation packages for faculty and staff—we can push all of these issues in a more informal union setting. As I was listening to the two of you present that, one of the things that kept coming back was this argument that we've made among the faculty and the staff of: yes, they have the right to take it away, but we've still built all these unions, and the unions can work within the existing structure to effect real change on the campus, and it's going to be different than just bargaining over wages, salaries and working conditions.

Speaker: Oh, absolutely. Gives you a lot more flexibility to not be constrained by the law and not have some lawyer saying you can't talk about that or we don't have to talk about that. As long as you build a capacity among your members to say, we have a legitimate right to talk about this—it's a university, it's governance, it's what we do, it's for our students—I think it's fantastic.

Q: There's a fascinating article written by Professor Ann Hodges at the University of Richmond Law School that was published about two years ago in the Cornell Journal of Law and Public Policy called "Lessons from the Laboratory, the Polar Opposites in Public Employee Representation." She compared Illinois, which she put at one end of the spectrum, and Virginia, which she put at the other end of the spectrum. I think in Wisconsin in some respects we'd have been better off if Walker had been intellectually honest and simply copied the Virginia statute which prohibits public employee collective bargaining rather than the farce that he claims he's retaining as public employee collective bargaining. And she shows exactly what goes on in

Virginia, where they're freed up from legal boxes and the unions operate with providing voice before school boards and city councils and things of that sort.

Now, there are also lots of downsides to that, the biggest one being funding, because there's no dues check-off and no fair share. But in many ways, they've seized on being free from those legal boxes to do things.

Q: I want to pick up on a strand I heard earlier. I was very taken by a comment earlier listing American values. And I said to him afterwards that there was one value that I didn't hear on the list, which seemed to me very important for Americans; namely, the value of pragmatism, what works. And he listed examples of how a discussion of drug testing policy across the table in collective bargaining led to something that served the parties well for 25 years. He's talked in a number of forums about the experience with the Kaiser Permanente Partnership.

Both of those seem to me examples of unions as 'value added.' And it seems to me that this theme works on both sides of the equation, from the perspective of public employees as well as the perspective of the public. Some U.S. unions have been involved since 2007 with a coalition with professional associations around the theme of defending professional integrity against external pressures. And on the union side, I think, for example, of the Council of Environmental Protection Agency unions, unions across the United States, which have been defending the ability of agency scientists to report data honestly, to feed data honestly into public policy decisions. Air you can breathe, water you can drink, those are things the public can understand. And it seems to me this theme is a very important part of our message that we don't convey very often; that unions, in defending the ability of people to do their work right, especially in the public sector, can make a huge difference in the quality of life for all of us.

Speaker: Just a comment on that is that you're all aware of the ludicrous Garcetti decision of the Supreme Court that said that when you speak in your official capacity as a public employee, your speech is not covered by the First Amendment, is not free speech at all, and the corollary of which is, those who are most knowledgeable about a subject are the most at risk to the loss of a job or discipline as a result of doing their job.

Where, then, is the protection for that person? One protection, of course, is the state whistleblower law, but those vary enormously, and a post-hoc litigation can be years in the making, over the motivation and so on—it is a very awkward, clumsy and, I think, ineffective way of protecting people. It really is a union contract that limits discipline to demonstrable cause or that indeed includes free-speech components, as I think is commonly done in collective agreements in higher education; there's usually express protection for academic freedom.

That's a message that I think would resonate, certainly with professionals, who are most, I think, on the line in this area, and also with the larger public. It seems perverse to say that a prosecutor who thinks that a defendant is being railroaded and makes a point of that to his superior should be able to be dismissed for that. And I don't think many in the American public understand the consequences of that Supreme Court decision.

Q: There are some interesting developments in other countries in this area. In Norway, the public service unions very successfully promoted the idea of a model municipality based on, literally, tripartite planning meetings between politicians, officials and worker representatives. It's outside the collective bargaining system. It's not in that legal framework. But it's very powerful. And it has powerful political resonances.

The New Zealand Public Service Association is trying to develop the same sort of arrangement within government departments in New Zealand, again, outside the kind of legal framework in collective bargaining, but on the argument that this actually delivers much greater levels of efficiency, and more importantly, effectiveness. Uruguay's a third place where, as a result of new legislation, the public sector unions there have got new rights, and quite strong rights, to involvement in public policy formulation and discussion.

So I just suggest paying some attention to what's going on elsewhere and trying to reinforce that.

Q: I just had a quick question. Picking up on the point about what works, and what another questioner mentioned that there are these different models. [To questioner:] you've ways to go and we need to collect data about these experiments in terms of the broader scope of bargaining and the interest-based bargaining. When you talk to business people about these things, what do you get? And is there a group of business people, employer group, where there is any receptivity to any of this? I mean, how does this resonate with what we might hope would be at least some enlightened business or employer groups out there?

Speaker: Well, it's a very good question, and let me give you a little history. There have been groups like this, and there are fewer of them today. Going back to something called the National Planning Association or National Policy Association; there were a lot of dialogues around these issues with high-level CEOs. John Dunlop, former secretary of labor, had his own group. Mac Lovell had a collective bargaining forum. All of those—including the head of the Work in America Institute, also—these are all people who are no longer active or no longer with us, but all of those were products of—well, the National Planning Association goes back to the 1930s, but these others were products of the 1980s, when a lot of this was going on and there was a lot of interest in developing these kinds of dialogues.

That's gone. We are now in a polarized environment where there's very little appetite for this within the business community. And even in this administration, I worked very hard to try to get this administration to evince an interest in this approach, and it just didn't get to first base, largely because the employer community wasn't interested, with the exception, right at the beginning of the administration, there was a possibility of doing this and getting a group of employers and labor leaders and the administration to sit down and talk about the broad agenda of labor and employment policy. But you couldn't get the administration and you couldn't get the labor movement, at that point, interested. And so there was a window of opportunity where there were some serious high-level CEOs in this country ready to sit down because they thought the power had shifted. That's the only reason. Now that the power has shifted in the other direction, there's no interest.

So you have to be very strategic about when to try to create these. And we had a window of opportunity and we lost it. I think it will come back. And the way it will come back is not at the national level. It will come back in the states. There is potential in some of our states, and I know there's potential in Wisconsin. I know there's potential in Massachusetts. I know there's potential in Hawaii, places where we are having these kinds of conversations.

At that level there are business leaders who understand that we can't solve these problems unilaterally, and they either have experience with collective bargaining or at least they are interacting with people who have experience with it and know that we can put those coalitions together. But it takes political leadership. It takes the governor to say, I'm going to encourage this. And if you can get the governor and you can get some business and labor leaders willing to do it, and sometimes academics to help facilitate it, you've got a basis for making it happen. But I would start at the state level. I wouldn't try at a national level right now. Politics change. Use that window of opportunity and don't miss it.

MR. FINKIN: Last question.

Q: Excuse me. I just wanted to talk about that because I'm glad you brought it up. I've been thinking about it a lot. The Mark Tucker article some of us read -- about the difference in the European Union's system—where you have a history of labor, management and government together collaborating. What's different here is that we have, in certain places, business policy groups, exclusive of business management, as a much more powerful actor. Even in the "Race to the Top" states in education, the Department of Education brought together the unions and some of the state school chiefs, but what they're missing is these policy groups that, in many states, including Illinois, have far more influence on the legislation than the unions do. And those policy groups are an extension, in many cases, of business. 'Advance Illinois' is a good example of that.

When I read that Al Shanker biography a few years ago, I was so struck by his ability to work with business, and the CEOs of Xerox and IBM loved him, and they could get along and work together; but, you know, in those days those CEOs had pension systems. They believed in collective bargaining. And so the environment in the business community has changed so much, I think as labor leaders we have to re-engage with the business community. And if there are mechanisms that academics or other policy groups have to make that happen, we really have to pursue that.