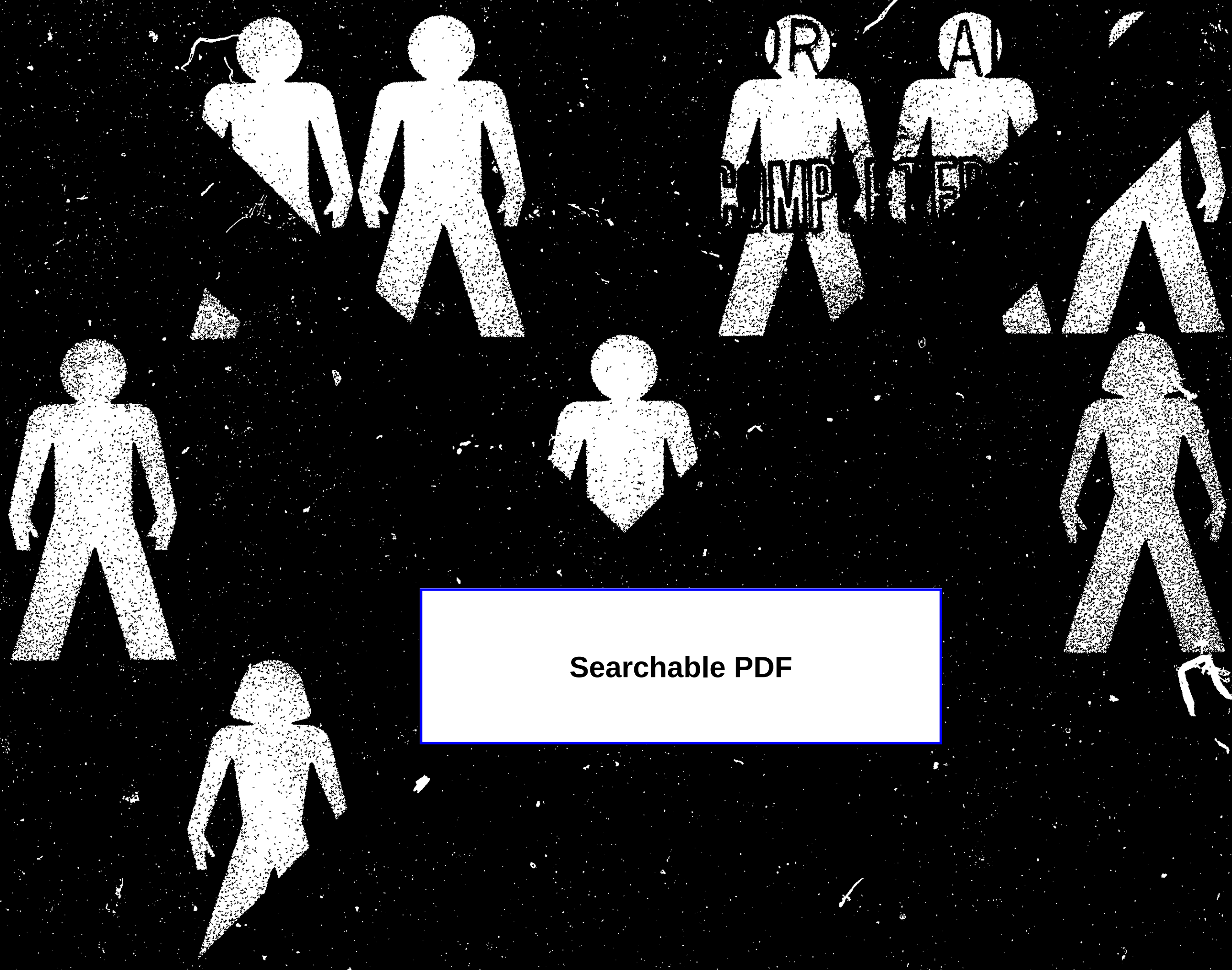
Shutdown: Economic Dislocation and Equal Opportunity

June 1981



A report of the Illinois Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Illinois Advisory Committee.

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Shutdown: Economic Dislocation and Equal Opportunity

A report prepared by the Illinois Advisory Committee to the United States Commission on Civil Rights.

ATTRIBUTION:
The findings and recommendations contained in this report are those of the Illinois Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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I

LETTER OF TRANSMITTAL

Illinois Advisory Committee to the
U.S. Commission on Civil Rights 1980
June 1981

MEMBERS OF THE COMMISSION
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Mary F. Berry, *Vice Chairman*
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Louis Nuñez, *Staff Director*

Dear Commissioners:

The Illinois Advisory Committee submits its report *Shutdown: Economic Dislocation and Equal Opportunity* as part of its responsibility to advise the Commission about civil rights problems within the State.

This report examines the phenomena of plant shutdowns, corporate relocations, and economic dislocation in general, focusing on the implications of these developments for minority employment particularly in the state of Illinois. As several previous studies have documented, the Committee found that many communities throughout the United States, but particularly older industrialized cities of the Northeast and Midwest, have experienced severe economic and social hardships as well as various mental and physical health problems resulting from the movement of business activity to "sunbelt" and suburban locations. Unlike previous research, however, the Committee has documented the extensive racially discriminatory effects of these developments. Minorities are concentrated in those geographic locations and within those industries and occupations which have been particularly hard hit by capital mobility. Racial minorities are more likely to lose their jobs, are less likely to receive job hunting or relocation assistance, and they experience higher commuting and other costs involved in maintaining employment when companies shutdown or relocate.

Contrary to conventional wisdom, the Committee found that these developments are not simply responses to market forces. The Committee also found that the interests of private corporations often conflict with broader public concerns, with the latter frequently giving way in capital allocation decisions. Government employment and expenditure policies, zoning and law enforcement practices (or the lack of them), and tax policies were found to be contributing factors to shutdowns and relocations and the discriminatory implications of these developments. Some corporate relocations have resulted in part from a conscious desire to avoid hiring minority employers. And under certain circumstances where no discriminatory intent is indicated, a shutdown or relocation violates several Federal civil rights requirements though no Federal agency has promulgated regulations which expressly address the discriminatory implications of these developments. Despite the many problems associated with capital mobility, no public agency has ready access to comprehensive data on the number of plant closings and relocations or on the economic and other costs of these developments for affected individuals and communities.

The Committee has reviewed several statewide and national programs and proposals aimed at resolving the adverse consequences of capital mobility, including the discriminatory effects. Below is a summary of the specific recommendations of the Committee:

1. The EEOC and OFCCP should jointly promulgate specific regulations which expressly address the racially discriminatory implications of shutdowns and relocations;
2. The U.S. Department of Labor should collect more comprehensive data on business movement and the effects of such movement on communities, including any differential impact on minority employment;
3. Congress should enact legislation, similar to several pending bills, which would: require pre-notification to employees and communities of any shutdown, relocation, or substantial reduction of any kind; guarantee comparable jobs and relocation assistance for employees in the case of a relocation, severance pay to those who lose their jobs, and financial assistance to affected communities; and, provide Federal assistance to those employee and community groups seeking to purchase and maintain viable facilities that would otherwise close down.
4. The Executive Office should take more effective action to assure compliance with Executive Orders which mandate targeting of Federal employment and procurements to economically depressed areas;
5. The U.S. Commission on Civil Rights should conduct an analysis of the Federal tax code as it pertains to business activity (e.g. investment and foreign tax credits and other economic development incentives) focusing on the implications for minority employment.

Implementation of these recommendations would alleviate the severe problems an increasing number of communities face as a result of plant shutdowns and corporate relocations, and would eliminate the unfair burden these developments place on the minority community. Equal opportunity for racial minorities and economic development for many struggling communities would be advanced substantially if these recommendations of the Illinois Advisory Committee were acted upon in an aggressive manner.

Sincerely,

Theresa F. Cummings, *Chairperson*
Illinois Advisory Committee

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This report was written by Gregory D. Squires, research/writer. Editorial and legal assistance was provided by Ruthanne DeWolfe, regional attorney. Major typing of this report was done by Ada L. Williams, support staff who also provided editorial assistance. Invaluable Editorial Assistance was also provided by committee member Lyn R. Alderfer. Other assistance in the preparation of this report was provided by Delores Miller, Mary K. Davis, and Walter Bynes of the support staff. Research assistance was provided by Automation Counselors Inc.

The report was coordinated by Valeska S. Hinton, staff to the Illinois Advisory Committee. The project was carried out under the overall supervision of Clark G. Roberts, Regional Director.

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Chapter 1

Introduction

> What is needed is a reappraisal of the standards upon which investment is made. . .We should recognize the need for a regional service which will keep control and capital at home.
>
> William O. Douglas 1940[1]

In 1954 Jim Farley moved from eastern Kentucky to Detroit, Michigan and took a job as a grinder operator with the Federal Mogul Corporation, a business which supplies bearings to the automobile industry. Farley, his wife, and three children prospered during his years at Federal Mogul. But in 1971 the company announced that in 1974 it would be closing its Detroit plant and moving its bearing production to Alabama, throwing 2,000 men and women out of work. The average age of those workers was 51 and they had accumulated an average of 21 years of seniority. A month after the announcement Farley suffered a heart attack, but he recovered and returned to work. He also proceeded to look for a new job. On three occasions he found jobs, only to lose them because he failed the physical examinations. The actual work posed no problem but nobody wanted to assume the high workers' compensation and health insurance premiums, particularly when there were plenty of younger able bodies available. His friends said Farley became tense and withdrawn. The week before his scheduled layoff Jim Farley killed himself.

In the aftermath of the Detroit closing seven of Farley's former coworkers took their lives. Perhaps these were extreme cases. Another worker simply cried while his wife and doctor carried him away from his machine after his last shift. Another hijacked a golf cart and charged random company officials before guards could restrain him. But these are not exceptional events. One study found that the suicide rate of workers laid off because of plant closings is 30 times the national average.[2] And numerous studies have documented that a variety of physical and mental health problems such as high blood pressure, heart disease, depression, an loss of self-esteem are associated with plan shutdowns. The year it closed its Detroit operations, Federal Mogul reported record sales and a $14 million profit.[3]

Unfortunately, the experience of Jim Farley and Federal Mogul are not unique. The phenomena of plant closings, relocations, and uneven economic development in general have created severe hardships for many workers, their families, and entire communities in recent years. As is the case with almost every problem confronting the United States throughout its history, racial minorities have been hit the hardest by the adverse consequences of economic dislocation. This investigation examines the racial implications of plant closings and economic dislocation in the United States over the past few decades, focusing on developments in the state of Illinois.

[1] William O. Douglas, "Regional Finance," in *Democracy and Finance*, (New Haven: Yale University Press, 1940) pp. 18, 31, cited in Peter J. Bearse, *Influencing Capital Flows for Urban Economic Development: Incentives or Institution Building?* (New York: Baruch College, City University of New York, 1978) p. 1.

[2] Sidney Cobb and Stanislav v. Kasl, *Termination: The Consequences of Job Loss*, National Institute for Occupational Safety and Health, U.S., Department of Health, Education and Welfare, 1977, p. 134.

[3] Don Stillman, "The Devastating Impact of Plant Relocations," *Working Papers*, July/August 1978, pp. 42–43 (hereafter cited as "Plant Relocations"). Marc Stepp, "Reclaiming Our Future", Multi-State Conference Dealing with Problems of Plant Closings and Tax Abatements, Columbus, Ohio, Apr. 28, 1979, p. 1.

Since World War II the United States has experienced a steadily rising exodus of economic resources from central cities to their suburban rings, and from older industrialized communities in the northeastern and midwestern regions of the country to the South, and beyond to various foreign countries. With the contraction, closing, and relocation of manufacturing plants, money, jobs, and people have been deserting central cities and the northeastern quadrant of the nation leaving many of these communities in social and economic turmoil.[4] Perhaps the workers at Federal Mogul were lucky, they had over two years to prepare for the shutdown. Virtually no advance warning was provided the 5,000 steel workers at the Campbell Works of Youngstown, Ohio's Sheet and Tube Company when its parent, the New Orleans-based Lykes Corporation, announced the closing of that factory in the fall of 1977.[5]

Other examples abound. Goodyear and Firestone Tires each closed down operations in Akron putting over 2,300 people out of work.[6] Westinghouse Electric moved south from Newark, New Jersey, taking 500 jobs with the company.[7] Throughout the northeastern quadrant of the nation older industrialized cities have been devastated by recent patterns of uneven economic development. Hundreds of corporations have either shut down or cut back on their facilities in these cities while relocating or expanding their plants in suburban or sun belt locations. Many do not stop there. For example, while Goodyear Tire and Rubber Company is expanding and opening up new facilities in Alabama, Tennessee, and Oklahoma, it has also purchased facilities in Chile.[8]

While the immediate effects of such events can seriously disrupt the lives of individuals and entire communities, the "ripple" effects are even more devastating. For example, it was estimated at the time of the closing that the shutdown of the steel mill in Youngstown will not only cost 5,000 steelworkers their jobs but will lead to the loss of 13,000 additional jobs, for a total of 18,000. The community will also lose approximately $146 million in retail sales, the city will lose $2.7 million in taxes, and the area will lose 44,000 or 8 percent of its residents.[9] And these figures represent little more than the proverbial "tip of the iceberg." It is estimated that within four years of the shutdown local communities around Youngstown will lose up to $7.8 million in taxes, the county will lose $1.1 million, the state $8 million, and the Federal government $15.1 million. At the same time relief from various programs including relocation assistance, welfare, and unemployment compensation could reach $35 million.

These are just the direct public costs. There are others. For example, contributions to United Appeal in Youngstown dropped by nearly one-half in the first year after the shutdown.[10] The effects of these cutbacks are wideranging. Municipal services such as police protection, street cleaning, education, and health care must be scaled down when communities are faced with such losses. Ironically, the funds for vital social services decline precisely at the time when the demand for many of those services is at a peak. Other employers are not unaware of what is happening in the Youngstowns of the nation, and they are less inclined to expand or to move into those communities, thus exacerbating the downward spiral.

By whatever name it goes by: industrial exodus, runaway plant, decline of the graybelt, or rise of the sunbelt; the phenomenon of uneven economic development is starting to be noticed. Articles are appearing in the daily press and general media, academic researchers are focusing attention on these trends, a coalition of northeastern and midwestern congressional representatives has been established to respond to regional developments, and legislation is being introduced to regulate plant relocations. More than most public issues, however, this one is raising serious questions regarding some longstanding, deeply-rooted, and widely shared beliefs about the American economic system in particular and American society in general.

[4] For purposes of this study the northeast quadrant refers to the northeastern and northcentral (or midwestern) census regions, unless noted otherwise. The northeastern region includes the following States: Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. The northcentral or midwestern region consists of: North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Ohio, and Michigan. The South refers to the southern region which includes: Texas, Oklahoma, Arkansas, Alabama, Mississippi, Georgia, Florida, South Carolina, North Carolina, Virginia, Tennessee, Kentucky, Maryland, Delaware, West Virginia, and Louisiana.

[5] Phillip R. Newell, Jr., "The Earth is the Lord's," *Church & Society*, July/August 1978, p. 8.

[6] "Plant Relocations," p. 44.

[7] Peter J. Bearse, "Plant Closings," draft prepared for publication in *New Jersey Magazine*, March 1978, p. 1.

[8] *Public Interest Report*, newsletter of the Ohio Public Interest Campaign, March/April 1978, p. 2.

[9] *Monthly Report*, newsletter of the Ohio Public Interest Campaign, October/November 1977, p. 4.

[10] David Moberg, "Shuttered Factories, Shattered Communities," *In These Times*, p. 12 (hereafter cited as "Shattered Communities").

As more facts are uncovered, it is becoming increasingly apparent that the closing or relocation of a plant is often not the result of declining profitability of that particular operation (in fact many such plants were generating a healthy profit) or the natural workings of the free market, as is conventionally believed. In fact, one of the major factors expediting these developments, perhaps unwittingly, is government at all levels. More disturbing, however, is the emerging realization that the lifeblood of an entire community can be drained by the decision of a handful of distant corporate executives which determines whether or not a plant will continue to operate. As journalist David Moberg stated, "There is a growing awareness of the life-and death power that capital has over communities and individuals, and of how there is no democratic accountability for the exercise of that power."[11] What may be the well-spring of the American Weltanschauung, the free enterprise system itself, is being critically examined today, and not just by a few left wing intellectuals. In the response to the position that tampering with a corporation's right to move as it pleases serves to restrict the free enterprise system, United Automobile Workers President Douglas Fraser responded, "And if that's what free enterprise is all about, then we shouldn't be concerned about destroying it — the hell with it."[12]

Because many decisions by private corporations have such serious consequences for the public in general, groups like the Illinois Public Action Council, the New American Movement, the National Center for Economic Alternatives, the Conference on Alternative State and Local Policies, the Ohio Public Interest Campaign, and other progressive organizations involving people like Congressman Ronald Dellums, consumer advocate Ralph Nader, and environmentalist Barry Commoner, have been organized around the belief that there needs to be more public control exercised over decisions which have long been considered the prerogative of management. Again in Moberg's words, "The new movement beginning demands greater public control over investment decisions, financial capital and choices of business location. It demands that public needs be considered alongside the private balance sheet."[13] What is emerging is a call for greater democracy in the economic sphere to complement the American tradition of political democracy.

A critical dimension of this phenomenon which has been virtually ignored is the impact on racial minorities. That impact is substantial. Racial minorities are concentrated in precisely those geographic locations which are suffering the most. They are also concentrated within those jobs which are most vulnerable in the face of plant shutdowns and relocations. As a result, they also stand to gain the most from actions which mitigate the destructive consequences of these capital flows. Relief for at least a few minority victims is being sought in some legal actions. Lawsuits are pending charging companies with violations of Title VII of the Civil Rights ACt of 1964, and other Federal laws which ban racial discrimination in employment, on the grounds that such relocation limits job opportunities disproportionately for minorities.[14] Administrative petitions have also been filed with Federal civil rights enforcement authorities urging that companies which have moved from central city to suburban locations be required to meet stringent affirmative action requirements in order to keep Federal contracts and not be found in violation of Executive Order 11246 which requires affirmative action by Federal contractors.[15] But generally there has been little effort to document the extent of the impact of relocation and uneven development on minorities or to protect the rights of minorities when they occur. In essence, a critical civil rights issue has been ignored by the civil rights community.

This report examines the "runaway plant" phenomenon, focusing on its implications for minority employment and economic development opportunities. The following chapter sketches the pattern of uneven development which has occurred over the past few decades, the reasons for these developments, and the role of government vis-a-vis plant closing, opening, relocation, and branching decisions by private industry. In addition the changing economic status of minorities relative to the majority population over the past 20 years is examined for the northeast quadrant of the nation and the South, for central city and suburban areas nationwide, and specifically for the State of Illinois. Chapter III documents how minority job opportunities have

[11] "Shattered Communities," p. 11.
[12] *Public Interest Report*, newsletter of the Ohio Public Interest Campaign, May/June 1979, p. 5.
[13] "Shattered Communities," p. 11.
[14] Bernetha Abney et. al. v. the Budd Company No. 6-71845 (E.D. Mich., Sept. 7, 1976). Dorothy Bell et. al. v. Automobile Club of Michigan et. al. 39309 (E.D. Mich., Dec. 4, 1972).
[15] Suburban Action Institute, "Petition to the United States Department of Labor for a Ruling That Union Carbide is in Violation of Federal Contract Compliance Requirements Pursuant to Executive Order 11246," 1977.

been affected in selected Illinois firms which have shutdown, moved out of Illinois, moved from other States to Illinois, relocated from Illinois central cities to the suburban rings or from the suburbs to the cities, and in firms headquartered in Illinois which have branched elsewhere as well as firms headquartered in other states but which have expanded in Illinois. The legal ramifications, from a civil rights perspective, of such developments are also reviewed. In Chapter IV efforts to eradicate the disruption of relocations and uneven development in the United States and Europe are examined. Such proposals include a variety of plant relocation regulatory schemes, takeover of plants scheduled for closing or relocation by workers or worker-community groups, and legal actions to preserve the rights of minorities when plant closings or relocations occur. The concluding chapter presents specific recommendations to revitalize the economy of those areas victimized by shutdowns and relocations, to stimulate greater democracy for all participants in the American economic system, and to further the goals of equal employment and economic opportunity for racial minorities.

Chapter 2

The Decline (and Fall?) of the Midwest

> Economic dislocation is too nice a term to describe the human anxiety, misery and tragedy that occur when corporate employers pack up and leave town in pursuit of maximum profits. It's professional economists' jargon for going soft on the Corporate State.
>
> William Winpisinger (President, International Association of Machinists and Aerospace Workers), 1979[1]

The pattern of economic development which has emerged in the past few decades has not affected all groups equally. In general central cities have been adversely affected compared to their suburban neighbors. The northeast and midwest sections of the nation have not fared as well as the South. Older workers, minorities, women, and those with limited or nontransferable skills have suffered more than younger, white, and highly skilled people.[2]

The sudden closing down and relocation of a plant is a jarring experience for the individuals and communities that are adversely affected. But such occurences actually represent just a part of the larger pattern of uneven development, and the problems associated with it. Equally, if not more significant in terms of uneven regional development has been the expansion of existing firms and the birth of new firms in the sunbelt at a rate which has far surpassed that of firms in the northeast and midwest corridor.[3]

Precise data on the number of plant closings, openings, expansions, cutbacks, and relocations are not currently available, and represents a serious barrier to the development of public policy directed at the negative consequences of such developments.[4] As John Castle, Director of the Illinois Department of Commerce and Community Affairs, stated, "Information relative to plant closings and relocations, and how they affect minority employment is difficult to assemble because only pieces of the data are available at this time."[5] The State does have some estimates of the number of firms which have moved into or out of the state during the 1970's from studies conducted by researchers using Dun and Bradstreet data, a data base which even the state acknowledges

[1] *Economic Dislocation: Plant Closings, Relocations and Plant Conversion,* Joint Report of Labor Union Study Tour Participants, 1979 (hereafter cited as *Economic Dislocation)*, p. 3.

[2] Stephen S. Mick, "Social and Personal Costs of Plant Shutdowns," *Industrial Relations*, May 1975 (hereafter cited as "Personal Costs"), p. 205. Kenneth Rubinstein, "Plant Relocation and Its Effects on Labor-Management Relations," *Labor Law Review*, September 1967, p. 544. "Indicators for Measuring the Community Costs of Plant Closings," Report prepared for the Federal Trade Commission by C & R Associates, November 1978 (herafter cited as "Measuring Community Costs"), p. 3.

[3] Carol L. Jusenius and Larry C. Ledebur, *Documenting the "Decline" of the North* (Washington, D.C.: Economic Development Administration, U.S. Department of Commerce, 1978), pp. 2, 3, 11. David Birch, "The Job Generation Process," M.I.T. Program on Neighborhood and Regional Change, 1979 (hereafter cited as "Job Generation"), p. 4. Barry Bluestone and Bennett Harrison, *Capital and Communities: The Causes and Consequences of Private Disinvestment* (Washington, D.C.: The Progressive Alliance, 1980) (hereafter cited as *Capital and Communities)*, pp. 30-61.

[4] "Measuring the Community Costs of Plant Closings: Overview of Methods and Data Sources," Report prepared by C & R Associates for the Federal Trade Commission, undated (hereafter cited as "Closings, Methods and Data Sources"), p. 69.

[5] John Castle, Director, Illinois Department of Commerce and Community Affairs, letter to Clark G. Roberts, Regional Director, U.S., Commission on Civil Rights, Midwestern Regional Office, Feb. 15, 1980 (hereafter cited as Castle letter).

suffers from a number of limitations including incomplete reporting.[6] The state also has some partial listings of plant closings since 1976 taken from the state Department of Labor mass layoff reports (which only cover manufacturers with 100 or more employees and service industry companies with 25 or more) and newspaper clippings which have been monitored.[7] The state has recently released reports on the number of companies moving into Illinois and Illinois-based firms which expanded in the late 1970's, and the number of jobs which were subsequently created. But these reports contain no information on the number of firms which have left the state.[8] No systematic information has been maintained on mobility between central cities and suburban rings. And no information is available on the minority employment of firms involved in such developments.[9]

Paul Westerberg, a researcher with the Chicago Economic Development Commission, said the city has only recently begun attempting to systematically track the movement and relocation of business. He anticipated that no comprehensive information would be available until November, and that information would only be for developments in 1980.[10]

The scattered data which are available, in conjunction with census and other demographic data do permit, however, at least a general understanding of these developments and their impact on various segments of society. The overall pattern of development, its disparate consequences, the causes, and particularly the contribution of government are reviewed below. A more detailed discussion of the effects on racial minorities will follow in the next chapter.

The Pattern

By almost any measure the past few decades have witnessed a flow of economic resources from central cities to suburban rings, from the northeast-midwest quadrant of the nation to the south and southwest or "sunbelt" region, and from all regions of the country to overseas locations. The nature and magnitude of these developments are indicated by population shifts, labor force developments, patterns of capital investment and income, as well as plant relocations.

From Central City to Suburbia

Even the most cursory examination reveals that central cities have been losing out to their suburban neighbors for at least the past twenty-five years. The total population of central cities in the United States increased by just 3.5 percent (from 58 million to 60 million) between 1960 and 1977 while the nation's suburban population grew by 51 percent (from 55 million to 83 million) during those years.[11] Among the nation's 85 largest standard metropolitan statistical areas, the central city population as a proportion of the area's total population declined from 51 percent in 1960 to 47 percent in 1973. Among midwestern cities the decline was even sharper, from 52 percent to 45 percent.[12]

The suburbanization of the nation's labor force has been even more dramatic. The civilian labor force in central cities increased by just 17 percent (from 23 million to 27 million workers) between 1960 and 1977 compared to an increase of 95 percent (from 20 million to 39 million) in the suburbs. Not only are jobs increasing faster in the suburbs, but they are paying better as well. From 1960 to 1976 the median family income for central city residents increased by only 88 percent (from $7,417 to $13,952) compared to an increase of 109 percent (from $8,351 to $17,440) for suburban families.[13] Another measure of the decline of central cities compared to suburban communities is the rate at which poverty is declining. Between 1960 and 1975 the proportion of families living on incomes below the poverty line declined by just 14 percent (from 13.7 to 11.8 percent of all families) in central cities compared to 36 percent (from 9.6 to 6.1 percent of all families) in suburban neighborhoods.[14]

Compared to the majority population, the concentration of the nation's minority population has been

[6] "Migration of Firms in Illinois," attachment to Castle letter, Commission files.

[7] Plant closing list provided as attachment to Castle letter, Commission files. Wallace Beerman, Illinois Department of Commerce and Community Affairs, telephone interview, Oct. 18, 1979.

[8] Tom Ferguson, Managing Director of the Commercial and Industrial Development Division of the Illinois Department of Commerce and Community Affairs, quoted in "Caterpillar plows new ground-but not here," *Chicago Tribune*, Feb. 24, 1980.

[9] Castle letter. Don Hines, Research Analyst, Illinois Department of Commerce and Community Affairs, telephone interview, Feb. 27, 1980.

[10] Paul Westerberg, Researcher, Chicago Economic Development Commission, telephone interview, April 24, 1980

[11] U.S., Bureau of the Census, *Current Population Reports*, Special Studies, Series P-23, No. 75, "Social and Economic Characteristics of the Metropolitan and Nonmetropolitan Population: 1977 and 1970," 1978 (hereafter cited as "Metropolitan 1978"). U.S., Bureau of the Census, *Current Population Reports*, Series P-23, No. 37, "Social and Economic Characteristics of the Population in Metropolitan and Nonmetropolitan Areas: 1970 and 1960," 1971 (hereafter cited as "Metropolitan 1971").

[12] Advisory Commission on Intergovernmental Relations, *Trends in Metropolitan America*, 1977 (hereafter cited as *Trends*).

[13] "Metropolitan 1978," "Metropolitan 1971."

[14] Ibid.

moving in the opposite direction. Between 1960 and 1975 blacks increased their proportion of central city populations (from 16.4 percent to 22.6 percent) while their representation in suburban areas remained virtually unchanged. (4.8 percent and 5.0 percent).[15] During the 1960's the overwhelming proportion—70 percent—of new jobs for blacks were created in central cities even though central city employment in genreal increased by less than five percent compared to over 44 percent in the suburbs.[16] Those industries which employ relatively large numbers of blue collar workers (a disproportionate number of which are minorities)[17] tended to decentralize at a greater rate than others.[18] And in general, those industries experiencing the steepest decline within central cities are those employing relatively large concentrations of minorities, while minorities tend to be underutilized in industries on the rise.[19] For example, a study of employment gains and losses by industry during the 1960's in Cincinnati concluded:

> In every case where black workers are proportionately represented in the workforce, there has been significant manufacturing job losses in the last decade. In every case where there has been significant manufacturing job gains, black workers are proportionately underrepresented.[20]

Between 1964 and 1977 the median black family income as a proportion of white income increased slightly from 54 precent to 57 percent nationally. But the ratio of the percentage of white families in poverty also increased from 3.25 to 4.03 between 1959 and 1977.[21] In other words, white families have been escaping poverty at a much faster rate than black families. One reason for these continuing economic gaps between the black and white populations is the inability of the black population to "move with the flow." Not only are cities losing out economically to the suburbs, but the blacks who make up an increasing proportion of the central city population are barely holding their own with the remaining whites. The median family income of black city residents compared to their white counterparts remained virtually unchanged from 1960 (when the ratio was 61.4 percent) to 1976 (when it was 62.1 percent). Some progress was made by suburban blacks, however. During these years the black/white ratio increased from 51.7 percent to 68.0 percent.[22] Some recent research suggests that residential location does not substantially affect black wage levels.[23] But there is abundant survey and case study evidence provided by the National Committee Against Discrimination in Housing and others that the concentration of minorities in central cities and discrimination in suburban housing markets coupled with the movement of jobs to the suburbs has limited knowledge of job openings, applications for positions, and hiring within minority communities, and has disproportionately increased the costs of holding a job for minority workers.[24]

Chicago illustrates this pattern. Between 1960 and 1973 Chicago's population dropped from 3.5 million to 3.2 million while the suburban ring grew from 2.7 million to 3.8 million. Per capita income within the city increased by just 74 percent (from $2,293 to $3,984) between 1960 and 1973 compared to an increased of 87 percent ($2,662 to $4,975) in the suburbs.[25] Between 1966 and 1976 Chicago experienced a 16 percent net decrease of manufacturing firms while the suburbs had a 41 percent growth,[26] a trend which goes back at least to the 1920's.[27] Between 1970 and 1978 the city lost 15 percent of its

[15] U.S., Bureau of the Census, *Current Population Reports*, Special Studies Series, P-23, No. 80, "The Social and Economic Status of the Black Population in the United States: An Historical View, 1970-1978," 1979 (hereafter cited as "Black Population").

[16] Jack E. Nelson, "The Impact of Corporate Suburban Relocations on Minority Employment Opportunities," A research paper prepared under contract with the Equal Employment Opportunity Commission, Contract No. EE073022 (hereafter cited as "Relocations and Minorities"), p. 11.

[17] "Black Population," p. 218.

[18] Franklin D. Wilson, *Residential Consumption, Economic Opportunity and Race* (New York: Academic Press, 1979) (hereafter cited as *Residential Consumption*), p. 147.

[19] "Industrial Exodus Hits Minority Workers the Hardest," Ohio Public Interest Campaign, Cincinnati (undated) (hereafter cited as "Industrial Exodus Hits Minority Workers the Hardest"), p. 5. Charles Melvin Christian, "The Impact of Industrial Relocations From the Black Community of Chicago Upon Job Opportunities and Residential Mobility of the Central City Workforce," Ph.D. Dissertation, University of Illinois at Champaign-Urbana, 1975 (hereafter cited as "The Impact of Industrial Relocations"), pp. 94-96.

[20] "Industrial Exodus Hits Minority Workers the Hardest" p. 5.

[21] "Black Population."

[22] "Metropolitan 1978," "Metropolitan 1971."

[23] *Residential Consumption*. Stanley Masters, *Black-White Income Differentials: Empirical Studies and Policy Implications* (New York: Academic Press, 1975).

[24] *The Impact of Housing Patterns on Job Opportunities* (New York: National Committee Against Discrimination in Housing, 1968) (hereafter cited as *Impact of Housing)*. John F. Kain, *Housing Markets and Racial Discrimination: A Micro-Economic Analysis* (New York: Columbia University Press, 1975) (hereafter cited as *Housing Markets and Racial Discrimination)*. "Relocations and Minorities," John F. Kain, "Report on the Impact of AAA's Relocation on Black Employment," expert testimony provided in the case of Bell v. Automobile Club of Michigan, Commission files. "The Impact of Industrial Relocation."

[25] *Trends*.

[26] Marianne C. Nealon, memo to Richard L. Thomas, President, The First National Bank of Chicago, Sept. 21, 1977.

[27] "The Impact of Industrial Relocations," pp. 18-20.

retail establishments while the suburbs experienced an increase of 33 percent.[28] During the 1960's Chicago lost 229,000 jobs and gained 290,000 welfare recipients. Meanwhile the suburbs gained 500,000 jobs.[29] Relocations actually accounted for a small proportion of these developments. The increasing number of suburban establishments and the accompanying employment growth was accounted for primarily by the birth of new firms and the expansion of existing firms while the declining number of firms in the city and the subsequent loss of jobs was due primarily to deaths and contractions.[30]

The racial composition of Chicago and its suburbs reflects the national trend. The black population of the city increased from 22.9 percent of the total in 1960 to 32.7 percent in 1970. Meanwhile the suburban ring changed from being 5.1 percent black to 5.7 percent black in those years.[31] Since 1950 the income gap between Chicago residents and their suburban neighbors has been increasing, as has the income gap between the area's black and white families.[32] At least one reason for these trends is the movement of jobs from the city to the suburbs. The racial implications are particularly striking in light of the specific neighborhoods which are losing and gaining jobs. According to Pierre deVise, a University of Illinois urbanologist, Chicago lost 92,000 jobs, seven percent of the total number of jobs in the city, between 1970 and 1976. The biggest losses, however, were experienced in the predominantly black west and south side neighborhoods which lost respectively 35,000 (24 percent) and 15,000 (15 percent) of all jobs. Meanwhile, predominantly white suburban areas were the biggest winners. Du Page County gained 67,000 jobs, a 72 percent increase, and northwest Cook County gained 26,000 for a 23 percent increase.[33]

Although the city of Chicago contains less than half the population of the entire metropolitan area, the city is home for 64 percent of the area's unemployed, 75 percent of the poor people, 85 percent of all welfare recipients, 76 percent of the area's Spanish-speaking population, and 90 percent of all blacks. On the other hand only 29 percent of the area families which earn over $25,000 per year reside in the city.[34] Over 20 years ago Morton Grodzins offered the following observation:

> Almost nothing is being done today to meet what is likely to be the nation's most pressing social problem tomorrow. The problem can be simply stated in all its bleakness: many central cities of the great metropolitan areas of the United States are fast becoming lower class, largely Negro slums.[35]

If Grodzins "tomorrow" has not in fact already arrived, his prophecy is quickly approaching in Chicago and in several other urban communities around the nation.

From the "Snowbelt" to the "Sunbelt"

The same basic pattern which has emerged between central cities and their suburban neighbors has also emerged on a regional level between the northeast quadrant of the nation and the South.

Between 1960 and 1975 the population of the northeast quadrant increased by just 9 percent (from 97 million to 106 million) compared to a 24 percent increase (from 55 million to 68 million) in the South.[36] Similarly, the civilian labor force in the northeast and midwest rose 26 percent (from 38 million to 48 million) compared to 50 percent (from 20 million to 30 million) in the South.[37] Between 1969 and 1976 approximately 111 jobs were lost due to closings for every 100 jobs created as a result of openings in the Northeast while in the South only 80

[28] Data supplied by Illinois Commerce Department, reported in "City Short on Economic Zip," *Chicago Sun-Times*, Jan. 23, 1980.

[29] Alexander Polikoff, "Gatreaux and American Apartheid," paper presented to Michigan Advisory Committee to the U.S., Commission on Civil Rights at its consultation, "Reinvestment and Housing Equality in Michigan: Federal Funding and Local Decisions," July 9, 1979 (hereafter cited as "Apartheid", p. 16.

[30] "Metro Area Memo," Business & Economic Research, The First National Bank of Chicago, Aug. 8, 1978.

[31] *Chicago's Black Population*, City of Chicago, Department of Development and Planning, 1975.

[32] Pierre deVise, "Does Chicago Really Work for Everyone?" paper presented to the Highland Park (IL) Human Relations Commission at its workshop, "What is the Good Society?" Nov. 11, 1978, p.1.

[33] "For young blacks, the Depression is now," *Chicago Tribune*, Feb. 18, 1979

[34] "Apartheid," p. 16.

[35] Morton Grodzins, *The Metropolitan Area as a Racial Problem* (Pittsburgh: University of Pittsburgh Press, 1958, p. 1. Cited in William H. Frey, "Central City White Flight: Racial and Nonracial Causes," *American Sociological Review* June 1979, p. 425.

[36] U.S., Bureau of the Census, *Current Population Reports*, Series P-20, No. 334, "Demographic, Social, and Economic Profile of States: Spring 1976," 1979 (hereafter cited as "Demographic Profile"). U.S., Bureau of the Census, *U.S. Census of Population: 1960, Vol. I Characteristics of the Population*, Part 1 United States Summary, 1964 (hereafter cited as *1960 Summary*).

[37] *1960 Summary*. U.S., Department of Labor, "Work Experience and Earnings in 1975 by State and Area," Report 536, 1978.

jobs were lost due to closings for every 100 jobs created from openings.[38] Shifts in manufacturing employment during these years were most noticeable. Manufacturing employment declined by 9.9 percent in the New England states and 13.7 percent in the Midwest while it increased by 43.4 percent in the Southeast and 67 percent in the Southwest.[39] According to George Ryan, an Illinois Republican state legislator, Illinois lost 200,000 manufacturing jobs between 1967 and 1977.[40] Data provided by the state estimate that between 1970 and 1975, 290 firms left Illinois while 181 moved in, for a net reduction of 109, with the bulk of the net loss going to the South.[41] Median family income also increased at a faster rate in the South (from $4,465 to $12,443—179 percent) than in the Northeast ($6,191 to $15,085—144 percent) or the Midwest ($5,892 to $14,813—151 percent).[42]

A variety of other trends demonstrate the increasing growth of the South relative to that of the Northeast and Midwest. Investment practices are particularly indicative. Between 1967 and 1978 capital investment for new manufacturing equipment increased by approximately 60 percent in the Northeast, 178 percent in the Midwest, and 349 percent in the South. Business investment in all non-residential structures increased in a similar pattern; by just under 13 percent in the Northeast, 66 percent in the Midwest, and over 97 percent in the South.[43] Federal tax efforts reflect this pattern. For example, in 1976 northeastern and midwestern states contributed $33.5 billion more to the Federal treasury than they received in Federal spending while the South and West had a more favorable "balance of payments" enjoying a $33.5 billion surplus. Between 1970 and 1977 the South and West gained three agricultural jobs for every one gained in the Northeast and Midwest, the northeast quadrant lost over 680,000 manufacturing jobs while the South gained over 607,000. And the ten cities which *Money* magazine projects will have the lowest employment growth rates during the early 1980's are all in the northeast quadrant (Jersey City, Buffalo, Boston, Paterson, New York, Utica, Newark, Binghampton, Philadelphia, and Youngstown) while those with the highest projected growth rates are in the South (Beaumount, Texas, Ft. Lauderdale, Tampa, Houston, Albuquerque, El Paso, Austin, Columbia, South Carolina, Tucson, and Greenville/ Spartanburg, South Carolina).[44]

These trends are exemplified by what has occurred in the State of Illinois and the Chicago metropolitan area in comparison with Georgia and Atlanta. As Table 2.1 shows, total population, the civilian labor force, and median family income have all increased at a substantially faster rate in the "sunbelt" location.

As in the case of the central city/suburban migration, minorities are moving in the "wrong" direction in terms of regional population dynamics. Between 1960 and 1975 the black population has increased from 19 percent of the total to 24 percent in the United States. But black representation has been declining in those areas of the country experiencing economic growth and increasing in those areas which are growing more slowly or are on the decline. Blacks accounted for 21 percent of the southern population in 1960 compared to 19 percent in 1975. Their representation in the Northeast increased from 7 to 9 percent of the total and in the Midwest from 7 to 8 percent. Of the total black population, 60 percent resided in the South in 1960 compared to 52 percent in 1975. Of all blacks, the proportion living in the Northeast increased from 16 to 18 percent and in the Midwest from 18 to 20 percent. During approximately these same years (1959 to 1974), the median black family income increased at a faster rate in the South (106 percent — from $3,264 to $6,730) than in the Northeast (23 percent — from $7,130 to $8,788) or the Midwest (48 percent — from $6,647 to $9,846). Perhaps more revealing is the fact that between 1959 and 1974 black family income as a percentage of white family income has increased in the South (from 39 to 56 percent) while it has decreased in the Northeast

[38] Derek Shearer, Professor of Economic Planning, statement before the Subcommittee on Employment Opportunities of the House Committee on Education and Labor on the "National Employment Priorities Act of 1979," Jan 18, 1980 (hereafter cited as Shearer statement), p.20.

[39] Jeremy Rifkin and Randy Barber, *The North Will Rise Again: Pensions, Politics and Power in the 1980s* (Boston: Beacon Press, 1978) (hereafter cited as *The North Will Rise Again)*, pp 30-33.

[40] "Employees and Communities—Victims of the Industrial Exodus," Illinois Public Action Council, Sept. 20, 1979, p. 1.

[41] "Migration of Firms," attachment to Castle letter.

[42] "Demographic Profile." *1960 Summary*.

[43] Shelley Amdur, Samuel Friedman, and Rebecca Staiger, "Investment and Employment Tax Credits: An Assessment of Geographically Sensitive Alternatives," (Washington, D.C.: Northeast-Midwest Institute, 1978. pp. 1-2.

[44] *The State of the Region: Economic Trends of the 1970s in the Northeast and Midwest* (Washington, D.C.: Northeast-Midwest Institute and the Northeast-Midwest Coalition, 1979) (hereafter cited as *State of the Region)*, pp. 17, 20, 29, 30.

TABLE 2.1

Comparative Growth Rates of Selected Demographic Variables in the States of Illinois and Georgia, and the Chicago and Atlanta Metropolitan Areas: 1960 and 1975

	Total Population (in Millions)			Civilian Labor Force (in Millions)			Median Family Income		
	1960	1975	% increase	1960	1975	% increase	1960	1975	% increase
Illinois	10.1	11.0	9	4.1	5.1	24	$6,566	$16,062	145
Georgia	4.0	4.9	24	1.5	2.2	52	4,208	12,441	196
Chicago	6.2	7.0	12	2.6	3.2	22	7,404	14,200	92
Atlanta	1.0	1.8	77	.4	.9	117	5,758	13,414	133

Sources: U.S. Bureau of the Census, Census of Population: 1960 Vol. 1, *Characteristics of the Population,* Part 15 Illinois, 1963. U.S. Bureau of the Census, Census of Population: 1960 Vol. 1, *Characteristics of the Population,* Part 12 Georgia, 1963. U.S. Bureau of the Census, *Current Population Reports,* Series P-20, No. 334, "Demographic, Social, and Economic Profile of States: Spring 1976," 1979. U.S. Department of Labor, "Geographic Profile of Employment and Unemployment, 1976" Report 504, 1977. U.S. Departments of Commerce and Housing and Urban Development, *Annual Housing Survey: 1975,* Series H-170-75-22 Chicago, 1977. U.S. Departments of Commerce and Housing and Urban Development, *Annual Housing Survey: 1975,* Series H-170-75-21 Atlanta, 1977.

TABLE 2.2

Comparative Population and Income Trends for the Black Populations of the States of Illinois and Georgia, and the Chicago and Atlanta Metropolitan Areas: 1960 and 1970

	Black Population (thousands) (% Total Pop.)			Median Black Family Income (% White Income)		
	1960	1970	% increase	1960	1970	% increase
Illinois	1,037 (10)	1,426 (13)	38	$4,590 (68)	$7,779 (69)	70
Georgia	1,123 (28)	1,187 (26)	6	2,188 (44)	4,742 (52)	117
Chicago	890 (14)	1,231 (18)	38	4,786 (65)	8,032 (67)	68
Atlanta	231 (23)	311 (22)	35	3,033 (53)	6,462 (60)	113

Sources: U.S. Bureau of the Census, Census of Population: 1960, Vol. 1, *Characteristics of the Population,* Part 15 Illinois, 1963. U.S. Bureau of the Census, Census of Population: 1970, *General Population Characteristics,* Final Report PC(1)-B15 Illinois, 1971. U.S. Bureau of the Census, Census of Population: 1970, *Detailed Characteristics,* Final Report PC(1)-B15 Illinois, 1972. U.S. Bureau of the Census, Census of Population: 1960, Vol. 1, *Characteristics of the Population,* Part 12 Georgia, 1963. U.S. Bureau of the Census, Census of Population: *Characteristics of the Population,* Part 12 Georgia, 1973.

(from 70 to 62 percent), and remained the same in the Midwest (70 percent in both years).[45]

A comparison of Illinois and the Chicago metropolitan area with Georgia and Atlanta is again illustrative. As Table 2.2 shows, the black population has increased faster in the midwestern community while black income has grown faster in the South.

Clearly the uneven development of the American economy over the past few decades has been more beneficial to some regions of the country than to others. That development has not left minorities unaffected. Two observers summarized these trends in the following manner:

> What is really taking place in the Graybelt is a massive redlining campaign undertaken by the financial community . . . .Banking and insurance companies will never publicly admit that there is a deliberate policy of redlining the region, but they have done everything short of putting a map on their boardroom walls with a bright red crayon circle marked around the region.[46]

[45] "Black Population," pp. 13, 26.

[46] *The North Will Rise Again,* p. 63.

The Flight Overseas

While the South has grown at a faster rate than the Northeast and Midwest in recent decades, it has not gone unscarred by the problem of plant closings and relocations. In fact, between 1969 and 1976 a higher percentage of establishments in the South shut down than in any other region.[47] As Congressman Peter Kostmayer (D–Pa.) stated:

> Many jobs go overseas. The South is also losing jobs overseas, and it is clear that net gains in total employment in the South are masking the effects of many plant shutdowns taking place there. Plant shutdowns are truly a national problem and job preservation should be a common concern to all regions.[48]

Many major American companies have shifted production facilities to foreign shores. For example: Warwick Electronics closed production facilities in Arkansas and Illinois and moved to Mexico; Westinghouse closed its Edison, New Jersey television plant and moved production to Canada and Japan; Emerson Radio closed its Jersey City plant and transferred production to Admiral's operation in

[47] *Capital and Communities,* pp. 49-51.

[48] Peter Kostmayer, *Congressional Record,* Feb. 15, 1979, p. 635.

Taiwan; General Instruments transferred its television tuner production from New England plants to Portugal and Taiwan; Bulova transferred production to a plant near Pago Pago, American Samoa to produce watches utlimately sold in the U.S.; Singer and Burroughs shifted production of desk calculators to Japan from where they are shipped for sale to the American market, and the Hartford plant of Royal Typewriter was moved to England.[49]

The United States experienced a net loss of 1.06 million jobs because of corporate movement overseas between 1966 and 1973 according to a State Department study prepared by two Cornell economists.[50] A Commerce Department study reported that between the year 1966 and 1970 the 298 leading U.S. based multi-national corporations had a 5.3 percent annual employment growth rate in foreign countries compared to 2.7 percent within the U.S.[51] These employment trends reflect, of course, investment and profit-making trends by major U.S. corporations.

Overseas investments and profits have increased substantially in recent years. In 1950 American corporations invested $11.8 billion in foreign countries. By 1974, this figure reached $118.6 billion.[52] In 1957 these corporations were investing nine cents for new plant and equipment overseas for every dollar invested in the U.S. By 1971, this figure was 25 cents. Since the early 1960's these corporations have been increasingly dependent on their foreign profits, reaching 40 percent of total profits in the 1970's.[53]

There are no data available on the proportion of minorities who were affected by these job losses. But there is strong evidence available which indicates that minorities have been adversely affected by the flight of corporations overseas.

According to a recent study conducted for the Senate Subcommittee on Multinational Corporations, foreign investment by American multinationals has resulted in a four percent drop in labor's share of national income. In other words, the executive officers and stockholders of multinational corporations are getting relatively richer while working people are falling further behind.[54] This is not surprising given the fact that when an American-based corporation moves some or all its facilities overseas, the executive officers and stock-holders continue to enjoy the same benefits offered them by the corporation, particularly the earnings it provides. Workers who lose their jobs, of course, lose the benefits offered them by the corporation, including their income.

Racial minorities who own a disproportionately small share of stocks and other wealth, and who are concentrated in working class occupations, undoubtedly carry a larger share of the burden placed on Americans by overseas investments. While blacks constitute roughly 12 percent of the nation's population, as of 1966, they owned just one-tenth of one percent of all stocks. Their holdings of other assets were somewhat larger, including 1.9 percent of the following: money in banks, government bonds, stocks, farm equity, business equity, and home ownership. Minorities own an extremely small proportion of the nation's wealth and minority businesses still represent an insignificant influence in the corporate world.[55] A 1972 Census Bureau study revealed that minority-owned businesses control 4.4 percent of all U.S. businesses, they genrate 0.7 percent of all U.S. business receipts, and they employ 0.8 percent of all U.S. employees. Overall, average wealth holdings for white families are 4.5 times that for black families, compared to an average income among white families which is 1.5 times that of blacks. And, in 1976, 80 percent of minority

[49] Richard J. Barnet and Ronald E. Muller, *Global Reach* (New York: Touchstone Books, 1974) (hereafter cited as *Global Reach)*, p. 305.

[50] Robert H. Frank and Richard T. Freeman, *Multinational Corporations and Domestic Employment* (Ithaca: Cornell University, 1976), cited in Edward Kelly, *Industrial Exodus* (Washington, D.C.: Conference on Alternative State and Local Public Policies, 1977) (hereafter cited as *Industrial Exodus)*, p. 2. The effect of overseas investments on job creation remains controversial. M.D. MacLean, Employee Relations Manager of Caterpillar Tractor Corporation's Decatur plant stated in reference to the 1.06 million jobs figure: "This is a quote from a U.S. Commerce Department report. However, nothing is said about *the number of jobs created in the U.S.* which supply parts and components to U.S. plants which are *located* overseas. Companies normally locate facilities overseas so they will be competitive in their product line sales vs. the national companies which are already located there. No mention is made of the balance of payment deficit which is caused by larger dollar amounts of imports *into* the U.S. vs. dollars of exports. U.S. manufacturers located overseas help contribute to the balance. [It should be recognized] that in the decade of the '70s, the U.S. imported $82 billion *more* in merchandise than we exported. Without U.S. overseas facilities. . .without U.S. jobs supplying material for U.S. operations overseas. . .the deficits would have been still greater! Investment abroad actually *benefits* American workers." (Letter to Valeska S. Hinton, October 21, 1980).

[51] U.S., Department of Commerce, *Survey of Current Business*, January 1970 and March 1973, cited in *Global Reach*, p. 260.

[52] *Industrial Exodus*, p. 2.

[53] *Global Reach*, pp. 16, 17, 260, 261.

[54] Peggy Musgrave, *Direct Investment Abroad and the Multinationals: Effects on the U.S.. Economy* (Washington, D.C.: U.S. Government Printing Office, 1975) cited in *Industrial Exodus*, p.7.

[55] David H. Swinton and Julian Ellison, *Aggregate Personal Income of the Black Population in the U.S.A. 1947–1980* (New York: Black Economic Research Center, 1973), p. 72.

earnings resulted from salaries and wages compared to 75 percent for whites.[56]

These findings reflect the concentration of wealth which characterizes the American economy in general. More disturbing, particularly for the future life chances of minorities, is that this concentration is increasing. A study prepared for the Congressional Joint Economic Committee reached the following conclusion:

> (a) The number of individual stockholders is decreasing;
>
> (b) employed individuals hold less than 1/2 of the market value of outstanding stock;
>
> (c) most of the outstanding stock is owned by a very small number of extremely wealthy individuals;
>
> (d) concentration in stockholdings means that most Americans are precluded from obtaining a significant ownership share in America's corporations and also that effective control over virtually all corporate assets rests in the hands of a small proportion of the population.[57]

This study revealed that in 1972 the richest one percent of the population owned almost 26 percent of the nation's wealth and the richest 6 percent owned over 52 percent. If wealth were distributed evenly, each family would have had $73,000 in assets and a net worth of $59,200. In fact, less than 13 percent of American families had a net worht of $59,200 in 1972.[58] Given that a firm's total assets are generally controlled by individuals who own a minority of the stock (many experts maintain that five percent ownership is sufficient in most cases to exercise control in large corporations),[59] this report estimated, conservatively, that "for all practical purposes, the 5.2 percent of the adult population who own two-thirds of the value of all privately held corporate stock have a large measure of effective control over virtually all corporate assets."[60]

Given the location of minorities within the American economic structure, the flight of corporate investment and jobs overseas and the growing concentration of wealth which results pose serious threats to the already tenuous position of the non-white population. This is not to imply that the concentration of wealth in the U.S. is solely due to foreign investments. But such practices constitute a contributing factor. Plant closings and relocations are national as well as international phenomena which have serious implications for employment and economic development opportunities for minorities in the United States. The dearth of jobs in Chicago's west side, for example, cannot be adequately understood without taking into consideration these international developments.

The Consequences

The sudden closing of a major employer and the gradual disinvestment and decline of an area have serious implications for entire communities and for the families and individuals who are affected. The range and intensity of these effects are just starting to be known.

Consequences for Communities

When a plant closes down or cuts back on production, a number of adverse economic trends are set in motion. The most immediate is, of course, the loss of jobs for many workers. It is not only the workers at the plant which is closing or reducing production which are affected. Ancillary businesses, suppliers, and retail stores are all affected. Not only does the plant in question stop or reduce purchasing goods from other manufacturers, thus adversely affecting their operations, but the former employees are forced to cut back on their purchases, thus adversely affecting local merchants. Revenues from personal income taxes, corporate income taxes, and retail sales taxes are all reduced. Particularly if the rising unemployment should be prolonged, demands upon public services increase as unemployment benefits, welfare costs, and other social service expenses rise. Since this increased demand occurs precisely at the time tax revenues are declining, public services are inevitably reduced. Compounding these problems is the fact that donations to private charities decline at the same time.[61] In sum, the Federal Trade Commission compiled the follow-

[56] "A New Strategy for Minority Business Enterprise Development" (Executive Summary), James H. Lowry and Associates, Chicago, Illinois, p. 2 and Exhibit 5. James A Hefner, "The Economics of the Black Family From Four Perspectives," in Charles Vert Willie (ed.), *Class & Caste Controversy* (Bayside, N.Y., General Hall, Inc., 1979), p. 83.

[57] "Broadening the Ownership of New Capital: ESOP's and Other Alternatives," study prepared for the Joint Economic Committee of the Congress of the United States, 1976 (hereafter cited as "Broadening Ownership"), p. 1.

[58] "Broadening Ownership," p. 7.

[59] Ferdinand Lundberg, *The Rich and the Super-Rich* (New York: Bantam Books, 1973), p. 16.

[60] "Broadening Ownership," p. 14.

[61] Peter Bearse, "Plant Closings," unpublished manuscript, Mar. 10, 1978

ing list of those aspects of a community's economy which are adversely affected by plant closings and cutbacks:

wage and earnings of residents
per capita income
retail sales for the area
employment in the retail sector
income, sales, and property tax collections
tax rates: tax burden for residents and businesses
quality and quantity of local government services
value added for local manufacturing
employment in intermediate industry
total property valuation
population levels
labor force levels[62]

The local economy is not the only facet of a community which is affected by these developments. Family life is often disrupted and divorce rates are increased by the swiftly changed fortunes of the breadwinner(s).[63] Alcoholism, crime, racial antagonism, and a variety of mental and physical health problems have been shown to be exacerbated by rising unemployment and by the disruption caused by plant closings.[64]

All of these problems tend to reinforce each other. For example, if services decline, local employers are provided additional incentive to relocate or expand in other localities and outsiders have less motivation to move into a community. As more companies choose to leave, of course, the tax base, and eventually city services, decline even further. The social problems accompanying these economic trends increase. And declining revenues are further stretched to cover growing demand. The more mobile and less economically disadvantaged workers may move with the company or take a position with another company outside the local community, thus draining the declining area of its more highly skilled workers. This further drains the tax base and makes the area even less attractive to other employers. The result is often a pocket of poverty containing the least employable segment of the population. Those who remain and find new jobs tend to receive a lower wage or salary. Those who cannot find new jobs, of course, are frequently added to the welfare roles. One group of people which tends to be particularly hard hit by these trends is racial minorities.[65]

Just the threat of closing or relocating to another community can adversely affect a community. Some communities have granted tax breaks and other concessions. which they can ill afford, in order to placate an employer. Collective bargaining negotiations can result in workers settling for lower pay or benefits, or more adverse working conditions out of fear that should they ask for what they believe they deserve, the company would simply move out. Occupational safety and health standards, including air and water pollution regulations are often compromised in the interest of keeping the jobs in town. Out of fear of losing their jobs, some workers are vulnerable to pressure by their employers to support unnecessary military production. As United Automobile Workers Vice-President Marc Stepp concluded, "Thus in practically every area, social progress is held hostage to corporate runaway and shutdown threats."[66]

When a large plant is shut down or production is cut back substantially, problems are created which ripple throughout the entire community. As Congressman William D. Ford (D-Mich.) stated: "Without warning, local tax bases are decimated, unemployment skyrockets, workers' pensions are wiped out, and small businesses are left without a market. The effect on the displaced workers is a devastating social tragedy."[67]

Consequences for Individuals

What is frequently lost amidst the mass of statistics routinely reported on plant closings, cutbacks, and relocations is that real human beings, not abstractions referred to as regions, states, or communities, are the ones who suffer. Those who suffer the most are racial minorities, women, older workers,

(hereafter cited as "Plant Closings"). "Measuring Community Costs." David A. Smith, with Patrick J. McGuigan, "Youngstown is Not Unique: The Public Policy Implications of Plant Closings and Runaways," paper prepared for the National Center for Economic Alternatives, Sept. 1, 1978 (hereafter cited as "Youngstown is Not Unique").

[62] "Measuring Community Costs," p. 15.

[63] "Youngstown is Not Unique," p. 2. John Collins, "Save Youngstown: Save America," *Church & Society* July-August 1978 (hereafter cited as "Save Youngstown").

[64] "Save Youngstown," p. 12. Sidney Cobb and Stanislav V Kasl, *Termination: The Consequences of Job Loss*, National Institute for Occupational Safety and Health, U.S., Department of Health, Education, and Welfare, 1977 (hereafter cited as *Consequences of Job Loss*), pp. 175-180. Harvey Brenner, "Estimating the Social Costs of National Economic Policy: Implications for Mental and Physical Health and Clinical Aggression," report prepared for the Joint Economic Committee of the Congress of the United States, 1976.

[65] "Plant Closings," p. 3.

[66] Marc Stepp, testimony on the National Employment Priorities Act before the Subcommittee on Labor Standards of the House Committee on Education and Labor, Aug. 15, 1978 (hereafter cited as Stepp testimony), p. 4.

[67] William D. Ford, "News Release," July 31, 1979.

and lower skilled workers or those whose skills are least transferable.[68] The variety of deleterious consequences include economic, social, psychological, and physical hardships.

The loss of a job, and the primary if not sole source of income, often represents the first in a series of adverse economic consequences confronting workers faced with the closing down or relocation of their employer. Extended periods of unemployment are not uncommon with workers reporting unemployment rates between 23 and 49 percent two years after shutdown, according to one study. When new jobs are found they tend to pay lower wages and often do not require all the skills utilized on the previous job. In the long run, family income is sometimes drastically reduced by the unexpected months of unemployment and wage cut. Not surprisingly, these workers tend to report reduced satisfaction with their jobs and their work situation in general.[69]

A number of social and psychological ills are also associated with plant shutdowns. Workers often sense a sudden loss of self-confidence and feeling of uselessness, greater anomie, and dissatisfaction with life in general. Social interaction among family and with friends is reduced, political alienation is increased, and emotional problems are multiplied, frequently resulting in higher divorce rates and greater incidence of wife and child abuse. Displaced workers frequently experience serious depression and anxiety which often manifests itself as bitterness towards the "system that seemed to deny them jobs."[70]

The most devastating consequences are the severe physical problems many displaced workers experience. Among the medical problems that have been found to be associated with plant shutdowns are: sleeplessness, alcoholism, hypertension, ulcers, increased uric acid, blood pressure and cholesterol levels, weight loss, dyspepsia, joint swelling, and alopecia. One additional phenomenon associated with plant closings, as indicated earlier, is suicide, reaching as high as 30 times the normal rate among workers displaced by plant shutdowns.[71]

As the case of Jim Farley indicates, these problems can be exacerbated by the mere anticipation of a shutdown, as well as the actual occurence. And Walter Strange of the Virginia Polytechnic Institute and State University has found that they often carry over into the job search process and on the new job itself, in those cases where displaced workers find employment. Strange found that the job search and the new work setting presented challenging social environments involving different types of personal interaction and technical skills serving in many cases to compound these economic, social, psychological, and physical problems.[72]

Michael Maccoby, a Harvard University social psychologist and psychoanalyst, has argued that the incidence of many of the above noted maladies constitute symptoms which result from individuals "trying to adapt to humanly destructive conditions," which they must tolerate on the job.[73] He concluded:

> These workers suffer from a reactive condition, that cannot be treated by a doctor, except in terms of symptomatic relief through tranquilizers which will merely exchange one symptom for another, i.e., insensitivity in place of anxiety. In these cases, a 'cure' would require social change, not treatment.[74]

Such an analysis and conclusion regarding dehumanizing work situations may apply equally as well to individuals experiencing a sudden absence of a work situation, i.e., unemployment due to plant shutdown.

Interestingly, many of the sunbelt communities which have experienced substantial growth in recent years are suffering from many of the same maladies. Sudden, unplanned growth has led to an increase in crime rates, a variety of physical and emotional health problems including heightened alcoholism, mental depression, and family disorganization.[75] Apparently, the social costs of sudden capital mobility affect both the "losers" and the "winners."

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[68] See footnote 2.

[69] "Measuring Community Costs," pp. 3, 10. *Capital and Communities*, pp. 66–71.

[70] "Measuring Community Costs," pp. 4, 10, 27. "Personal Costs," p. 205. "Closings: Methods and Data Sources," p. 62.

[71] Walter G. Strange, "Job Loss. A Psychosocial Study of Worker Reactions to a Plant-Closing in a Company Town in Southern Appalachia," (undated and unpublished manuscript), p. 3. This paper is a partial abstract for a study published by the National Technical Information Service in Springfield, Virginia in 1977 (hereafter cited as "A Psychosocial Study". "Measuring Community Costs," p. 27. *Consequences of Job Loss*, p. 179.

[72] "A Psychosocial Study," p. 4.

[73] Michael Maccoby, "Work and Human Development," paper presented to the Association for Philosophy of the Unconscious of the American Philosophical Association, Eastern Division Meeting, Washington, D.C., Dec. 28, 1977 (hereafter cited as "Work and Human Development"), p.A2.

[74] "Work and Human Development," p. 4.

[75] *Capital and Communities*, pp. 98–102.

The Reasons

Conventional wisdom argues that decisions to close, locate or relocate an establishment and to allocate capital are dictated by the forces of the free market. Inefficient companies go out of business. Only the economically fit survive in what is assumed to be a competitive economy. Investment dollars flow into those areas that will generate the maximum return, thus providing for the maximum number of jobs, the most efficient utilization of resources, and the lowest prices for consumers. Plant closings represent a painful but necessary part of the normal operation of a market economy and the natural workings of economic life.[76] As former Senator James Allen (D–Ala.) argued:

> Under our free economic system it has never been seriously questioned that a small businessman has the right to set himself up in business, to select the site of his establishment on the basis of such market considerations as he might, within his own free and uncontrolled discretion, consider advantageous to his undertaking, and to do all this without hindrance or interference. Indeed, our history of free location or relocation of business has been one of the reasons for our unparalleled economic success because our free enterprise system has, by its very fundamental nature, allowed men of ability to create, to build, to develop something for themselves on the basis of mobility. It has always been recognized that in the development of any business, any man who invests capital, any man who operates a business, must have the freedom to choose where he wished to operate or relocate. That is the only way an owner can operate if he expects to remain a part of a free, competitive economy.[77]

This general perspective has been challenged in recent years by revelations of the important role of non-market factors in affecting location and investment decisions, and by the increasing social costs (costs borne by the general public) of decisions made by private individuals in the free enterprise system (to be discussed in the concluding section of this chapter).

Given the diverse nature of business establishments, location decisions (relocation, expansion, contraction, etc.) and capital investment practices, it is virtually impossible to quantify the extent to which any given factor is responsible for the pattern of uneven development described above. Certain key factors, however, can be identified.

The Fantus Corporation, a business consulting firm, includes the following factors in evaluating the business climate of a particular location: corporate income taxes as a percent of total state taxes; labor legislation favorable to management; workmen's compensation payments; per capita welfare expenditures; per capita income tax; unemployment; size and cost of government; state indebtedness, and local government conditions.[78] A recent survey of Chicago manufacturers found workers' compensation, unemployment insurance, and state and local taxes to be the major barriers to expansion in Chicago. Other factors cited included quality of the labor force, hospital insurance costs, crime, and union problems.[79] According to a recent Fantus ranking of each state, nine of the twelve most favorable states for capital investment were in the South while nine of the twelve worst were in the Northeast or Midwest. Apparently, the business community listens to Fantus. Bernard Weinstein, a University of Texas economist, found "there is a fairly good correlation" between the Fantus business climate rankings and the shift of jobs out of the Northeast.[80]

Other factors which influence a decision to locate or relocate a facility include: the need for more space, an opportunity to alter production technology, and an opportunity to consolidate production.[81] Moves from central city to suburban locations in particular are frequently explained in terms of the lower crime rate, congestion, and land costs in the new location, proximity to markets and skilled labor, and generally lower operating costs.[82] One of those operating costs which has become far more significant in recent years is energy. In general, energy costs are substantially lower in the "sunbelt" states than in the northeast corridor. For example, the cost of electricity per kilowatt hour in Houston is just 4.1

[76] William Foote Whyte, "In Support of the Voluntary Employee Ownership and Community Stabilization Act," Mar. 20, 1978 (hereafter cited as Whyte Testimony), p. 5. Bennett Harrison, "Testimony in Support of the Notification and Assistance Act (S-127)" before the Joint Committee on Commerce and Labor, Massachusetts General Court (hereafter cited Harrison Testimony), p. 4.

[77] Senator James Allen, *Congressional Record—Senate*, Feb. 22, 1972, p. 4928

[78] *The North Will Rise Again*, p. 63 *State of the Region*, p. 25.

[79] "Results of I.M.A. Survey of Chicago Manufacturer's Problems—Principal Woes Point to Springfield," *IMA Executive Memo* (weekly publication of the Illinois Manufacturer's Association), Jan. 22, 1980.

[80] *The North Will Rise Again*, p. 64.

[81] Roger W. Schmenner, "The Manufacturing Location Decision: Evidence from Cincinnati and New England," Harvard-MIT Joint Center for Urban Studies, 1978 (hereafter cited as "Location Decision").

[82] "Relocations and Minorities," pp. 30, 32, 45.

cents compared to 5.9 cents in Boston. More striking is the difference between the average annual residential heating bill: $420 in Houston and $1,052 in Boston.[83]

Race is also a factor although it remains unclear the extent to which race per se or other characteristics disproportionately associated with minority communities are operating. In its survey of 19 employers located in four different cities (Atlanta, Jersey City, Philadelphia, and St. Louis), three respondents told the Equal Employment Opportunity Commission that being located in or near poor black neighborhoods caused personnel problems which contributed to company decisions to move to the suburbs. One personnel manager stated quite explicitly, "I can tell you in about 15 seconds why we made the move. We could not get employees to work on the fringe of the Negro section where we were located. Because of the high crime rate and other problems, we were finding that good prospective employees were turning us down because of our location." Two other respondents offered similar descriptions of inner-city locations and noted their ability to attract a "better class of employees" or a "more stable group of people" in the suburbs.[84] When officials for a Detroit employer cited declining quality of personnel as one justification for the firm's 1974 relocation to a nearby suburb, one factor cited as being associated with that decline was the increasing minority composition of clerical workers and job applicants.[85] At least one former manager inferred the company was moving to "escape the obligation of hiring blacks."[86]

If any single factor can be highlighted as more important than any others, it would be labor costs. As Dennis Donovan, a vice-president of the Fantus Corporation stated, "Labor costs are the big thing, far and away. Nine out of 10 times you can hang it on labor costs and unionization."[87] Relocation has taken its toll on union organizing. The United Rubber Workers alone has seen its membership decline from 69,000 to 55,000 among the four major tire manufacturers between 1976 and 1979, causing union president Peter Bommarito to conclude:

> Corporations are relocating at a pace unparalleled in history. And too many are moving simply to run away from the union. They are moving abroad to get away from unions. They are moving South and Southwest to get away from unions. This exodus has affected the whole labor movement.[88]

Prevailing wage rates and union activity in the South compared to the northeast corridor, and in foreign countries compared to the United States, bear this out. Though the southern economy is growing faster than that of the Northeast, wages and the cost of living remain substantially lower in the South. As of 1970, wages in the South were 20 percent below the national average.[89] And only 13 percent of southern workers are union members compared to 25 percent nationally.[90] In describing Taiwan's attractiveness for American-based multinational corporations, the U.S. Department of Commerce stated:

> Taiwan does not have an active labor movement. . .strikes are virtually unheard of. . .there is little in the way of collective bargaining.[91]

Wages are also "attractive" to these corporations. In 1975, unskilled laborers earned $2.70 per day. Similar rates prevailed in many other nations experiencing the "benefits" of American investments.[92] Federal Mogul which paid an average of $6 an hour to its UAW workers in Detroit, paid its hourly workers in Hamilton, Alabama an average of $3.40 an hour, with far fewer fringe benefits, when the southern facility was opened in 1974.[93]

The anti-union bias demonstrated by corporate flight to unorganized labor market areas hits blacks particularly hard. In general, unions have reduced income inequality in the American workforce and though labor unions are certainly not free from racial discrimination,[94] on balance, unionization has favorably affected black income and dampened

[83] "Old Cities, New Cities: Energy in the 80's," *New York Times*, Dec. 9, 1979.
[84] "Relocations and Minorities," pp. 32, 33.
[85] George D. Nimmo, Personnel Director, Automobile Club of Michigan, Deposition of Aug. 22, 1979, pp. 71–74, Commission files.
[86] John Shields, former manager of Automobile Club of Michigan, affidavit of Mar. 27, 1974, Commission files.
[87] *Akron Beacon Journal*, February 20, 1977, cited in *Industrial Exodus*, p. 3.
[88] "When 'Closed' Sign Goes Up Over A Plant," *U.S. News and World Report*, May 21, 1979.
[89] "Unions in the Sunbelt," *Business Week*, May 17, 1976, cited in *The North Will Rise Again*, p. 33.
[90] *The North Will Rise Again*, p. 33.
[91] *Industrial Exodus*, p. 3.
[92] *Industrial Exodus*, p. 3.
[93] Don Stillman, "The Devastating Impact of Plant Relocations," *Working Papers* July/August 1978 (hereafter cited as "Plant Relocations"), pp. 42–43.
[94] *Last Hired, First Fired: Layoffs and Civil Rights*, U.S., Commission on

income inequality between white and black workers in urban labor markets.[95] According to a recent labor Department survey,the minority male/white male ratio of average weekly earnings was 86.5 percent for unionized workers compared to just 70.3 percent for non-unionized workers. Similarly, unionized white women and minority women fared better relative to white males than did their non-unionized counterparts.[96] Whether intentional or not, therefore, location decisions predicated on achieving lower labor costs serve to discriminate against minority employees.

The effectiveness of State and local tax policies in attracting business to declining areas in order to spark the redevelopment of those communities is highly controverisal. Tax credits abatements, loan guarantees, and other financial incentives are offered by cities and states across the nation, and by the Federal government in hopes of attracting businesses and creating new jobs.[97] But there is increasing evidence that such policies do not work, and that they increase the hardships which they are supposed to alleviate. Roger W. Schmenner of the Harvard Business School concluded in his examination of factors affecting location decisions:

> Tax and financial incentives do not appear to be important influences on site choice, except for the finding that longer distance mover plants are rather more cost-sensitive than others. Tax breaks, industrial revenue bonding, and other financial inducements to site choice do not appear to be used much at all.[98]

Some segments of private industry are even questioning the importance of tax policies. One industry group, the Cleveland Growth Association recently acknowledged:

> Tax abatement is not an incentive to a relocation from Ohio to Alabama or Texas. . .taxes probably would not play a major role.[99]

Other analysts have concluded that tax incentives generally do not amount to enough money, compared to other costs of doing business, to affect decisions to remain within a community or move to another.[100]

Such policies can, and do, have detrimental affects on many communities. *The Wall Street Journal* noted that investment tax credits often reduce rather than increase employment by subsidizing automation.[101] To the extent that tax policies affect location decisions, the result is generally to simply move a few jobs around rather than to create new ones.[102] In at least one case, this game of musical chairs actually contributed to a plant closing, no net gain in jobs, and a serious loss in tax revenues. Columbus, Ohio recently attracted a hydraulic pumps manufacturer from West Germany on the strength of a tax abatement. One consequence was that the Abex Corporation of Columbus, a competitior of the new firm, was forced to go out of business. The number of new jobs virtually equalled the number of jobs lost, but the city ended up losing a substantial amount of tax dollars.[103] Regarding the job creation conventionally associated with this kind of aid, other critics point out that while 67 percent of the tax free financing allocated during the past two decades went to companies employing 5,000 or more, 66 percent of all new jobs created were generated by firms with 20 or fewer employees.[104] Among the establishments which have been the beneficiaries of substantial tax abatements are Dow Chemical, Atlantic Richfield, CBS, ABC, and the Hilton Hotels. These critics contend, therefore, that the largest companies who need such and the least and who are the least productive in terms of generating new jobs are those who are receiving the greatest subsidies, while those companies which have created new jobs are virtually ignored.

In addition to the absence of short term benefits, it is argued these policies are self-defeating in the long run. As public services decline as a result of reduced

Civil Rights, 1977 *The Challenge Ahead: Equal Opportunity in Referral Unions*, U S., Commission on Civil Rights, 1976. Herbert Hill, *Black Labor and the American Legal System* (Washington, D.C. Bureau of National Affairs, Inc., 1977).

[95] Richard C Hill, "Unionization and Racial Income Inequality in the Metropolis," *American Sociological Review* August 1974. Michael Reich, "The Economics of Racism," in Richard C Edwards, Michael Reich, and Thomas E. Weisskopf (eds.), *The Capitalist System* (Englewood Cliffs: Prentice-Hall, Inc 1972), p 319 Richard B. Freeman and James L. Medoff, "The Two Faces of Unionism," *The Public Interest* Fall 1979. Farrell E. Bloch, "Discrimination in Nonreferral Unions," in *Equal Rights and Industrial Relations* (Madison Industrial Relations Research Association, 1977)

[96] U.S., Department of Labor, Bureau of Labor Statistics, *Earnings and Other Characteristics of Organized Workers, May 1977,* 1979, pp. 28-31.

[97] Bennett Harrison and Sandra Kanter, "The Great State Robbery," *Working Papers* Spring 1976 (hereafter cited as "The Great State Robbery"), p. 62.

[98] "Location Decision," p. 11.

[99] "Plant Relocations," p. 47.

[100] "The Great State Robbery," pp. 57-66. *Industrial Exodus*, pp. 22, 23.

[101] *Wall Street Journal*, Aug. 11, 1976, cited in *Industrial Exodus*, p. 23.

[102] "The Great State Robbery," p. 57.

[103] *Capital and Communities*, p. 240.

[104] "Job Generation," p. 8. Ralph Nader and Jerry Jacobs, "Battle to Lure Industry Costly," *Chicago Tribune*, Nov. 12, 1979.

revenues, poor public services may ultimately serve as a greater disincentive than high taxes for companies considering coming to a community.[105]

Yet, in recent years, cities and states have entered into intense competition as each tries to outbid the other. And, as *Business Week* stated, "companies play off city against city and state against state for the most advantageous terms."[106] New Jersey Commissioner of Labor and Industry Joseph Hoffman admitted, "What the South has been doing to New Jersey for fifteen years, I'm now doing to New York. It's cut-throat, regrettably, but it's every state for itself."[107] The net result is a reduction in the tax effort of corporations and an increasing subsidy of business by workers, consumers, and the public sector.

Bad management is another reason why some firms are forced to close down. The New Systems of Work and Participation Program at Cornell University has documented several cases where unprofitable plants were taken over by new management (frequently the workers themselves) and turned into profit-making enterprises. In many cases the former owners attributed the firms' troubles to costly government regulations, obsolete products or production facilities, or other market pressures when the problem was simply mismanagement.[108] The Chrysler Corporation attributes many of its troubles to similar factors, yet, as David Moberg has shown, much of Chrysler's difficulty can be accounted for by poor management decisions.[109] One question which arises is: how many plant shutdowns and lost jobs could have been avoided by better management decisions?

Recent findings suggest that the quality of the personal life experienced by company managers is a consideration in location decisions. Again, factors like crime and congestion enter in, as do the quality of the local schools, availability of recreational facilities, and the attractiveness of housing and the neighborhood. Personal income taxes, as opposed to corporate taxes, are also a consideration from this perspective.[110] And when a decision is made to relocate, either because of personal lifestyle preferences of corporate officials or because of business requirements, the managerial elite are frequently treated differently than the work force in general. In some cases, top officials are not only offered jobs at the new location, but their moving expenses are all paid for and on occasion the company purchases their homes to ease a potential major financial burden associated with the move. Managerial and executive employees are often given more advance warning of impending changes (and therefore more time to plan for the future), more relocation or new job placement assistance, and other aid in easing the transition than are lower level professional, clerical, or blue collar workers.[111] Given the occupational distribution of white and non-white workers in the American work force (the proportion of white workers in professional, technical, managerial, and administrative occupations is twice that of non-white workers),[112] such personnel policies represent another adverse consequence of plant closings and relocations facing the minority population.

A critical factor which has contributed to many plant shutdowns and relocations in recent years has been the conglomerate merger development of the late 1960's and 1970's. According to Mark Nadel of the General Accounting Office, the conglomerate merger movement reached its peak between 1967 and 1969 when an average of 3,500 mergers occurred annually. This trend has continued, though at a slower rate, since those years as the nation experienced a new wave of merger activity in the 1970's.[113] Often a conglomerate will acquire a viable firm and, for reasons having nothing to do with the profitability of that particular firm, will choose to or be forced to shut down a few years later. In fact, despite the greater financial resources generally available to conglomerates, they have been responsible for a disproportionate share of the number of

[105] *Capital and Communities*, p. 239.
[106] *Business Week*, June 21, 1976, cited in *Industrial Exodus*, p. 23.
[107] "A Counter-attack in the War Between the States," *Business Week*, June 21, 1976, cited in *The North Will Rise Again*, p. 76
[108] Whyte Testimony
[109] David Moberg, "Chrysler Dug Its Own Grave," *In These Times*, August 22-28, 1979, pp. 3, 8.
[110] "Job Generation," p. 22.
[111] Thomas M. Rohan, "Requiem for a Factory," *Industry Week* January 31, 1977, p. 40. Equal Employment Opportunity Commission Memorandum, *Congressional Record—Senate*, Feb. 22, 1972, pp. 4925–4927. Abney v. Budd, U.S. District Court, Eastern District of Michigan, Southern Division, "State Conference Report," Feb. 27 1979. Suburban Action Institute, "Petition to the United States Department of Labor for a Ruling That Union Carbide is in Violation of Federal Contract Compliance Requirements Pursuant to Executive Order 11246," 1977, (hereafter cited as "Petition")p. 5.
[112] "Black Population," p. 218.
[113] Mark Nadel, *Corporations and Public Accountability* (Lexington, Mass.: D.C. Heath and Company, 1976), p. 122. Ritchie P. Lowry, "A Sociological View of Corporate Mergers," paper presented at the 29th Annual Meeting of the Society for the Study of Social Problems, Boston, Aug. 27, 1979. Morton Mintz, "Playing the Takeover Game," *Washington Post* Apr. 18, 1980.

closings relative to openings than independent or corporate-owned firms.[114] In some instances, the firms (and the jobs involved) have been saved by new management.

In the late 1960's, for example, one conglomerate bought out several viable New England firms, and then set a requirement on all subsidiaries that they generate a 25 percent pre-tax return on investment each year in order to generate the cash required to meet the growth plans of the parent which happened to be located in the South. The average rate of profit in this particular industry at the time was between 7 and 8 percent. Several of he subsidiaries were subsequently closed, costing approximately 4,000 New Englanders their jobs. As MIT economist Bennett Harrison concluded, "There is nothing especially unnatural about being unable to do three to four times better than your competition."[115] And there is nothing unique about such requirements. Increasingly, conglomerates are discarding divisions and throwing people out of work, not because they are unprofitable but because they are not sufficiently profitable to meet an arbitrary overall company goal.[116]

Unsound and occasionally illegal accounting practices by conglomerates have also contributed to plant closings and job losses. Through a variety of paper manipulations (what John Kenneth Galbraith has labelled "creative accounting") some conglomerates have inflated the value of their stock. Funds obtained through the sale of inflated stock are then utilized to purchase more companies. If the worth of each subsidiary has been systematically exaggerated, and if the parent has been utilizing cash from its subsidiaries to finance its own operations or the purchase of more subsidiaries, eventually these companies will become financially unsound. As Harrison argued, this process amounts to a parent corporation disinvesting in its own subsidiaries.[117]

The now infamous shutdown of Youngstown's Sheet and Tube Company is an example. Lykes Corporation, the New Orleans-based conglomerate which purchased the Ohio steel company in 1969, attributed the eventual closing of the plant to cheaper imports, costly environmental regulations, and government price restraints.[118] But other factors were working as well. Lykes borrowed heavily to purchase the steel factory which was worth six times what Lykes itself was worth at the time. Although the steel factory was generating a profit for Lykes, the conglomerate used those profits to pay off its initially high debt which increased as it continued to make further acquisitions. Little was reinvested in the steel plant so Lykes was unable to take advantage of the steel boom of 1973 and 1974. The recession which followed left Lykes with insufficient funds to modernize the facility so that when the closing was announced shortly thereafter, the plant was obsolete.[119]

The closing of Youngstown's Sheet and Tube Company was not the result of natural market forces or unexpected developments in the way of foreign competition or government regulation. Before Lykes purchased the plant, the Anti-Trust Division of the Department of Justice issued a study advising against the merger. The reasons were that the takeover would leave Lykes so heavily in debt that it would not be able to finance the modernization necessary to keep the Youngstown operation competitive. The study predicted that if the merger were to proceed, Youngstown Sheet and Tube would be shut down within ten years. The prediction was off by one year.[120]

While some corporate officials may view mergers and divestitures, as well as plant shutdowns, as part of the inevitable workings of a market system which, in the long run, redounds to the benefit of the nation as a whole, others are not so benign. Walter B. Kissinger, Chief Executive Officer of the Allen Group Incorporated, a company listed on the New York Stock Exchange, stated:

> As a result of takeovers, more than 100 public companies lost their independence in the course of 1977, causing great destruction and waste for their managers and employees and for the communities in which they operate. More than 20 billion dollars of corporate cash resources that could have been used to create new production and employment opportunities will

[114] Shearer Statement, pp. 23-25.
[115] Harrison Testimony, pp. 4-7.
[116] Daniel C. Schwartz, Deputy Director, Bureau of Competition, Federal Trade Commission, "Merger Enforcement and the Failing Company Defense," statement before Subcommittee on Antitrust, Monopoly, and Business Rights, Senate Committee on the Judiciary, July 19, 1979.
[117] Harrison Testimony, p. 6

[118] "Save Youngstown," p. 11
[119] David Moberg, "Shuttered Factories, Shattered Communities," *In These Times* June 27-July 3, 1979 (hereafter cited as "Shattered Communities"), p. 13. Gar Alperovitz and Jeff Faux, "The Economics of Urban Reconstruction," *Church & Society*, July-August 1978, pp. 26-34
[120] William Foote Whyte, letter to Isabel Sawhill, Director, National Commission for Employment Policy, July 17, 1979

instead have been devoted to rearranging the ownership of existing properties.[121]

In addition to "creative" accounting practices, the Federal Trade Commission (FTC) noted that businesses frequently take advantage of Federal tax policies which provide incentive for mergers that are unrelated to economic efficiency or any other social utility.[122] According to the FTC, "Rather than exerting a neutral influence, current tax laws actually subsidize mergers.[123] While citing a number of provisions in the Federal tax code which provide such incentives, the FTC noted one in particular, the non-recognition for tax purposes of gains associated with corporate reorganization. When an acquisition results from an exchange of stock, rather than from an outright purchase, the acquisition is considered a mere change in capital structure rather than a capital gain, thus there is no capital gains tax. The FTC estimates that the lost tax revenues resulting from this provision may have exceeded $1 billion in 1968.[124] The merger movement of the late 1960's and the increasing concentration of industrial assets, subsidized in part by Federal tax policies, led the FTC to conclude:

> These interrelated developments pose a serious threat to America's democratic and social institutions by creating a degree of centralized private decision-making that is incompatible with a free enterprise system, a system relying upon market forces to discipline private economic power.[125]

A variety of market and non-market factors account for the plant closings and relocations and the overall pattern of uneven economic development which the United States has experienced in the past few decades. The most influential non-market factor, which has only been touched upon, is government.

The Role of Government

Government, at all levels, has played a major role in shaping the patterns of development described above from central cities to suburban rings, from the Northeast and Midwest to the South, and from the United States overseas. Through their expenditures, tax policies, employment practices, and regulatory activities, State, local, and Federal government agencies have contributed to these post-World War II patterns of uneven development and to the adverse consequences of such development for the minority population.

State and local governments contribute towards these developments primarily through their zoning and law enforcement authority, and to some extent their tax policies. The impact of zoning practices on the development of metropolitan areas was summarized by the U.S. Commission on Civil Rights in the following statement:

> Zoning, though local in its operation, is metropolitan in its ramifications. A decision by a community to allow, for example, a shopping center or industrial park within its borders will affect the growth pattern, the transportation patterns, and consequently the general welfare of residents of the whole metropolitan area.[126]

An illustration of the adverse consequences of zoning practices for minorities was provided by Yale Rabin, an urban planner, when he conducted a survey of zoning in Baltimore County. He found that one factor which seriously restricted housing opportunities for minority residents was the practice of rezoning predominantly black residential areas as nonresidential areas, which resulted in the demolition of many black occupied homes.[127]

More common, however, is the practice of setting maximum density or minimum cost requirements or prohibiting certain kinds of housing (e.g., multifamily dwellings) to restrict low income, usually minority, housing opportunities. A related policy which also restricts such housing is the requirement under many Federal housing programs that local government approval be secured before public housing can be built. In addition to the failure to provide for such low-income housing, the failure on the part of many state and local governments to effectively enforce fair housing laws has also contributed to the barriers minorities face in securing a home.[128] In general, zoning practices have helped shape patterns of economic development, they have served to restrict minority housing opportunities

[121] *New York Times*, Jan. 22, 1978.

[122] Federal Trade Commission *Economic Report on Corporate Mergers*, (U.S., Government Printing Office, 1969) (hereafter cited as *Corporate Mergers*), pp. 142–159.

[123] *Corporate Mergers*, p. 142.

[124] *Corporate Mergers*, p. 146.

[125] *Corporate Mergers*, p. 5.

[126] U.S., Commission on Civil Rights, *Equal Opportunity in Suburbia*, 1974 (hereafter cited as *Equal Opportunity in Suburbia*), p. 29.

[127] *Equal Opportunity in Suburbia*, pp. 30,31.

[128] *Equal Opportunity in Suburbia*, pp. 30–35.

particularly in those areas where the number of jobs are increasing, and therefore have adversely affected the employment situation of members of minority groups.[129] As Neil Gold, co-director of the Suburban Action Institute, stated:

> . . .what's really at stake in the failure to allow minority people and low- and moderate-income people to live throughout metropolitan areas is in a sense a denial of equal employment opportunity to these groups.[130]

As indicated above, there is much controversy over the effect of the various tax incentives many states and municipalities offer businesses in hopes of attracting or maintaining jobs. To the extent that tax abatements, credits, guaranteed loans and other forms of public assistance affect location decisions, it appears their net effect is to move a few jobs around rather than create new jobs. To the extent that they do not affect location decisions, they are tantamount to public subsidies of private businesses paid for at the expense of needed public services. Those states and municipalities which are already hard pressed and who attempt to compete with other areas by matching each other's tax benefits suffer the most.[131]

The Federal government, through its spending, taxation, employment, and law enforcement activities, has played a more decisive role in shaping these patterns of uneven development. Perhaps the most graphic illustration is the ratio of what various regions of the country send to Washington in tax dollars compared to what they get back in grants, contracts, and other payments. In 1976, for example, the Northeast and Midwest contributed $33.5 billion more in Federal taxes than they received in Federal spending. Meanwhile, the South received $21.0 billion more in spending than it paid in taxes. In other words, the states in the Northeast and Midwest received an average of 81 cents for each dollar they sent to Washington while the southern states received $1.25 for each dollar they sent. Illinois fared even worse than the regional average. In 1976, Illinois sent over $20.4 billion to Washington while receiving just $14.4 billion back, for a deficit of $6.0 billion. For each dollar Illinois sent to Washington, it received 71 cents back in spending.[132]

The regional implications of these differential taxing and spending patterns are far more complex, of course, than indicated by these simple ratios. And while some differences from State to State and region to region would be expected because of varying needs, not all the differences can be explained by such benign reasoning. In fact, there are several systematic biases built into current taxation and spending practices which often unfairly favor suburbs over central cities, the South over the Northeast and Midwest, and even foreign nations over the United States.

Federal procurements reinforce these patterns of development, despite Executive Order 12073 which requires agencies to give top priority to "labor surplus areas" in their spending practices.[133] One of the Federal government's biggest spenders, and one which accounts for the bulk of the regional disparities, is the Department of Defense (DOD). In 1975, for example, DOD expenditures were over $400 per capita in the South compared to just over $300 in the Northeast and $200 per capita in the Midwest.[134] While the sunbelt has long received a disproportionate share of defense spending, the disparities have increased in recent years. Between 1970 and 1977 DOD payrolls in the Northeast and Midwest increased by 43.1 percent compared to an increase of 72.9 percent in the South (the total DOD payroll was over $23.3 billion in 1970, and $38.1 billion in 1977). Again, Illinois fared worse than the region in general, receiving an increase of just 36.9 percent. The share of Defense procurement spending going to northeastern and midwestern states has also declined, from 53.9 percent of the total in 1955 to 36.8 percent in 1976, while the South experienced a 9.5 percent increase. These disparities result in part from the execution of contracts which violated Defense Manpower Policy No. 4 requiring targeting of expenditures to areas of economic need.[135] In 1970 the Northeast and Midwest received 19.9 percent of

[129] "Relocations and Minorities." *Housing Markets and Racial Discrimination.*

[130] Neil Gold, Hearing before the U.S., Commission on Civil Rights, Washington, D.C., 1971, cited in *Equal Opportunity in Suburbia,* p. 25.

[131] State of the Region, pp. 29, 30, 69, 70. (The Northeast-Midwest Institute and Coalition include the following states in the Northeast and Midwest: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania, Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin. The following States plus Washington, D.C., constitute the South: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia).

[132] "Two Urban Initiatives: A Report Card," Northeast-Midwest Institute, Washington, D.C., 1979 (hereafter cited as "Report Card").

[133] "Federal Spending: The North's Loss is the Sunbelt's Gain," *National Journal* June 26, 1976, p. 880.

[134] Lawrence Zabar, "Federal Procurement and Regional Needs: The Case of Defense Manpower Policy Number Four," Northeast-Midwest Research Institute, Washington, D.C., 1977.

[135] *State of the Region,* pp. 31-35, 75, 76.

the military construction budget compared to 80.1 percent for the South and West By 1977, the Northeastern and Midwestern share declined to 11.2 percent. In 1975 the South contained 43.0 percent (189) of all major military facilities compared to 20 percent (89) for the Northeast and Midwest, yet between 1961 and 1975 almost half of the 327 bases which were closed were located in the northeast corridor.

The economic dislocation caused by military realignment has been tempered somewhat by various Federal government activities. Since 1961, over 260 communities affected by Defense Department cutbacks have received some form of assistance. In 1970, the Economic Adjustment Committee (EAC) was formed under the chairmanship of the Secretary of Defense. This presidential committee which consists of the top officials of 18 Federal agencies, including Cabinet members, works with state and local officials and the private sector in creating economic development programs for communities adversely affected by military realignment. These coordinated efforts have resulted in the creation of many civilian jobs, takeover of military installations for use by private businesses, transformation of other military installations into educational institutions, and other programs.[136] In at least one ongoing effort, the EAC acknowledged the adverse effects of such developments for minorities.[137] The transfer of the Defense Electronics Supply Center (DESC) from Dayton, Ohio to Richmond and Norfolk, Virginia, which was announced in 1979, will mean the loss of 545 civilian jobs. DESC, according to this report, has one of the best reputations in the region for minority employment. Over 50 percent of the employees affected by the DESC closing are black. In this case, therefore, the EAC report says, "Special efforts should be made to assist the minority population of Dayton find employment."[138] Overall, however, the efforts of the EAC have not been able to stem the flow of military and other Federal resources to suburban and sunbelt locations.

Federal welfare expenditures also reflect and reinforce regional disparities. Aid to Families with Dependent Children (AFDC) is the largest welfare program and is an explicit example of regional inequities in Federal welfare spending.[139] In the Northeast and Midwest, states were reimbursed for 51.8 percent of AFDC expenditures (49.8 percent in Illinois) compared to 68.1 percent in the South. Since reimbursement is based on a state's ability to pay, some differences are to be expected. But these differences also reflect the fact that regional variations in the cost of living are not taken into consideration when per capita income is entered into the reimbursement formula, to the detriment of the northeast quadrant. The snowball effect of current aid formulas was explicitly acknowledged by Sen. Howard Metzenbaum (D-Ohio):

> The pattern [of discrimination] has been so constant and so negative. And unfortunately, it is like a rolling stone that picks up steam as it goes. The fewer [Federal] dollars you get back [from Washington], the fewer jobs there are and therefore, the fewer dollars there are.[140]

Reliance on per capita income is faulty on other grounds as well, and has far greater ramifications than just the effect on the distribution of AFDC payments. In 1976, for example, $24 billion or 40 percent of all grant dollars were allocated to state and local governments on the basis of per capita income.[141] In addition to failing to account for regional disparities in the cost of living, per capita income ignores differences in state and local tax efforts and it does not take into consideration the source of income. By including transfer payments as income, this policy in effect penalizes cities and states which make a greater effort to assist the poor and unemployed. The traditional per capita income measure, therefore, overstates the relative economic health of the states. By adjusting the per capita income measure for cost-of-living, taxation, and transfer payments, northeastern and midwestern states do not rank as highly as they do with the traditional measure. For example, in 1975, Illinois had the third highest per capita income in the nation. When adjusted for these three factors, however,

[136] See the following reports of the President's Economic Adjustment Committee, Office of Economic Adjustment, Office of the Assistant Secretary of Defense: *Summary of Completed Military Base Economic Adjustment Projects: 1961–1979* (Washington, D.C.: The Pentagon, 1979); *Economic Recovery: Community Response to Defense Decisions to Close Bases* (Washington, D.C.: The Pentagon, 1975).

[137] President's Economic Adjustment Committee, Office of Economic Adjustment, Office of the Assistant Secretary of Defense, *Economic Adjustment Program, Dayton, Ohio* (Washington, D.C.: The Pentagon, 1979) (hereafter cited as *Dayton).*

[138] *Dayton*, p. 69.

[139] *State of the Region*, pp. 35–38, 77, 78.

[140] "A Year Later, the Frostbelt Strikes Back," *National Journal* July 2, 1977, p. 1029.

[141] "Per Capita Income is Not a True Measure of Economic Health," Northeast-Midwest Institute, Washington, D.C., Jan. 23, 1978 (hereafter cited as "Per Capita Income"), pp. 1–4.

Illinois' position dropped to seventh. According to the Northeast-Midwest Institute, the traditional measure overstates the average state per capita income by 96 percent. None of the southern states per capita income is overstated by more than the national average while 12 of the 16 northeast and midwest states are overstated by more than the average. As the Institute concluded:

> If federal grant-in-aid programs are to be unbiased or neutral in their distribution of aid, variations in cost-of-living must be taken into account.[142]

The Northeast-Midwest Institute has analyzed the regional impact of Federal expenditures and policies in a number of additional areas, including: energy, distribution of Federal surplus property, medicaid assistance, education aid, public service jobs, conservation of farmland, and U.S. export practices.[143] The pattern in each case has been one of Federal favoritism to the South, at the expense of the Northeast and Midwest. The pattern is not inevitable, however. The Institute has also presented alternatives to current practices in each area to provide for a more equitable distribution of Federal expenditures.

Federal spending has also contributed substantially to the development of suburban communities in metropolitan areas within each region of the country. Perhaps more than any other expenditure, Federal highway assistance has expedited the post-World War II flight to suburbia. As the Douglas Commission concluded in 1968:

> Probably there is no more important single determinant of the timing and location of urban development than highways. Highways in effect "create" urban land where none existed before by extending the commuting distance from existing cities. The low-density pattern found in most of the Nation's suburban areas would never have been possible without the effect of high-speed highways in reducing the importance of compact urban development.[144]

A further consequence of the highway program has been the displacement of minority residents. In the process of facilitating travel between the downtown business districts and bedroom suburban communities, many minority homeowners have been forced to relocate, primarily in central city neighborhoods. The Federal highway program, therefore, has contributed to the restriction of housing opportunities for minorities and reinforced the dual housing market.[145]

Equally important, if not more so than Federal spending policies, are Federal tax policies. Reference has already been made to how tax laws encourage mergers of existing firms rather than internal expansion of production, and the adverse effects of these developments on the total number of jobs and the subsequent job opportunities for minorities. Inequalities resulting from regional disparities in Federal tax collections and expenditures have also been demonstrated. But there are additional features of the U.S. tax code which exacerbate these trends and elevate them to the international level. The current Federal tax code provides incentives for investment in new equipment, plants, and therefore new locations, thus discouraging reinvestment in existing facilities. The benefits are even greater if the new investment, equipment, and plant site happen to be located in a foreign country. Investment tax credits not only help defray the cost of new equipment and plants, but operating losses incurred at older facilities scheduled to be closed can be offset against profits earned elsewhere, and the start-up costs at the new location are tax deductible. The accelerated depreciation allowed on new facilities provides further incentives for the abandonment of existing operations. Such policies, in effect, shorten the useful life of older capital, and create biases in favor of new suburban development and against preservation of older urban communities.

Foreign tax credits exempt American-based multinational firms from Federal income taxes on profits earned outside the United States until those profits are returned to this country, thus encouraging relocation and expansion overseas rather than at home.[146] As indicated above, there has been a substantial flight of American corporations to foreign shores. Federal tax returns reflect this develop-

[142] "Per Capita Income," p. 4.

[143] The following are just some of the reports published by the Northeast-Midwest Institute: "Regional Energy Impact Briefs," January 1978; Robert Oremland, "The Regional Distribution of Federal Surplus Property," August 1977; Richard Weiss, "Regional Disparities in Federal Medicaid Assistance," November 1977; John F. Martin, "Regional Inequities in Federal Education Aid: The Case of ESEA Title I," March 1978; Charlotte Short, Cindy Zalman, and Gay Sigel, "The Regional Distribution of Public Service Jobs: A Comparison of the Present Program with Welfare Reform Options," February 1978; Jon Clar, "Conserving the Nation's Farmland," May 1979; Robert D. Niehaus, Nancy Long, Jeremy Eden, and Lori Tedd, "Problems and Alternatives for U.S. Export Policy," March 1979.

[144] *Equal Opportunity in Suburbia*, p. 44.

[145] *Equal Opportunity in Suburbia*, p. 45.

[146] *Economic Dislocation*, p. 7. Stepp Testimony, p. 5. "Youngstown is Not Unique," pp. 8, 9. "Plant Relocations," p. 47.

ment. Thirty years ago corporations contributed over 25 percent of Federal revenue compared to just 15 percent today. A study recently released by Congressman Charles Vanik (D-Ohio) found that the nation's 148 largest corporations paid approximately $20 billion in foreign taxes in 1975 while paying $10 billion in the U.S.[147] The effect of the Federal tax code on economic dislocation and uneven development was concisely stated by Bill Casstevens of the United Auto Workers:

> Government tax policies have had the perverse effect of encouraging the abandonment of existing facilities in favor of new ones. At best, these policies have been neutral with respect to where the new facilities are located. At worst, they actually encouraged the move of industry away from existing locations. The ten percent tax credit on new machinery and equipment purchases and the use of accelerated depreciation in the computation of taxable income tend to encourage the across-the-board expenditures on new facilities which might not otherwise be economically justified. The tax treatment of plant closing costs and relocation expenses as regular business losses fosters the movement of operations, as do tax-free mergers, which often lead to consolidation of operations and plant closings. Perhaps the most perverse tax regulation of all is the foreign tax credit which, in effect, subsidizes the export of jobs to other countries.[148]

The Federal government has also contributed to the flight from central cities to the suburbs and from the Northeast to the South in its employment practices, despite the fact that under Executive Order 12072, central city districts, and particularly economically distressed areas, are to be given top priority in selecting sites for new Federal facilities.[149] Between 1966 and 1976, for example, Federal civilian employment dropped by 41,419 in central cities while it increased by 26,559 in standard metropolitan statistical areas, thus indicating a strong shift of Federal employment from cities to suburbs.[150] And between 1963 and 1973, Federal employment grew by 9,000 in the Northeast while the South Atlantic states picked up a net total of 118,000 new Federal workers.[151]

The effects of the Federal government's law enforcement activities on recent patterns of uneven development are exemplified by Federal policy in the area of housing and labor relations. In the words of the U.S. Commission on Civil Rights:

> Federal influence has been particularly significant in the vast process of suburbanization which the country has experienced in recent decades. It has, in fact, furthered the extent to which metropolitan growth has led to racial separation.[152]

As evidence, the Commission noted that for several years the Federal Housing Administration (FHA) virtually required racial separation in housing programs supported by the Federal government. A principle enunciated in an FHA underwriting manual that "it is necessary that properties shall continue to be occupied by the same racial classes"[153] illustrates the posture of the Federal government which contributed to the segregated nature of the post-World War II suburban development. The passive role of the U.S. Department of Housing and Urban Development (HUD) and the major financial regulatory agencies in enforcing the civil rights legislation which has been enacted in recent years has not been sufficient to eradicate those segregative patterns which Federal policies helped shape a few years ago.[154] The suburbanization and racial polarization of housing patterns have affected not only people's places of residence, they have affected economic development and job opportunities as well. The Commission concluded that these processes:

> . . .prompted a movement of business and industry to suburbia—a movement which frequently results in minorities being excluded from suburban job opportunities owing to their inaccessibility.[155]

In the area of labor relations, so-called "right to work laws" have provided industry with an important incentive to relocate or expand facilities in the South, at the expense of the northeast corridor.[156] Under Section 14(b) of the Taft-Hartley Act, enact-

[147] "Plant Relocations." pp 47, 48.
[148] Testimony before the Subcommittee on Labor Standards of the Committee on Education and Labor, Akron, Ohio, May 9, 1975, cited in "Youngstown is Not Unique," pp 8, 9.
[149] "Report Card," p. 5.
[150] "Report Card," p. 4.
[151] *The North Will Rise Again*, p. 60.

[152] *Equal Opportunity in Suburbia*, p. 36.
[153] U.S., Commission on Civil Rights, *Understanding Fair Housing*, 1973, p. 5.
[154] *Equal Opportunity in Suburbia*, pp. 36-49. U.S. Commission on Civil Rights, *The Federal Fair Housing Enforcement Effort*, 1979.
[155] *Equal Opportunity in Suburbia*, p. 67.
[156] *The North Will Rise Again*, pp. 34-37. *Industrial Exodus*, p. 13.

ed in 1947, individual states are permitted to enact laws which prohibit closed union shops, thus circumventing important provisions of the Wagner Act and other Federal legislation aimed at protecting the rights of organized labor. Therefore, in those states that have enacted "right-to-work laws" (most of which are in the South), compulsory union membership is illegal even if a majority of the work force votes for a union to bargain for it. In many cases where a union has won a certified election, management has replaced union employees with non-union employees who have proceeded to vote the union out. By hampering union organizing, southern states have been able to keep wages down and to attract new industry often at the expense of the more highly unionized Northeast and Midwest. Despite what the advocates of "right-to-work laws" claim, Cesar Chavez and Bayard Rustin concluded:

> As the evidence shows, contrary to guaranteeing the right to work, what these laws do is guarantee the right to work long hours, the right to discriminate, the right to pay substandard wages, and the right to destroy organized unions.[157]

A University of North Carolina study showed, in fact, that the two factors primarily responsible for the depressed wages in that state and throughout the region were right-to-work laws and the low degree of unionization.[158] Finally, as indicated above, one result of restricted union activity is an increase in the black-white income gap among workers.

Some businesses do fail, of course, because they are simply unable to compete in the market. Others relocate strictly for the purpose of improving their competitive position. But market criteria are clearly not the only factors which account for the shutdowns and relocations which have plagued many central city communities and the Northeast in general in recent years. One of the bitter ironies is that those who suffer the most from such economic dislocation are not those who are responsible for these developments, and they have the least amount of influence in shaping those events which so profoundly affect their lives. No group of people is as helplessly victimized as racial minorities.

The following scenario offered by the Suburban Action Institute as the typical city-to-suburb move, and which applies as well to inter-regional relocations, illustrates the many forces working against minorities when the dynamics of uneven development are played out:

> The mechanism of job attrition for minority workers is as follows: a company announces its plan to move from a central city to a suburban location. Employees are offered the opportunity to relocate with the company and they commence the process of searching for a home near the new location or of establishing a commuting pattern from their present homes. (In the typical headquarters move, all headquarters employees are offered an opportunity to move with the company and a bonus incentive to do so, with greater incentives offered to employees with higher salaries and/or more seniority.) White employees, especially those earning more than the median for the new location's housing market area, experience relatively little difficulty in finding new housing in the new office area. Alternatively, workers who earn a high enough salary to defray increased commutation costs are able to travel to the new office location with relative ease.
>
> Lower paid and minority employees have a more difficult set of problems in maintaining employment at a firm that relocates from a central city to a suburb. Minorities' problems are exacerbated by their disproportionately lower incomes as well as by pervasive racial discrimination in the housing market. Housing markets in suburban areas tend to have relatively few low-cost housing units; single family homes predominate over row houses and apartments; rentals are relatively much scarcer than in central cities; a heavy influx of new workers seeking homes sharply inflates the cost for sales and rentals at the new suburban location. In addition, suburban areas generally have fewer non-white residents than their central cities. Discrimination in sales and rentals is common, a fact confirmed by numerous studies by local, state, and Federal agencies. Non-white workers hesitate to search for housing in the new area; may experience discrimination when they do search; and find a scarcity of the lower-priced units that they often must obtain because of their lower average earnings.[159]

Despite these barriers, some inner city minorities of course do make new housing or transportation

[157] "Right to Work," pamphlet distributed by AFL-CIO, cited in *The North Will Rise Again*, p. 36

[158] Emil Malizia, "Earnings Gap in North Carolina," University of North Carolina at Chapel Hill, June 1975, cited in *The North Will Rise Again*, p. 36.

[159] "Petition," pp. 5, 6.

arrangements in order to keep their jobs. Many, however, encounter unanticipated hardships in maintaining jobs at suburban sites and are more likely to quit shortly after the relocation than the new employees who have long made their homes in nearby neighborhoods.[160]

There are several dimensions to the problems of plant closings and economic dislocation which adversely affect racial minorities, some directly and others indirectly as indicated above. The nation's minority population tends to be concentrated in neighborhoods within metropolitan areas and in regions of the country which are declining economically or growing at a slower rate than other areas. Minority workers are concentrated in occupations and industries which have been hardest hit by recent patterns of uneven development, and conversely, they are underrepresented in those positions and sectors which are on the rise. Private investment and public spending practices augment these disparities and the disparate impact on minorities. Through their law-making and law enforcement activities, governments provide incentives for corporate relocations that directly impinge on the income of minority workers (e.g., right-to-work laws which restrict wages), and indirectly restrict the availability of jobs for minorities (e.g., zoning laws which limit minority housing opportunities and therefore accessibility to positions in communities where employment is increasing). In conclusion, the adverse impact on racial minorities of plant closings and ecnomic dislocation are hardly fortuitous.

The Social Costs of Private Enterprise

The fact that plant closings and economic dislocation in general are public issues which cannot be treated simply as natural by-products of or inevitable readjustments within a normally functioning market system, is demonstrated by the massive public costs which follow in the wake of many private decisions, such as the decision to shut down a community's major employer. These costs include not only the hardships faced by individual workers and their families as delineated above, but actual outlays from public (i.e., government) funds for unemployment compensation, readjustment assistance, welfare, and other aid. Even in those instances where a particular decision to close or relocate could be explained in market terms, such developments often are not purely private matters. Justification from a private cost-benefit analysis does not necessarily remove the public interest. As David Smith and Patrick McGuigan of the Technical Development Corporation concluded:

> Justification misses the point that the public is legitimately concerned with the differential imposition of costs and benefits and that the calculation differences reach far beyond some potential dispute as to whether or not a private decision was 'justified' in its own terms.[161]

In arguing for greater public action to deal with the consequences of economic dislocation some observers point to what they perceive as a corporation's moral or social responsibility to its employees and the community where it is or has been located, and of the government's authority to assure that private businesses meet that responsibility when so-called 'runaway plants' attempt to avoid it.[162] Others offer a straightforward economic argument noting how several costs have been "socialized" (e.g., paid for by tax dollars) while the benefits remain in selected private hands. These costs include a variety of public services and infrastructure development provided by government to initially attract and to assist private industry, in addition to the costs paid for when a company shuts down or leaves town.[163] In noting the incongruity between those who are responsible for locational decisions and those who pay for them, economist Peter Bearse stated succinctly:

> The problem is this: plant closings leave substantial costs in their wake and these costs are borne almost exclusively by parties other than the corporation which is responsible for the closing decision. Workers, families, local governments, and other public agencies are left to pick up the tab.[164]

Smith and McGuigan call for a redirection in public expenditures guided by what they refer to as the "public balance sheet". They argue:

> This public balance sheet should include both the private measures of financial return on investment and the public return on investment in terms of increased taxes and reduced welfare,

[160] "The Impact of Industrial Relocation," pp. 197-205.
[161] "Youngstown is Not Unique," p. 17.
[162] Philip R. Newell, "Work & Redemption of Urban America," *Church & Society* July-August 1978, p. 3. Stepp Testimony, p. 4.

[163] "Youngstown is Not Unique," p. 8. "Plant Closings," p. 5.
[164] "Plant Closings," p. 2.

unemployment and social costs. These costs are no less real or definite than private costs and benefits; they are simply borne by the public and not by the firm.[165]

And, at least one economist has suggested that a corporate relocation, or the threat to relocate unless granted some kind of tax relief or regulatory exemption, may be tantamount to theft from the community and that such decisions should be "treated for what they are—crimes, not sins."[166]

Almost 30 years ago, economist K. William Kapp articulated a theory of social costs which many economists have since recognized.[167] Basically, Kapp argued that in a market system where individual economic units are competing to maximize their own private gain, substantial costs are created along the way which are passed on to third parties, generally governments and future generations. Examples which Kapp included in his analysis are air and water pollution (and the expense of clean-up operations), depletion of energy resources, and the many costs associated with unemployment. Plant closings and the many ramifications of economic dislocation can now be added to this list.

Kapp was directing his comments to the limitations of economic theory as expounded by most professional economists. He argued that for economics to truly take its place among the impartial, critical scientific disciplines, economists must start supplementing their analyses of market prices with analyses of social value, and begin placing human needs rather than market behavior at the center of their theoretical considerations.[168] Other analysts have applied Kapp's thinking to the public policy arena and argued that in light of a virtually total absence of "democratic accountability" on the part of those who wield substantial economic power, some mechanism must be established to assure that public needs are considered along with the private balance sheet.[169]

Many public officials and policy researchers have already begun to act on these basic premises in their efforts to deal with the consequences of plant closings in particular and economic dislocation in general, as will be discussed in Chapter 4. One of the social costs which has been neglected, however, is intensification of racial discrimination. The following chapter examines the civil rights implications of these issues in more detail, focusing on specific developments in the State of Illinois, and the legal ramifications of the adverse consequences which confront racial minorities.

[165] David Smith and Patrick McGuigan, *Towards a Public Balance Sheet* (Washington, D.C.: National Center for Economic Alternatives, 1979) pp. 18,19.

[166] Peter B. Meyer, "Communities as Victims of Corporate Crimes," paper presented at Second International Symposium on Victimology, Boston, Massachusetts, September 1976.

[167] William Kapp, *The Social Costs of Private Enterprise* (New York: Schocken Books, 1975) (hereafter cited as *Social Costs*). "Plant Closings," p. 5.

[168] *Social Costs*, pp. 244–262.

[169] "Shattered Communities," p. 11.

Chapter 3

Plant Closings and Minority Employment

> Over the long haul, however, it is apparent that the laws of supply and demand have exercised a greater influence on the quantitative employment patterns of blacks than have the laws of the land.
>
> Vernon M. Briggs, Jr.[1]

The economic consequences of recent patterns of uneven development for minorities reinforces a longstanding fact about race relations in the United States. Historically, black employment has increased and the economic status of blacks relative to whites has improved when the U. S. economy prospered and the demand for labor was high. The two World Wars provided the starkest examples. But when the economy was in a downturn, blacks not only suffered along with everyone else, but they carried a disproportionate share of the burden and their economic status relative to whites declined. The depression of the 1930's exemplified this phenomenon.[2] In other words, employment and economic opportunity for the nation's minority population has been heavily influenced by a number of forces which cannot be accounted for in strictly racial terms. In describing such structural developments as the migration of minorities into northeastern central city communities at a time when jobs are moving to suburban and sunbelt locations, and the growing schism between well-educated, upwardly mobile middle-class blacks and the lesser educated and lesser skilled poor blacks locked into the secondary labor market (if they can find jobs at all), University of Chicago sociologist William J. Wilson concluded: "The recent mobility patterns of blacks lend strong support to the view that economic class is clearly more important than race in predetermining job placement and occupational mobility."[3]

Whether or not one analyzes prevailing patterns of development in terms of a class structure, the increasing concentration of wealth documented by the Congressional Joint Economic Committee (just over five percent of the adult population "have a large measure of effective control over virtually all corporate assets") and the exercise of power associated with that concentration have several implications for racial minorities.[4] Many of the socially dysfunctional activities which occur (e.g., "creative accounting") and the consequences many communities suffer as a result (e.g., the shutdown of viable plants) reflect what Moberg described as a lack of "democratic accountability"[5] and what the Federal Trade Commission labelled as "a serious threat to America's democratic and social institutions."[6] Because of their location within the American economic structure, racial minorities have far less of a voice

[1] Vernon M. Briggs, Jr., "The Negro in American Industry: A Review of Seven Studies," *Journal of Human Resources*, Summer 1970, cited in Harold M. Baron, *The Demand for Black Labor* (Cambridge: Radical America, 1971) (hereafter cited as *Black Labor)*, p. 38.

[2] *Black Labor.*

[3] William J. Wilson, *The Declining Significance of Race: Blacks and Changing American Institutions* (Chicago: University of Chicago Press, 1978), p. 152.

[4] "Broadening the Ownership of New Capital: ESOP's and Other Alternatives," study prepared for the Joint Economic Committee of the Congress of the United States, 1976, p. 14.

[5] David Moberg, "Shuttered Factories, Shattered Communities," *In These Times*, June 27–July 3, 1979, p. 11.

[6] Federal Trade Commission, *Economic Report on Corporate Mergers* (U.S., Government Printing Office, 1969), p. 5.

than the majority population in the exercise of a vital source of power, while at the same time they are the most victimized by that power. In essence, the lack of economic democracy can have as deleterious an impact in the struggle to achieve equal opportunity as the lack of political democracy. What W.E.B. DuBois stated decades ago applies as well today:

> I had been brought up with the democratic idea that general welfare was the object of democratic action in the state, of allowing the governed a voice in government. But through the crimson illumination of war [World War I], I realized and, afterward by traveling around the world, saw even more clearly that so-called democracy today was allowing the mass of people to have only limited voice in government; that democratic control of what are at present the most important functions of men: work and earning a living and distributing goods and services; that here we did not have democracy; we had oligarchy, and oligarchy based on monopoly and income; and this oligarchy was determined to deny democracy in industry as it had once determined to deny democracy in legislation and choice of officials.[7]

These findings raise two analytical questions. First, to what extent do the phenomena of plant closings, relocations, and dislocation in general adversely affect minorities. Secondly, under what circumstances, if any, do these developments violate civil rights laws. In order to begin assessing quantitatively the racial implications of these developments in one state, the following section examines the racial composition of selected employers which have been involved in a relocation between Illinois central cities and suburbs or between Illinois and other states, others which have expanded in Illinois or elsewhere, and still others which simply shut down. The concluding section examines the legal implications of these developments within the framework of current civil rights requirements.

Dislocation and Minority Employment in Illinois

Perhaps the most direct way to examine the effects of plant closings, relocations, and dislocation in general on minority employment is to look at the racial composition of the work force of a sample of companies before and after these developments occur. In the case of plant shutdowns, the first question would be how many minorities compared to non-minorities lost their jobs, and how these figures compare to the representation of these groups in the labor market in general. The effect of a relocation could be assessed by comparing the minority utilization at the former site before the move with that at the new site after the move. But, uneven development, particularly between regions of the country, is as much if not more a function of differential birth rates and corporate expansions as of shutdowns and relocations, as indicated in the previous chapter. A comparison of minority employment in new firms with those that shut down and a comparison between new branches with established operations would shed some light on how these developments affect minority job opportunities.

Unfortunately, no public agency maintains comprehensive data on plant closings, relocations, and expansions although scattered lists of plants involved in such developments are maintained by various planning agencies. Some researchers examining issues pertaining to uneven development have utilized a data file maintained by Dun & Bradstreet which is collected primarily for commercial credit rating and other business research purposes.[8] That file includes the address of most private businesses and, despite some important limitations, is generally considered the most comprehensive data base in terms of the geographic location and movement of private businesses in the United States.[9] Among the limitations are the high cost of purchasing the data, the incompleteness of the reports, the misreporting of some relocations as simply a death in one location and a birth in another, and the fact that the file includes no information on the racial composition of the work force. A source of data which though not as comprehensive in the number of private businesses covered but which offers detailed information on the racial composition of the work force is the EEO-1 report which many businesses are required to submit to the Equal Employment Opportunity Commission each year. The following

[7] W.E.B. DuBois, *Dusk of Dawn* (New York: Schocken, 1968), p. 285, cited in Robert L. Allen, *Black Awakening in Capitalist America* (Garden City: Anchor Books, 1970), p. 276.

[8] *Magnetic Tape Description* (Parsipanny, N.J.: Dun's Marketing Service, undated).

[9] Margaret R. Clark, "The Transformation of an 'Old' Industry: Private Investment and Technological Change in Commercial Printing in New England," Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University, 1979, p. 216. "Measuring the Community Costs of Plant Closings: Overview of Methods and Data Sources," report prepared by C & R Associates for the Federal Trade Commission, undated, pp. 77, 78.

analysis is based on all the EEO-1 reports filed in each of two years, 1975 and 1978.

The EEO-1 report must be filed annually by all companies with 100 or more employees and those employing 50 or more people and holding Federal Government contracts worth $50,000 or more. Multi-establishment employers must submit a consolidated report covering all establishments as well as establishment reports for each unit employing 25 or more people. In addition, such employers must provide the address of any unit employing fewer than 25 people and the consolidated report must cover all employees including those working in these smaller establishments.[10] Each EEO-1 report breaks down a company's employment by occupational group and by race and sex within each occupational group. The reports also indicate the address of each employer and, in the case of multi-establishment employers, the address of the corporate headquarters and of each establishment. By tracking the addresses on two different reports, it is possible to identify companies which have shut down, those which began operations, others which relocated, and still others which opened up new branch locations during those years. In the following analysis changes in minority employment are examined for Illinois firms which were involved in the following types of developments between 1975 and 1978:

- shutdown of operations;
- relocation from a central city to that city's suburban ring;
- relocation from a suburban ring to the respective central city;
- relocation from Illinois to another state;
- relocation from another state to Illinois;
- Illinois-based companies which opened up new branches in Illinois and those which branched in other states;
- companies based in other states which opened up new branches in Illinois.

There are a number of limitations in these data which must be considered in formulating any conclusions. First, the analysis is limited to basically one state, Illinois. Yet the phenomena under examination here are regional and national, as well as international, in scope. Second, the time frame is limited to the years of 1975 through 1978 despite the fact that plant shutdowns, relocations, and uneven regional development have created problems for Illinois and several other states for at least two decades. There are several reasons for focusing on these years. Cost is one factor. If a larger time span were utilized, the number of companies involved would have been greater, thus increasing the cost of the analysis. A longer time span would also mean that more of the companies reporting different addresses in their EEO-1 reports might have made multiple moves, which would be undetected by comparing two given years. This problem could be overcome by analyzing EEO-1 reports for more than two particular years, but the costs would have been prohibitive. A three-year spread is long enough to generate a sample of companies large enough to permit at least some preliminary conclusions, yet the time span is short enough so that it can be reasonably assumed any differences in addresses reported by companies represent just one relocation or expansion. This is a subjective judgement which further research may refute, but resources were simply not available to expand the scope. Finally, the particular years of 1975 and 1978 were chosen because the percentage of companies required to submit EEO-1 reports which actually did so was substantially higher in these two years compared to the intervening and prior years.[11]

Another limitation of these data is the fact that less than two percent of all private businesses (60 thousand out of 3.5 million) employing 65 percent of all private sector employees (42 million out of 65 million) are required to submit EEO-1 reports. And despite the relatively higher returns of the 1975 and 1978 surveys, only 62 percent of those companies employing 80 percent of all employees who by law are to be included in the EEO-1 reports were included in the reports actually received by the EEOC.[12] In other words, the data base for this analysis is taken from a survey which covers just over half the private sector work force. Because of the EEO-1 reporting requirements, many small firms are not covered. Yet the smaller firms constitute a significant portion of those involved in relocations, births, and deaths. As indicated in Chapter II, the majority of new jobs created over the past 20 years have been created by firms employing 20 or fewer people.

[10] *Standard Form 100, Employer Information Report EEO-1,* (Washington, D.C.: Equal Employment Opportunity Commission).

[11] Joachim Neckere, Chief, Survey Branch, Equal Employment Opportunity Commission, telephone interview, Dec. 26, 1979 (hereafter cited as Neckere interview).

[12] Neckere interview.

This analysis covers companies involved in relocations and expansions, but not births of new firms. The reason, again, is primarily cost. While this does not limit the analysis of how shutdowns, relocations, or expansions affect minority employment, it does limit what can be learned about the phenomenon of uneven development or economic dislocation in general.

Even if the sample of companies included all those throughout the nation involved in a shutdown, relocation, expansion, or birth over any given time period, the analysis would still represent an incomplete picture of uneven development and the impact on minority employment. The principal reason is that while a shutdown, relocation, expansion, or birth may occur in a given year, these events generally represent the culmination of developments which have been occurring gradually over several years time. For example, as indicated in the previous chapter, a corporation may use its profits from one facility to invest in another, or gradually shift operations from one to another, so that by the time of the actual closing, few people are immediately affected, or surprised. This ongoing shift of resources cannot be examined from an analysis of discrete events such as a plant closing or relocation.

A snapshot may also underestimate the racial effects of these developments because such effects result from events which both preceed and follow the actual move, as well as from the move itself. For example, there is evidence that a disproportionate number of minorities will leave a company before a relocation occurs in anticipation of the difficulties that relocation will create. Similarly, a disporportionate number of those who do make extraordinary efforts to keep their jobs find the hardships greater than originally anticipated and quit shortly after the move.[13] Among city to suburb commuters in general, the commuting costs represent a relatively greater burden for minorities, in part because the decision to commute rather than relocate is less voluntary for minorities; that is they have fewer housing opportunities in the suburbs than whites.[14] And for those who do lose their jobs, minorities tend to face greater difficulties in finding new employment. For the third quarter of 1979 in Illinois, for example, among unemployed workers, approximately 37 percent of non-whites were unemployed for 15 weeks or longer compared to just 30 percent for whites.[15]

Despite these qualifications, the following analysis represents the first effort to systematically document the effects of plant closings, relocations, expansions, and economic dislocation in general on minority employment. As in any case study, generalizations to a larger universe must be cautiously drawn. Yet it is reasonable to assume that the conclusions of this analysis are at least suggestive of how similar developments in other communities, and the phenomenon of economic dislocation in general, affect the nation's minority population.

Findings

Economic dislocation has affected all groups in Illinois but minority groups and women have been hit particularly hard. While the phenomena of shutdowns, relocations, and expansions have not exhibited precisely the same effects on each group, in general, minorities and women have suffered more than others.

For example, the 2,380 firms in this sample which shutdown between 1975 and 1978 formerly employed 365,032 Illinois workers of all races and sexes (see Table 3.1). But 20.0 percent of these workers were minorities compared to a statewide minority workforce of just 14.1 percent (see Table 3.2). Therefore, minorities carried a disproportionate share of the burden created by these shutdowns. Women were slightly underutilized in these firms (36.3 percent compared to a statewide female work force of 37.9), but minority women accounted for 7.8 percent of these workers compared to 5.9 percent of the state work force.

Among those firms which relocated from a central city to the respective suburban communities (91 of the 97 such firms are in the Chicago metropolitan area), total employment declined from 18,653 to 16,335, affecting all groups (see Table 3.3). But again, minorities or at least blacks (who constitute 75 percent of the state's minority population and work force)[16] lost out more. Blacks experienced a drop from 23.7 percent to 20.5 percent of total employment in these firms. Taking into consider-

[13] Charles Melvin Christian, "The Impact of Industrial Relocations From the Black Community of Chicago Upon Job Opportunities and Residential Mobility of the Central City Workforce," Ph.D. Dissertation, University of Illinois at Champaign-Urbana, 1975, pp 197–202.

[14] Franklin D. Wilson, *Residential Consumption, Economic Opportunity, and Race* (New York: Academic Press, 1979), p. 194.

[15] Data provided by Bureau of Employment Security, Illinois Department of Labor, Commission files.

[16] *Labor Force Information for Affirmative Action Programs 1979, Volume I: State of Illinois & Standard Metropolitan Statistical Areas (SMSA's)*, Illinois Bureau of Employment Security, September 1979.

TABLE 3.1

Minority Employment in Illinois Firms Which Shut Down After 1975

Location	Number of Firms	Total Emp in 1975	% Female	% Minority* All	Female	% Minority Off-Mgr/Pro/Tech** All	Female
Central City	1,155	203,669	35.4	25.9	10.7	9.8	4.0
Suburb	906	117,230	35.2	15.6	5.1	5.3	.9
Total	2,380***	365,032	36.3	20.0	7.8	7.7	2.7

For Tables in this Chapter:
* Minority includes blacks, Hispanics, Asians, and American Indians.
** Off-Mgr/Pro/Tech refers to the following Census Bureau occupational groups: Officials and Managers, Professionals, and Technical Workers.
*** This total is greater than the sum of central city and suburban shutdowns because some Illinois firms which shut down were not located within central city or suburban locations of SMSA's.

ation the total job loss reveals an even greater racial impact. Blacks lost 24.3 percent of their share of all jobs among these firms when they relocated to the suburbs compared to just 9.8 percent for whites. Women retained virtually the same percentage of jobs though minority women declined from 16.9 percent to 14.7 percent of the total. And Hispanic employment moved in the opposite direction, increasing from 3.9 percent to 4.7 percent as shown in Table 3.9. Among official, professional, and technical workers, however, Hispanic employment dropped from 1.3 percent to 1.1 percent.

The 13 firms in this sample relocating from suburban communities to their respective central cities increased their minority employment from 13.2 percent to 22.7 percent (see Table 3.4). But the 769 central city jobs which were created by these firms hardly compensate for the 18,653 which left or for the racial impact of the exodus out of the city. For women the percentage of total employees in these firms dropped from 25.3 percent to 22.5 percent though the representation of minority women increased from 3.1 percent to 4.2 percent.

Among those firms which relocated from Illinois to the South or from the South to Illinois minority employment declined, from 23.3 percent to 21.1 percent for those going South and 29.9 percent to 29.3 percent for those coming into Illinois (see Tables 3.5 and 3.6). Hispanic employment, however, increased from 6.9 percent to 8.4 percent in those companies moving from the South to Illinois. While total minority employment declined in the movement between Illinois and the South, minority employment among official, professional, and technical workers increased, from 7.5 percent to 9.8 percent for those leaving the state and from 6.3 percent to 6.7 percent for those entering. Again, Hispanics provided an exception with employment at these higher levels declining from 2.6 percent to 1.2 percent for firms coming to Illinois. Relocation from Illinois to the South reduced female employment from 36.8 percent to 33.1 percent and hit minority female employment at the upper levels particularly hard, reducing it from 1.9 percent to 0.8 percent. Relocation from the South to Illinois was accompanied by an increase in female employment from 23.4 percent to 28.6 percent, with minority women also gaining except at the official, professional, and technical positions.

Among all firms relocating to or from Illinois for all regions of the country minority employment increased. For those leaving the state minority employment rose from 16.2 percent to 17.7 percent while for those arriving the increase was from 10.8 percent to 18.3 percent. Relocations from Illinois to the West and from the Northeast quadrant to Illinois accounted for the biggest jumps. For Hispanics, however, employment declined from 7.2 percent to 6.2 percent in those firms which left Illinois. Relocation to or from Illinois reduced female representation in those firms. For those leaving the state the decline was from 44.6 percent to 39.2 percent compared to a drop from 47.5 percent to 43.2 percent for those arriving. Minority females, however, gained from 7.7 percent to 7.9 percent among those leaving Illinois and from 4.8 percent to 8.7

TABLE 3.2

Minority and Sex Composition of Total Civilian Labor Force and Selected Occupations in U.S., by Region,* and State of Illinois (U.S. and regional data are for 1976, Illinois data are for 1970)

	Percent Total Employment				Percent Off-Mgr/Pro/Tech Workers			
Location	Minority	All Female	Minority Female	Hispanic	Minority	All Female	Minority Female	Hispanic
U.S.	10.8	40.6	5.1	4.1	7.0	34.6	3.1	2.1
Northeast	9.2	40.7	4.2	3.1	6.0	33.9	2.5	1.6
North Central	7.2	39.6	3.4	1.2	5.2	33.6	2.5	0.5
Northeast Quadrant (Northeast & North Central)	8.1	40.1	3.7	2.1	5.6	33.8	2.5	1.1
South	16.8	41.4	8.0	4.3	8.4	34.7	4.1	2.9
West	9.2	40.6	5.1	9.8	8.0	33.8	2.5	3.8
Illinois	14.1	37.9	5.9	2.9	7.9	31.0	3.6	1.4

* For Tables in this Chapter: Northeast includes—Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, and New Jersey.
North Central—Ohio, Indiana, Illinois, Michigan, Wisconsin, Missouri, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, and Kansas.
Northeast Quadrant—Northeast and North Central.
South—Maryland, Delaware, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Florida, Alabama, Mississippi, Arkansas, Louisiana, Texas, Oklahoma, and District of Columbia.
West—Montana, Wyoming, Idaho, Washington, Oregon, California, Nevada, Utah, Arizona, New Mexico, and Colorado.

Source: Illinois Bureau of Employment Security, *Labor Force Information for Affirmative Action Programs 1979*, August 1979. U.S. Bureau of the Census, *Current Population Reports*, Series P-20, No. 334, "Demographic, Social, and Economic Profile of States: Spring 1976."

TABLE 3.3

Changes in Minority Employment in Illinois Firms Relocating From Central City to Suburb in Illinois SMSA's (1975-1978)

Location	Number of Firms	Total Employment	% Female	% Minority All	% Minority Female	% Minority Off-Mgr/Pro/Tech All	% Minority Off-Mgr/Pro/Tech Female
Chicago	91						
1975 Central City		18,088	44.7	29.7	17.4	8.5	2.5
1978 Suburban		15,863	44.3	27.3	15.1	8.1	2.3
St. Louis (Ill.)	3						
1975 Central City		119	66.4	1.7	.8	0	0
1978 Suburban		124	63.7	1.6	0	0	0
Statewide Totals	97*						
1975 Central City		18,653	44.0	28.7	16.9	8.3	2.5
1978 Suburban		16,335	43.9	26.6	14.7	8.0	2.2

* Three firms in three other SMSA's, not included in this table, also relocated from a central city to suburban location and are included in the statewide totals.

TABLE 3.4

Changes in Minority Employment in Illinois Firms Relocating From Suburb to Central City in Illinois SMSA's (1975-1978)

Location	Number of Firms	Total Employment	% Female	% Minority All	% Minority Female	% Minority Off-Mgr/Pro/Tech All	% Minority Off-Mgr/Pro/Tech Female
Chicago	12						
1975 Suburban		675	20.0	14.6	3.4	11.1	1.0
1978 Central City		710	19.0	24.2	19.0	10.8	.9
Statewide Totals	13*						
1975 Suburban		750	25.3	13.2	3.1	10.7	1.0
1978 Central City		769	22.5	22.7	4.2	10.0	.8

* One firm, in an SMSA other than Chicago, also relocated from a suburban to central city location and is included in the statewide totals.

TABLE 3.5

Minority Employment in Firms Which Relocated From Illinois to Other States Between 1975 and 1978

Location	Number of Firms	Total Employment	% Female	% Minority All	% Minority Female	% Minority Off-Mgr/Pro/Tech All	% Minority Off-Mgr/Pro/Tech Female
South	14						
1975 Illinois		1,966	36.8	23.3	8.6	7.5	1.9
1978 South		1,589	33.1	21.2	7.9	9.8	.8
Northeast Quadrant	46						
1975 Illinois		5,148	40.5	14.0	7.5	9.8	3.9
1978 Northeast Quadrant		6,950	39.9	13.3	6.1	4.4	1.5
West	12						
1975 Illinois		1,870	64.0	15.0	7.4	5.5	1.6
1978 West		1,969	41.7	30.5	14.1	15.2	3.1
Total	72						
1975 Illinois		8,984	44.6	16.2	7.7	8.5	3.1
1978 Non-Illinois		10,508	39.2	17.7	7.9	8.8	1.9

TABLE 3.6

Minority Employment in Firms Relocating to Illinois From Another State Between 1975 and 1978

Location	Number of Firms	Total Employment	% Female	% Minority All	% Minority Female	% Minority Off-Mgr/Pro/Tech All	% Minority Off-Mgr/Pro/Tech Female
South	12						
1975 South		707	23.4	29.9	5.9	6.3	1.0
1978 Illinois		865	28.6	29.3	8.4	6.7	.8
Northeast Quadrant	27						
1975 Northeast Quadrant		7,119	50.1	8.5	4.5	2.6	.9
1978 Illinois		8,485	44.3	17.2	8.5	7.8	2.9
West	6						
1975 West		286	41.6	19.4	9.0	9.9	3.3
1978 Illinois		449	51.2	17.6	12.4	6.1	2.3
Total	45						
1975 Non-Illinois		8,112	47.5	10.8	4.8	3.2	1.0
1978 Illinois		9,799	43.2	18.3	8.7	7.6	2.7

percent for those entering. Minority employment was higher in those firms which moved to Illinois (18.3 percent) than in those which left (16.2) while female representation was higher in firms which left (44.6) than in those which came to Illinois (43.2). Minority women, however, were employed at a higher rate among those who came to Illinois (8.7) than by those who left (7.7).

Relocation, whether within a metropolitan area or to another region of the country, is disruptive for a firm's employees even if no jobs are lost and all workers stay with their employer. Among each group of firms included in this sample, minorities were employed prior to relocation in greater proportions than they were represented in the respective regional labor markets except for those firms which left the Northeast quadrant. The same holds true for women except for those who moved from the suburbs to the central city or from the South to Illinois. So no matter who is employed at the receiving location, minorities and women experience a disproportionate share of the disruption created by corporate relocation.

Expansions, or the creation of new branches, increased job opportunities for minorities and women both absolutely and relative to others. Such growth occurred much more rapidly outside of Illinois than in the state (see Tables 3.7 and 3.8). That is, firms in this sample headquartered outside the state of Illinois opened just 966 Illinois branches, employing 97,513 people, between 1975 and 1978 while Illinois based firms opened 2,487 branches, employing 305,340 people in other states. When Illinois branches of Illinois-based firms are included, a total of 1,564 branches employing 182,049 people were opened in the state, still far short of the expansion in non-Illinois locations of Illinois-based companies. In general, minorities and women did benefit from these developments. Except for Hispanic employment in branches opened up in the Northeast quadrant and the West, minority and female employment was higher in each group of branches than in the respective regional labor market (see Table 3.9).

Among Illinois-based firms opening branches, minority and female employment within the headquarters office exceeded their representation in the state's labor force and that representation increased between 1975 and 1978. In the branches which opened during these years, minority and female representation also exceeded their representation in the respective regional labor markets. Minority employment in branch offices in all regions combined was slightly less (18.8 percent) than in the Illinois headquarters offices (19.5 percent) while female employment in the branches (47.2 percent) exceeded that in the headquarters location (44.0 percent).

Among firms headquartered in other States which opened Illinois branches, minority employment was higher in the headquarters' locations than in the regional labor market except in the South. Hispanics, however, were underrepresented in headquarters offices except in the Northeast quadrant. Minority employment in the Illinois branches (16.7 percent) exceeded their representation in the state's labor force (14.1 percent). Female employment in the non-Illinois headquarters offices reflected their representation in the regional labor markets and, within the Illinois branches (40.7 percent), exceeded their proportion of the state's labor force (37.9 percent). For minority women at the official, professional, or technical level, however, representation in the Illinois branches (2.0 percent) was below their representation statewide (3.6 percent).

Clearly, business expansion is beneficial for all groups. But the salutary effects are tempered somewhat by two considerations. First, minorities and women fared better in branches which opened outside of Illinois (18.8 percent and 47.2 percent) compared to branches opened within the State (17.7 percent and 40.7 percent). This fact, along with the fact that many more branches and jobs were created outside the state by Illinois-based firms than inside the state by all firms indicates that Illinois minority and female residents have not fared as well as others from these corporate expansions. Secondly, for Illinois the total number of jobs gained by expansions in this sample (including Illinois-based firms which opened Illinois branches) of 182,049 does not offset the loss of 365,032 due to shutdowns. And the minority representation in those firms which shut down was 20.0 percent compared to 17.7 percent in the new branches which opened in Illinois.

In general, economic dislocation in Illinois has adversely affected minorities and women though certain dimensions of dislocation have had differing and sometimes contradictory effects on various groups. Companies which shut down employed a higher percentage of minorities but a lower percentage of women than the statewide labor force in general. Relocation from central cities to suburban

TABLE 3.7

Minority Employment in Illinois-Based Firms Which Opened New Branches Between 1975 and 1978

Branch Location	Number of Firms	Total Employment	% Female	% Minority		% Minority Off-Mgr/Pro/Tech	
				All	Female	All	Female
South							
1975 Illinois HQ	124	90,255	44.0	16.8	9.6	5.7	1.6
1978 Illinois HQ	124	78,494	46.3	19.4	11.7	8.7	3.4
1978 Southern Branches	901	115,048	47.0	24.5	11.8	10.3	3.7
Northeast Quadrant							
1975 Illinois HQ	159	104,427	41.7	16.5	8.5	4.9	1.2
1978 Illinois HQ	159	87,914	43.5	18.3	9.9	7.1	2.4
1978 Northeast Quadrant Br.	1,001	130,204	46.9	10.5	5.0	5.6	1.8
West							
1975 Illinois HQ	90	51,467	42.1	13.4	7.3	5.5	1.5
1978 Illinois HQ	90	56,741	45.6	17.7	10.3	8.8	3.6
1978 Western Branches	585	60,088	48.4	25.7	12.1	15.7	4.8
Illinois							
1975 Illinois HQ	194	111,431	43.9	19.5	10.5	8.9	4.5
1978 Illinois HQ	194	104,231	47.1	20.6	12.5	9.9	4.6
1978 Illinois Branches	598	84,536	45.1	18.9	9.2	9.7	3.4
All States Other Than Illinois							
1975 Illinois HQ	221*	135,066	41.9	17.0	9.0	5.2	1.4
1978 Illinois HQ	221	122,715	44.0	19.5	10.9	7.7	2.8
1978 Non-Illinois Branches	2,487	305,340	47.2	18.8	8.9	9.3	3.1

* Some Illinois-based firms opened branches in more than one region, therefore, adding the numbers of Illinois headquarters in each region together exceeds this figure.

TABLE 3.8

Minority Employment in Firms Based Outside Illinois Which Opened New Branches in Illinois Between 1975 and 1978

Headquarters Location	Number of Firms	Total Employment	% Female	% Minority All	% Minority Female	% Minority Off-Mgr/Pro/Tech All	% Minority Off-Mgr/Pro/Tech Female
South							
1975 Southern HQ	52	52,132	39.3	14.5	8.7	5.7	1.6
1978 Southern HQ	52	57,092	38.4	15.2	8.9	7.4	2.0
1978 Illinois Branches	92	7,534	39.4	17.9	5.3	8.2	2.7
Northeast Quadrant							
1975 Northeast Quadrant HQ	269	310,144	38.6	11.2	6.1	5.9	1.8
1978 Northeast Quadrant HQ	269	333,673	40.3	12.3	6.9	7.4	2.8
1978 Illinois Branches	742	76,480	41.0	15.0	5.9	7.8	2.0
West							
1975 Western HQ	56	29,122	42.9	20.8	12.3	9.4	2.6
1978 Western HQ	56	33,146	44.8	24.6	14.5	12.0	3.8
1978 Illinois Branches	132	13,499	40.1	25.4	9.7	9.4	1.8
Total							
1975 Non-Illinois HQ	377	391,398	39.0	12.4	6.9	6.1	1.8
1978 Non-Illinois HQ	377	423,911	40.4	13.7	7.8	7.8	2.7
1978 Illinois Branches	966	97,513	40.7	16.7	6.4	8.0	2.0

TABLE 3.9

Hispanic Employment in Firms Which Shut Down, Relocated, or Expanded: 1975 and 1978

	% All Employees 1975	% All Employees 1978	% Off-Mgr/Pro/Tech 1975	% Off-Mgr/Pro/Tech 1978
Illinois firms that Shut Down	5.6		1.4	
Illinois firms that Relocated from a Central City to its Suburban Community	3.9	4.7	1.3	1.1
Illinois firms that Relocated from a Suburb to the Central City	4.3	8.8	0	1.7
Firms that Relocated from Illinois to the South	8.7	7.6	1.2	2.8
Firms that Relocated from Illinois to the Northeast Quadrant	6.8	3.7	1.2	1.0
Firms that Relocated from Illinois to the West	6.7	13.8	1.4	5.3
Firms that Relocated from Illinois to Any Other State	7.2	6.2	1.2	2.7
Firms that Relocated from the South to Illinois	6.9	8.4	2.6	1.2
Firms that Relocated from the Northeast Quadrant to Illinois	3.8	7.6	.9	2.3
Firms that Relocated from the West to Illinois	12.9	11.5	1.6	2.3
Firms that Relocated from Any Other State to Illinois	4.4	7.9	1.1	2.2

	% All Employees 1975 HQ	% All Employees 1978 HQ	% All Employees 1978 Branch	% Off-Mgr/Pro/Tech 1975 HQ	% Off-Mgr/Pro/Tech 1978 HQ	% Off-Mgr/Pro/Tech 1978 Branch
Illinois-based firms which opened branch in South	3.4	4.3	3.8	1.0	1.4	2.0
Illinois-based firms which opened branch in Northeast Quadrant	3.5	4.3	1.5	.9	1.3	.7
Illinois-based firms which opened branch in West	3.0	3.6	9.7	.9	1.4	6.4
Illinois-based firms which opened branch in Illinois	3.5	3.8	3.7	1.0	1.3	1.5
Illinois-based firms which opened branch in Any Other State	3.8	4.6	4.0	1.0	1.4	2.3
Southern-based firms which opened branch in Illinois	2.7	3.5	5.0	1.6	2.2	1.1
Northeast Quadrant-based firms which opened branch in Illinois	2.2	2.3	4.1	1.0	1.2	1.3
Western-based firms which opened branch in Illinois	6.0	6.5	10.4	2.7	3.0	2.5
Firms based in Any Other State which opened branch in Illinois	2.6	2.8	5.1	1.2	1.5	1.4

communities reduced black employment levels but resulted in an increase in the representation of Hispanic workers while leaving the proportion of women virtually unchanged. Minority employment increased in those firms moving from suburbs to cities but female employment was reduced. The number of firms moving from suburban to central city locations was much smaller, however, than the number leaving central cities for suburban locations. Relocation to or from the South reduced minority employment overall. Hispanic employment, however, increased in those firms moving from the South to Illinois. Female employment was reduced in those firms moving South but increased in those moving into Illinois. Relocation from Illinois to all regions, or from all regions to Illinois, resulted in an increase in minority employment and a decline in female employment with Hispanic employment dropping in those firms leaving the state. Expansions generally resulted in an increase in total employment and employment for minorities and women both absolutely and relative to others. But expansion was much greater outside the state than within Illinois, did not offset the jobs lost to shutdowns, and did not employ minorities at the same rate as did those firms which shut down in Illinois.

Legal Implications: When Corporate Relocations Violate Federal Civil Rights Requirements

The adverse impact of plant closings and relocations on minorities, in and of itself, does not constitute a violation of law. To date, there is no law, regulation, or court decision which expressly and conclusively addresses the legal implications, from a civil rights perspective, of plant relocations.[17] However, several civil rights attorneys, including officials with various enforcement agencies, have reached some consensus on at least certain circumstances where a plant relocation would consitute a violation of various Federal civil rights requirements. Most of these discussions focus on relocations from predominantly minority or racially mixed central city locations to predominantly white suburban areas. The same principles can apply, however, when the relocation is from one state or region to another, or when a corporation opens a new facility.

According to a memorandum prepared by the Equal Employment Opportunity Commission's Office of the General Counsel, the relocation of an employer's facilities from an urban to a suburban location where minority workers do not reside violates Title VII of the Civil Rights Act of 1964 unless that employer takes steps to assure equal employment opportunity.[18] Section 703 (a) of Title VII, as amended by the Equal Employment Opportunity Act of 1972 states:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.[19]

The EEOC memorandum concluded that the transfer of an employer's facilities constitutes a *prima facie* violation of Title VII if:

> (1) the community from which an employer moves has a higher percentage of minority workers than the community to which he moves, or
>
> (2) the transfer affects the employment situation of the employer's minority workers more adversely than it affects his remaining workers, and
>
> (3) the employer fails to take measures to correct such disparate effect.[20]

Such a transfer adversely affects minority employment in two respects. First, it diminishes the number of minority job candidates in the pool of labor from which the employer would be expected to recruit in future hiring. Secondly, as noted above, minority workers generally face greater difficulties in efforts to relocate or commute to the new location. Therefore, the transfer would adversely affect the employment opportunities of the firms's current minority work force.

A corporate relocation from a central city to suburban location, or from one region of the country to another, which has a disparate impact on minority employment, therefore, creates a *prima facie* violation of Title VII regardless of the employer's intentions regarding equal employment opportunity. As the Supreme Court ruled in the *Griggs* [21] decision:

> Under the [Civil Rights] Act, practices, procedures,. . .neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to freeze the status quo of prior discrim-

[17] James W. Cisco, Acting Director Division of Program Policy, Office of Federal Contract Compliance Programs, letter to Clark G. Roberts, July 17, 1980. Lamont White, Trial Attorney, Equal Employment Opportunity Commission, telephone interview, May 19, 1980.

[18] Equal Employment Opportunity Commission Memorandum, *Congressional Record—Senate* Feb. 22, 1972, pp. 4925, 4926 (hereafter cited as EEOC Memo). This memo created sufficient controversy that then EEOC Chairman William H. Brown III later issued a statement disavowing this position as EEOC policy. Samuel C. Jackson and Michael E. Abramowitz, "Housing Transportation and Fair Employment," paper presented at symposium in observation of the Tenth Anniversary of the EEOC, Rutgers Law School, 1975, p. 3. However, the EEOC has since filed or entered cases in which it has argued the existence of a Title VII violation on the basis of the analysis contained in this memo, "Suburban Relocation of Urban Employers - A Contemporary Problem in Employment Discrimination," *Iowa Law Review*, December 1976, pp. 450-451.

[19] 42 U.S.C. §703(a)(1)(2).

[20] EEOC Memo, p. 4925.

[21] Griggs v. Duke Power Company, 401 U.S. 424 (1971) (hereafter cited as Griggs).

inatory employment practices. . . .Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation.[22]

The burden is on the employer to demonstrate an overriding business necessity to justify a facially neutral practice, like a relocation, which has a disparate impact on minorities. "Business necessity" has been interpreted narrowly by the courts. As the EEOC memorandum noted, an employer must demonstrate that the practice in question is vital to the operation of the business, that it is necessary for the safe and efficient operation of the business, and that it effects an essential competitive advantage. The practice must effectively carry out the business purpose allegedly served and there must be no available alternative which would better accomplish the business objective or would accomplish it as well but with a lesser differential impact on minorities.

Even where a corporate relocation which adversely affects minority employment meets these stringent "business necessity" requirements, the move may still violate Title VII if the employer has not taken appropriate steps to minimize that disparate impact. According to the EEOC memorandum, an employer has a duty of fair recruitment which requires special efforts when normal recruiting practices would adversely affect minority employment. Corporate relocations represent a case in point. Similarly, Rutgers University Law Professor Alfred W. Blumrosen emphasizes an employer's duty to plan for fair employment when he or she contemplates relocating.[23] (Blumrosen's analysis parallels, and in fact pre-dates, that of the EEOC memorandum). Noting the complex planning process involved in considering and then preparing for a relocation, he argues, "an employer of significant stature who utilizes sophisticated planning methods could not successfully contend that he was simply unaware that there were any racial or ethnic implications to his move."[24] Once aware of these implications, Blumrosen states, the employer has a legal obligation to "plan for fair employment." And he concluded, "There is no 'business justification' for the failure of a large employer to consider the probable racial impact of a move to the suburbs."[25] One possibility is for the employer to consider a variety of sites to determine whether or not there is an alternative which will accomplish the business purpose with a smaller racial impact. In those cases where the relocation is necessary and where it is forseeable that "business as usual", would adversely affect minority employment, there are several steps an employer can take, and many have taken, to mitigate the disparate impact and avoid legal liability. These measures will be discussed in the following chapter.

Blumrosen and others have also argued that corporate relocations frequently violate Executive Order 11246 and other regulations with which Federal contractors are supposed to comply, although no regulations addressing relocation specifically have yet been promulgated.[26] Under Executive Order 11246, as amended by Executive Order 11375, Federal contractors are required to "take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, color, religion, sex, or national origin."[27] Regulations were subsequently adopted by the Office of Federal Contract Compliance spelling out the details of the affirmative action requirement. Order No. 4 and Revised Order No. 4 call for Federal contractors with 50 or more employees, or contracts worth $50,000 or more, to evaluate minority and female representation in all job categories and develop an affirmative action plan, including numerical goals and timetables, to eliminate any deficiencies which may exist in the utilization of minorities or women. These regulations specify the criteria contractors are to use in evaluating their work forces. These criteria include the size fo the minority population and work force in the surrounding community and relevant labor market, as well as the availability of minorities having the requisite skills in an area in which the employer can reasonably recruit and the existence of training institutions capable of training people in the requisite skills. The regulations also call for corrective action if the contractor finds, among other

[22] Griggs, p. 430

[23] Alfred W Blumrosen, "The Duty to Plan for Fair Employment: Plant Location in White Suburbia," *Rutgers Law Review*, Spring 1971 (hereafter cited as "Duty to Plan").

[24] "Duty to Plan," p. 392

[25] "Duty to Plan," p. 395.

[26] Unless otherwise noted the following discussion is taken from the following sources: Suburban Action Institute, "Petition to the United States Department of Labor for a Ruling that Union Carbide is in Violation of Federal Contract Compliance Requirements Pursuant to Executive Order 11246," 1977 (hereafter cited as "Petition"), pp. 25-40. Equal Employment Opportunity Commission, *Affirmative Action and Equal Employment: A Guidebook for Employers*, 1974, Volume 1, pp. 13, 14, and Volume 2 Appendix D. "Duty to Plan," pp. 401-404.

[27] Executive Order 11246, Part II Subpart 13 Sec. 202(1) (1965).

factors, "lack of access to suitable housing inhibits employment of qualified minorities for professional and management positions," or "lack of suitable transportation [public or private] to the workplace inhibits minority employment."[28] One conclusion drawn by the Suburban Action Institute is that: "The essence of this history is that the Order [Executive Order 11246]—and particularly the affirmative action provision—is to be read so as to ensure a growing minority participation in the work force of employees obtaining federal contracts."[29]

The Institute noted that the U.S. Departments of Labor, Housing and Urban Development, the General Services Administration, and other Federal agencies have developed regulations which prohibit such agencies from selecting sites for Federal facilities and Federal contractors from choosing locations for projects in a manner that would deny individuals the benefits of, or subject them to discrimination in any way under the program because of their race. No less an obligation should apply, according to the Institute, to Federal contractors when they decide to relocate their facilities. Therefore, the Institute maintained:

> OFCC's and Labor's silence on the issue of contractor relocations cannot be justified. At the least, a contractor must be held to a standard of showing a business necessity substantial enough to justify the harsh effect of a proposed move on minority workers. It certainly is anomalous that a contractor must comply with affirmative action goals at a given location, but may drastically reduce its goals through relocation.
>
> The history of the enforcement of Executive Order 11246 has been one of recognizing that employer indifference to minority recruitment cannot be overcome by a policy of mere nondiscrimination. This recognition led to an enunciation of the affirmative action doctrine. The petitioner strongly maintains that silence on the issue of discriminatory contractor relocations constitutes a serious failure of enforcement under the Executive Order.[30]

These arguments have just begun to be tested in the courts. In each case, however, a number of issues have been raised in addition to the specific question of the effect of a relocation on minority employment. To the extent that the courts have addressed this specific question, the decisions have been inconsistent.

For example the case of *Braddix v. Todd,* [31] in which the relocation of business activity from the city of St. Louis to nearby suburbs was carried out in a manner alleged to be in violation of Title VII, resulted in a $150,000 settlement distributed among 80 plaintiffs, plus $50,000 in attorneys' fees. Between 1964 and 1975 the Charles Todd Laundries gradually reduced its operations in St. Louis and opened up several suburban locations, reducing minority employment in the firm from over 75 percent of all employees to less than five percent. Officials and clerical workers along with truckdrivers, virtually all of whom were white, were offered transfer rights while the laundry workers, most of whom were black, were not even informed of the shifts in operations when they were laid off unless they explicitly asked about these developments. Even then, they were told they would have to inquire at the new locations about possible employment and that if hired, they would not retain their seniority and other rights they had accrued with the company. At the time minority laundry workers were being laid off, white workers were being hired at the new locations, which plaintiffs contended were all in the same labor market area, an area which included the laid-off workers. Because of the acquiescence of the laundry workers' union to these employment practices, thus effectively denying these employees their rights to collective bargaining, the union was also a named defendant. In 1979 a settlement was reached which, in addition to the cash payment, provided 80 plaintiffs with the right to a job at one of the company's plants. None, however, accepted the job offer, in part because most found better jobs in the interim.[32]

In the case of *Mays v. Motorola,* [33] the company was found guilty of racial discrimination, in violation of Title VII, in its hiring of blue collar workers. Between 1966 and 1975 the company had a black labor force of three percent at its Chicago area plants, despite a black labor force of 15 percent throughout the Chicago metropolitan area. Plaintiffs argued that the low representation of blacks resulted

[28] 41 C.F.R. §60-2.23 (1971).
[29] "Petition," p. 30.
[30] "Petition," pp. 39, 40
[31] Elizabeth Braddix, et al., v. Charles Todd Inc., et al., No. 74-110-E (S.D. Ill., May 1979)
[32] Lamont White, Trial Attorney, EEOC, telephone interview, May 19, 1980.
[33] William Mays, et al., v. Motorola, Inc., No. 74 C 2810 (N.D. Ill., Jan 26, 1979)

from a variety of discriminatory practices, including subjective interviewing practices and utilization of word-of-mouth among current employees to recruit new employees, with the relocation of the company's principal production unit from Chicago to the suburb of Schaumberg exacerbating the underutilization. Though the relocation issue was tangential, the court acknowledged that the move to a predominantly white community was one cause for the racial imbalance. The judge also noted, however, that several other electronics firms employing similar kinds of workers employed labor forces which included 10 to 20 percent black workers. Finding the company to be in violation of Title VII, the judge ordered the parties to develop a plan for determining claims and methods for distributing them to the affected parties. Under a 1980 settlement, between 10,000 and 11,000 blacks may be entitled to up to $10 million in back pay or jobs. An additional $5 million will be spent on various training and affirmative action programs, including hiring and promotion goals for minorities and women. Up to $1.5 million will also be awarded in attorneys' fees.[34]

Plaintiffs have not been as successful in some other actions. For example in the case of *EEOC v. North Hills Passavant Hospital,* [35] the EEOC alleged that the relocation of a hospital from Pittsburgh to a predominantly white suburban community, which led to a reduction in minority employment from over 18 percent of all employees in 1966 to 0.8 percent in 1977, and related employment practices were violative of Title VII. The agency pointed to the fact that minorities constituted 6.4 percent of the Pittsburgh metropolitan area labor force as further evidence of discrimination. The agency contended that the hospital had a policy of hiring only people who lived within 20 minutes of the facility and a preference for those with automobiles who would not have to rely on public transportation, thus illegally screening out a disproportionate number of minority applicants and job holders. In his decision, the judge stated there was no evidence of such a "20-minute" policy or bias against those without an automobile. In addition, he stated that the Pittsburgh SMSA was an inappropriate benchmark for comparing the hospital's workforce since many of the employees lived in counties near the hospital but outside the SMSA. He noted that the proportion of minorities from those surrounding communties employed at the hospital reflected their representation in the population of those areas. The judge also observed that current employees were given an employment preference when the new facility was staffed and that no black employees who applied at the time were denied jobs. Perhaps most importantly, the judge found that the hospital would have had to close down if it did not relocate, and therefore the move was justified by a legitimate business necessity. In general, the low black representation in the new facility was explainable by geography and applicant flow, not by racial discrimination. The judge found the hospital not guilty of any discriminatory employment practices.

In the case of *City of Philadelphia v. Donald H. Rumsfeld,* [36] the city sought to enjoin the closing of a local arsenal and the transfer of the work of that arsenal to a facility in Rock Island, Illinois, in part because of the alleged racially discriminatory impact of the move in violation of Title VII and other Federal civil rights requirements. Plaintiffs noted that Philadelphia has a minority population of 18 percent compared to 3.7 percent in Rock Island and that minority employment at the Philadelphia location of the arsenal was 17 percent compared to 6 percent at the Illinois location. The court rejected the city's claims, including its charges of racial discrimination, primarily on the grounds that a policy which affects all employees equally cannot be racially discriminatory and to accept the plaintiff's argument would prohibit the government from transferring any government activity when the transfer would adversely affect any minority employees.

In *Jacobs v. the State of California,* plaintiffs charged that a proposed relocation of 500 state Department of Health jobs from Berkeley to Sacramento would violate Title VII because of the disparate impact on minorities and women which would result.[37] Plaintiffs noted that the population of the city of Berkeley and the work force of the Berkeley Department of Health office were approximately 30 percent non-white and the San Francisco-Oakland metropolitan area was almost 20 percent non-white, whereas the Sacramento metropolitan

[34] Maurice Possley, "Motorola OKs Job-Bias Settlements," *Chicago Sun-Times*, Sept 24, 1980

[35] Equal Employment Opportunity Commission v. North Hills Passavant Hospital, 466 F Supp. 783 (W D. Pa , Feb. 26, 1979)

[36] City of Philadelphia et al., v. Donald H. Rumsfeld and Martin R. Hoffman, No. 76-1090 (E.D. Pa., Apr. 15, 1976).

[37] Marguerite A. Jacobs, et al., v. State of California Department of Public Health, et al., No. C-73-0559 (N.D. Cal., Apr. 6, 1973).

area was less than 10 percent non-white. Of the 37 executive appointments which had been made in Sacramento at the time the complaint was filed, none were non-white and only one was a woman. And a survey of current Berkeley employees revealed that the proportion of non-whites and women who would be unable to relocate to Sacramento was twice the rate of whites and males. Because of these alleged violations the court was asked to temporarily enjoin the move and permanently enjoin the move unless a plan for the move approved by the court was presented. The judge ruled, however, that there was no violation and he dismissed the complaint. He maintained that the reasons given by those who could not relocate were related to such factors as homeownership, number of children, and employment of spouse, which are related to personal and financial conditions, not to race or sex. Such considerations, which would prohibit relocation, he stated, apply to white males as well as minorities and females. In addition, many employees had already committed themselves by selling their Berkeley homes and moving to Sacramento. To block the relocation would cause greater injury to these individuals than the relocation would cause the plaintiffs, according to the judge. Finally, the judge stated that the defendant's move was justified on the grounds of business necessity, with no contradictory evidence having been submitted by the plaintiffs.

Other cases are pending and may eventually provide some clarification of Federal civil rights law in this area. In the case of *Abney v. Budd,* [38] the plaintiffs charged the Budd Company with violating section 1981 of the Civil Rights Act of 1866 when it refused job placement assistance to its hourly employees (most of whom were black or Mexican) while offering such assistance to salaried employees (most of whom were white) when the company closed its Detroit factory and consolidated its activities in its Carey, Ohio plant. Prior to its closing, the Detroit factory employed a workforce which was approximately 40 percent minority, whereas after the closing, only two percent of the Ohio workers were minorities. In this case, plaintiffs also contend that the company has not paid men and women equal wages for comparable work in violation of the Equal Pay Act of 1963.

The relocation of the Automobile Club of Michigan from Detroit, with a black population of 44 percent, to the nearby suburb of Dearborn, with a black population of less than one percent, is one of several discriminatory employment practices perpetrated by that organization in violation of the Civil Rights Act of 1866, according to plaintiffs in the case of *Bell v. Automobile Club of Michigan.* [39] Among the facts cited by the plaintiffs is that the percentage of minority job applicants and hires dropped noticeably after the 1974 move. For the three years prior to the move, blacks accounted for 53 percent of all applicants and 39 percent of all hires, whereas after the move (from April 1974 to December 1978), they accounted for 26 percent of all applicants and 29 percent of all hires. Plaintiffs also contend that alternative sites were available in the city of Detroit thus invalidating any "business necessity" argument, and that while the company was aware of the discriminatory effects a relocation to Dearborn would have, it chose to make the move anyway.

There can no longer be any question that the phenomena of plant closings and relocation, and economic dislocation in general, adversely affect the employment and economic development opportunities of minorities. Not only do minorities suffer when the communities they live in are victimized by plant closings and disinvestment, but they suffer more than do non-minorities similarly situated. In many cases the adverse conditions these developments force on minorities result more from the structural dynamics of development and underdevelopment rather than racial discrimination per se. In response to such situations, one approach would be to generate innovative policies which (1) reduce the likelihood of the closing down or relocation of viable businesses; (2) facilitate the transition to other productive activities on the part of workers and communities when a shutdown cannot be avoided; and, (3) more equitably distribute the inevitable hardships among minority and non-minority workers, among salaried and non-salaried employees, and among those who are responsible for the conditions and the ensuing decisions and those who are simply victimized by them. But often the adverse conditions minorities endure in the wake of a corporate relocation do result from violations of existing civil rights laws. Voluntary compliance with such requirements by industry and more effective enforcement by appropriate agencies can substantially re-

[38] Bernetha Abney, et al., v. the Budd Company, No 6-71845 (E.D. Mich., Sept. 7, 1976).

[39] Dorothy J. Bell, et al., v. Automobile Club of Michigan, et al., No. 39309 (E.D. Mich., Dec. 4, 1972).

duce the discriminatory impact of these developments. The following chapter describes several of the proposals which have been offered, and in some cases implemented, to address these varied and complex issues.

Chapter 4

What Is To Be Done?

> The real struggles of our nation, the struggle of labor to bring about industrial democracy in the '30s and the '40s; to translate political democracy into economic democracy; the struggle of minorities in the '50s and the '60s to include themselves in the promise of democracy; the struggle of women for equal rights in the '70s; all of these battles are now coming together.
>
> James Farmer (Executive Director, Coalition of American Public Employees) 1979[1]

Despite the hardships created by shutdowns, corporate relocations, and economic dislocation in general, many observers still contend that such developments are simply minor readjustments in the market mechanism which, if left to its own devices, will result in the most efficient production and distribution of goods and services possible. As an American Enterprise Institute study concluded:

> . . .restrictions would slow the growth of national income, reduce the rise in real wage rates, contribute to inflation, increase unemployment, and reduce the social mobility of workers - while at the same time reducing business profits and the efficiency of the U.S. economy.[2]

As indicated in the previous chapters, this general perspective is faulty on several counts. Most importantly, it is now evident that market forces alone do not account for these developments or the havoc they leave in their wake. While it is true that some groups do receive more goods and services because of the uneven economic development the United States has experienced in the past few decades, it is equally true that many others, including racial minorities, have not similarly benefitted. To a great extent public policy has helped shape these developments. Today public officials have an obligation to respond to the many problems which have evolved. As a study prepared for the Federal Trade Commission (FTC) concluded:

> The demonstrated costs of a plant closing are such that a special effort is justified to develop the information necessary for communities to effectively respond. The private decisions of corporate owners and managers impose costs that affect other businesses, employees, and the community at large. The mental and physical well-being of the community is deleteriously affected; increased stress is placed upon the family; the quality of life in the community can be seriously decreased. Decisions with these wide-ranging effects cannot be viewed solely as private prerogatives; the internal decision-making calculations of the firm do not fully reflect actual costs involved. Public concern and participation is needed to ensure that improperly

[1] *Public Interest Report*, newsletter of the Ohio Public Interest Campaign, May/June 1979, p. 4.
[2] Richard B. McKenzie, *Restrictions on Business Mobility: A Study in Political Rhetoric and Economic Reality* (Washington, D.C.: American Enterprise Institute 1979), p. 5.

estimated economic gains do not impose major economic costs.[3]

The emerging public character of so-called private organizations has been acknowledged by even some of the staunchest supporters of free enterprise. For example, upon noting the diversity of interests managers must take into consideration today, including those of stockholders, employees, customers, suppliers, and government, Irving Kristol recently observed, "the large corporation has ceased being a species of private property, and is now a 'quasi-public' institution."[4] He went on to conclude:

> . . .The large corporation affects the lives of so many people, in so many ways, that neither its executives nor government can remain indifferent to its fate. In that sense, the large corporation is willy-nilly invested with the 'public interest'—simply because it is so big.[5]

Historically, government's response to economic dislocation, and particularly to the employment problems which result, has focused on the effects of these developments rather than on efforts to forestall them. Unemployment compensation, job training, economic assistance to depressed areas, trade adjustment assistance, and virtually all the social services available are geared towards helping people and communities adapt to the changed conditions.[6] Policy is no different when the dislocation results from a plant shutdown. As the FTC consultants stated; "The predominant public sector response in the United States to the problems of plant closings has not been to control or regulate the location decision, but rather to provide assistance to communities and workers after the plant has closed or moved out."[7] A case in point is a joint U.S. Department of Labor and Commerce Department experimental program recently created to ease the impact of mass layoffs resulting from steel company shutdowns in four cities: New Haven, Connecticut; Joliet, Illinois; Youngstown, Ohio; and Torrance, California. Under this program an employment and training expert will be assigned to each city to coordinate employment and training assistance efforts by local, state, and Federal government agencies, labor groups, and private employers. The basic objectives of the Steel Adjustment Federal Advisor Demonstration Project (SAFAD) are to increase cooperation among the various parties and to enhance the effectiveness of job placement and training efforts. If deemed successful, the program will be expanded to other commmunities.[8]

Public officials have made some attempt to affect location decisions directly, primarily by offering tax subsidies, credits, rebates, deferrals, and other financial incentives which, at best, contribute to a game of musical chairs and do little to increase the net number of jobs. As Peter Bearse argued, "Relocation allowances and tax incentives—monetary tools operating at the margin—are not adequate to deal with the structural problems of a poor urban community or one stricken by a large plant shutdown."[9] In reference to tax incentives and other approaches generally taken to protect workers, including union activity, job training, and job redesign, Stewart E. Perry of the Institute for New Enterprise Development concluded:

> These disparate strategies have one major feature in common. All take the present institutional context of employment as given, and seek to improve the work opportunities of various groups by limited intervention from without. And here lies perhaps the greatest weakness of these strategies. For while the strategies may have some effect on the range of choices available within employing organizations, the actual decisions about employment continue to be made much as they always were. Thus, if employers find it in their firms' interest to close out or relocate their businesses in other areas, or to build a work environment of low-skilled and dead-end jobs, they continue to do so, regardless of the impact of the decisions on the health of the persons and communities affected.[10] To the extent that affirmative action policies focus strictly on the number of minorities and women

[3] "Measuring the Community Costs of Plant Closings: Overview of Methods and Data Sources," report prepared by C&R Associates for the Federal Trade Commission (hereafter cited as "Closings: Methods and Data Sources"), p. 70.
[4] Irving Kristol, *Two Cheers for Capitalism* (New York: Basic Books, Inc., 1978) (hereafter cited as *Two Cheers*), p. 20.
[5] *Two Cheers*, p. 92.
[6] David A. Smith and Patrick J. McGuigan, "Youngstown is Not Unique: The Public Implications of Plant Closings and Runaways," paper prepared for the National Center for Economic Alternatives, Sept. 1, 1978 (hereafter cited as "Youngstown is Not Unique"). Peter J. Bearse, "Influencing Capital Flows for Urban Economic Development: Incentives or Institution Building?" Department of Economics and Finance, Baruch College, The City University of New York, 1978 (hereafter cited as "Influencing Capital"). Stewart E. Perry, "Worker and Community Ownership: Urban Jobs and the CDC," research proposal for study of community development corporations (hereafter cited as "Worker Ownership").
[7] "Plant Closing Legislation and Regulation in the United States and Western Europe: A Survey," report prepared by C & R Associates for the Federal Trade Commission, 1979 (hereafter cited as "Regulation in the United States and Western Europe"), p. 4.
[8] "Noticias de la Semana," U.S. Department of Labor, May 19, 1980.
[9] "Influencing Capital," p. 10.
[10] "Worker Ownership," p. 14.

within given employing organizations rather than on changes in the institutional context and structure of those organizations, they share precisely the same weakness.

According to several public policy analysts, the public sector must intervene more directly in the private economy if the many problems associated with economic dislocation are to be resolved. David A. Smith and Patrick J. McGuigan of the Technical Development Corporation described three basic intervention strategies available to government in dealing with the problem of plant closings: (1) provide relief payments to individuals and local government; (2) invest in a re-opening or maintaining of the plant; and (3) alternative investments designed to contribute to the economic development of the local areas. They concluded that "the first strategy is currently the most widely used and seems the least preferable from a development perspective."[11] Bearse offered a similar conceptual framework and the same basic conclusion when he described the alternatives as "market perfection" or "institution building." He argued that uneven development is a central characteristic of the American economy which because of shifting patterns of opportunity, technological development, and investment decisions will continue to create prosperity for some and distress for others. Financial incentives and other efforts to "perfect the market" are not sufficient to deal with the structural problems that arise from this fundamental fact of American economic life. He concluded:

> More direct institutional strategies are needed which enable the public sector to deal with long term change itself. A new urban policy needs to foster the formation of public enterprises which operate within and alongside the private market in a businesslike manner, but under public investment and accounting criteria.[12] And the public sector must assist in the building of innovative institutions in the private sector as well. In light of the weaknesses of traditional intervention strategies, Perry concluded, "the challenge for our urban communities is to devise new ownership structures in which significant numbers of employees can share meaningfully in the ownership of their workplaces."[13]

[11] "Youngstown is Not Unique," p. 26.
[12] "Influencing Capital" pp. 9-11.

The human problems generated by plant shutdowns, relocation, and dislocation in general are receiving increased attention from elected officials. A growing number of officials are advocating the need to complement traditional forms of economic development and assistance to distressed areas with policies that address the more fundamental causes of economic dislocation. A number of specific proposals have been generated by policy researchers, community organizers, government officials, and others to address the "runaway plant" syndrome, and the implications for minority employment in particular. These recommendations range from the "relief payments" approach which attempt to ameliorate the effects of dislocation to the "institution building" approach which call for alternatives to traditional ownership structures. Below is a review of these recommendations. The first section examines diverse forms of ownership, particularly employee ownership, as an alternative to shutdown and relocation. The next section reviews a variety of proposals for regulating relocations in the public interest when they must occur. The following section continues the discussion of regulation focusing particularly on civil rights/affirmative action regulatory thrusts available to policymakers. The concluding section briefly looks at a variety of innovative economic development proposals and discusses the common underlying tenets of the seemingly disparate array of initiatives examined throughout the chapter.

Corralling the "Runaway Plant": Employee Ownership as an Alternative to Shutdown

One way to eliminate the hardships generated by a plant shutdown is to eliminate the shutdown. In other words, if the plant can be kept operational at the current site, obviously the problems associated with shutdowns can be avoided. One mechanism for accomplishing this objective is to transfer ownership to the employees when the only other alternative might be for the plant to close down. There are several cases where a losing operation has been turned into a profitable one or where a viable plant scheduled to be closed has been kept open because the employees were able to purchase the facilities, saving hundreds of jobs in the process. According to

[13] "Worker Ownership," p 14

one estimate, between 50 and 60 such purchases have occurred in the past decade.[14]

For example, in 1976 Sperry Rand announced that it would be liquidating its Herkimer, New York library furniture factory, in part because the factory was not generating a 22 percent return on invested capital, the standard used by Sperry Rand as an acceptable rate of return. The 270 jobs at the Herkimer factory were saved when a group of community residents, including many of the workers, organized to buy the facility from Sperry Rand. The factory has long been profitable, generating a profit in every year except one during the twenty years it was owned by the conglomerate. And there is reason to believe that the Mohawk Valley Community Corporation, as it is now called, will be even more profitable under independent management. Under Sperry Rand, the furniture factory had its own sales force but was prohibited from calling on other Sperry Rand customers. In addition, foreign sales could only be secured through the conglomerate's international division. These two marketing barriers have since been removed, and as a result, millions of dollars in sales are being generated from new customers.[15] Under the new form of ownership the plant enjoyed a profitable first year but lost money in the following two years.[16] Obviously not all problems have been solved, but 270 jobs were saved and the company is still in business. In several other cases transfer of ownership from conglomerates to independent local organizations, often involving worker ownership and control (though in widely varying degrees), has either turned a losing proposition into a profitable one or kept a viable operation from closing, with one additional consequence being the avoidance of major job losses. Other examples include the Saratoga Knitting Mill and Jamestown Metal Products (N.Y.), South Bend Lathe Company and Indianapolis Rubber Company (Indiana), Chicago and Northwestern Railroad (Illinois), Okonite Company (New Jersey), Sea Pack Corporation (Georgia and Texas), Bates Fabric (Maine), and Pacific Paperboard Products (California and Oregon).[17]

The most far reaching employee buy-out is currently taking shape in Waterloo, Iowa at the Rath Packing Company, a subsidiary of Armour. Faced with either a serious wage cut or the possibility of a total shutdown due to heavy financial losses in recent years, Local 46 of the United Food and Commerical Workers International Union secured the equity necessary to leverage a $4.6 million Federal government loan to purchase Rath and save over 2,000 jobs. An employee trust is being created which will hold a majority of Rath's common stock and will be administered on a one person (employee)-one vote basis. In addition, the union will nominate a majority of the board of directors giving employees control as well as substantial ownership of the company. The plan, scheduled to be implemented in 1980, offers a major test of the viability of employee ownership and self-managment.[18]

In the United States at least 90 cases have been documented where employees have purchased a majority interest in their companies and approximately 70 percent were purchases of conglomerate subsidiaries scheduled to be closed.[19] The kinds of businesses in which employees have assumed ownership vary widely, including an insurance agency (International Group Plans in Washington, D.C.), a scavenger service (Sunset Scavenger Company in San Francisco), a chicken processing plant (International Poultry in Willimantic, Connecticut), plywood companies (Puget Sound Plywood and approximately 15 others in the Pacific Northwest), and many others. Employee ownership is even more widespread in several European countries. In England the employee-owned chemical products manufacturer, Scott Bader Commonwealth Ltd., has proven to be a most profitable operation. Perhaps the most innovative example is the Mondragon cooperative system in Mondragon, Spain. The co-op was established in 1956 and as of 1976 consisted of 65 different firms with 14,665 members. While not

[14] "The Role of the Federal Government and Employee Ownership of Business." Select Committee on Small Business, United States Senate, January 29, 1979 (hereafter cited as "Federal Government and Employee Ownership"), pp. iii, iv

[15] Daniel Zwerdling, *Democracy at Work* (Washington, D.C.: Association for Self Management, 1978) (hereafter cited as *Democracy at Work*), pp. 72-76.

[16] Irwin Ross, "What Happens When the Employees Buy the Company," *Fortune* June 2, 1980 (hereafter cited as "When Employees Buy the Company").

[17] Peter H. Kostmayer, "Employee-Community Ownership to Save Jobs When Firms Shut Down," *Congressional Record—House of Representatives*, June 19, 1978. "Tube Plant, 600 Jobs Saved in Indianapolis—In the Nick of Time," *Wall Street Journal*, Mar. 22, 1978

[18] Christopher Dunn, "Toward Workers' Control," *Working Papers* May-June 1980. Daniel Zwerdling, "Workers Turned Owners Find They're Still Just Workers," *Washington Post*, May 11, 1980 (hereafter cited as "Workers Still Workers")

[19] "Federal Government and Employee Ownership," p. iii

without its problems, Mondragon has proven to be a financial success.[20] Employee ownership does not, of course, guarantee success. Like many other business, many employee-owned businesses have failed. A major barrier to successful employee takeovers appears to be the inability of employee groups to raise the necessary capital in a relatively short period of time.[21] Solutions to this particular problem will be discussed below.

The forms of employee ownership vary. The most prevalent is employee stock ownership plans (ESOP's). It is estimated that between 1,000 and 3,000 ESOP's have been established in the United States Genrally an ESOP includes an employee trust (ESOT) which the company uses to secure loans while pledging to make whatever funds are necessary available to the ESOT to repay the loan. The ESOT uses the loan funds to purchase company stock, so the company receives money from the loan and employees through the ESOT become owners. The stock vests with the employees as the loan is being repaid. Contributions to the ESOT are tax deductible so the company can effectively deduct both the principal and the interest on the loan. In essence, ESOP's provide an attractive financing vehicle for many companies and part ownership for employees. Another form of employee ownership is the cooperative in which employees purchase shares of a company and participate in its management. A third form is direct ownership where employees purchase all or part of a business but retain traditional types of management.[22]

Employee ownership, whether it occurs as a result of an employee takeover of a plant which otherwise would close down or as a result of some other development, offers many benefits and can be an effective tool for economic development in general and increasing job opportunities for minorities in particular. An obvious advantage in certain cases is that viable plants can be kept open and many jobs can be saved. In turn, the public sector is spared the cost of unemployment compensation, welfare, and possibly many additional public services in those instances where a shutdown would lead to longer term adverse economic consequences. At the same time, the community is spared the "ripple effects" of additional job losses, a reduced tax base, and possibly more plant shutdowns. In addition to staving off adverse consequences, employee ownership can make positive contributions to the economic and general welfare of a business and the local community. The fragmentary evidence which is available indicates that employee-owned firms are more productive, more profitable, and pay higher wages than their competitors.[23]

In a recent survey of employee ownership, the Survey Research Center at the University of Michigan found that not only do employee-owned firms earn higher profits (about fifty percent higher) than comparable sized firms in the same industry, but the greater the equity owned by employees the higher the profits. In those businesses studied by the Michigan researchers which had adopted some form of employee ownership, workers reported a greater satisfaction with their jobs as a result of their status as owners, most stated that the attitude of management towards workers had improved, and management generally reported improved attitudes on the part of workers. Typical of the comments offered by workers to the Michigan researchers were the following:

> I think we're getting a little better work out of people now. Now we got something to work for. Before we were working for a company, now we're working for ourselves.

> We're a little more careful about what we do and and how much we waste. It's our money now.

> The attitude of employees toward management now is not so negative, not so resentful of the authority they have. They figure whatever they're doing is for our success as a whole rather than money in the pockets of the higher-ups.

The following comments typify the viewpoints of company managers:

> I think the morale is a lot better than it was before–you've got more of a feeling of personal pride among the workers.

[20] *Democracy at Work*. Ana Gutierrez Johnson and William Foote Whyte, "The Mondragon System of Worker Production Cooperatives," *Industrial and Labor Relations Review* October 1977 "Industrial Cooperative Association, Incorporated," newsletter of the Industrial Cooperative Association, Incorporated, December 5, 1978 Raymond Russell, Art Hochner, and Stewart E Perry, "San Francisco's 'Scavengers' Run Their Own Firm," *Working Papers* Summer 1977

[21] "Federal Government and Employee Ownership", p. 16.

[22] "Federal Government and Employee Ownership," pp. 4–14.

[23] *Democracy at Work*. Survey Research Center, *Employee Ownership*, report to the Economic Development Administration, U.S , Department of Commerce (Ann Arbor: University of Michigan, 1977) (hereafter cited as *Employee Ownership*).

> The interest of the employees is more noteworthy. Everyone is trying a little harder.

These kinds of comments and the general findings are supported by several other studies of employee ownership.[24]

A related benefit of employee ownership which is particularly critical today was noted by Robert Strauss when he served as President Carter's Special Counselor on Inflation: "Employee ownership can be a meaningful long-term measure to dampen inflation since 'people perform better if they have a piece of the action.'"[25]

When employee ownership is coupled with increased participation on the part of workers, these findings are reinforced. Several studies have documented that when workers are given (or when they assume) greater decision-making authority and greater autonomy on the job, efficiency and productivity improve.[26] In his explanation of Japan's superior post-World War II productivity increases, Ralph Reid, Managing Director of the Tokyo branch of the Chicago-based consulting firm of A.T. Kearney, Inc., stated that not the least of the factors is the Japanese practice of "including as many employees as possible in the decision-making process."[27] Not surprisingly, worker morale and satisfaction are generally found to be positively affected by greater participation. In an extensive review of the literature on worker alienation and participation, sociologist Paul Blumberg concluded:

> There is hardly a study in the entire literature which fails to demonstrate that satisfaction in work is enhanced or that other generally acknowledged beneficial consequences accrue from a genuine increase in workers' decision-making power. Such consistency of findings, I submit, is rare in social research.[28]

In addition to increased productivity, efficiency, and profitability, satisfaction at work is associated with a number of perhaps more imporant measures of social welfare. The HEW Special task Force reported in *Work in America* that people who were satisfied with their jobs were less likely to experience a number of physical and mental health problems, were more likely to take advantage of educational and training opportunities to increase their own skills, and were more likely to participate in a wide range of community activities.[29] Again, these findings are not unique to one study. A wide range of research has demonstrated a crucial link between satisfaction at work and behavior in non-work settings.[30]

Given the amount of time employed people spend at their place of work, it should come as no surprise to find that productivity and profitability are linked to workers' satisfaction with their jobs, that ownership contributes to that satisfaction, and that a person's health and happiness at work and at home are related. As researcher Bruce Stokes concisely stated: "When employees have some control over the production process and receive some of the added fruits of their labor, they are happier and more productive."[31]

Another favorable attribute of employee-owned firms is that the income of workers tends to be more equal than under traditional ownership structures. Frequently this is a conscious objective which is realized by setting a specific maximum ratio for wage differentials and by providing all workers with equal shares of company profits.[32] Given the fact that of all jobs held in 1977 by workers 18 years of age and older which paid more than $25,000 annually, over 91 percent were held by white males, such efforts to reduce income inequality among workers generally cannot help but reduce inequalities associated with race and sex.[33]

Recognizing the many economic and social benefits which can accrue from an improved workplace environment, several public and private organizations have implemented a variety of innovative employment practices. These experiments have tak-

[24] "Federal Government and Employee Ownership," Karl Frieden, *Workplace Democracy and Productivity* (Washington, D.C. National Center for Economic Alternatives, 1980 (hereafter cited as *Democracy and Productivity*).

[25] *Congressional Record—House*, Feb 15, 1979, p 635

[26] Jaroslav Vanek (ed), *Self-Management. Economic Liberation of Man* (Baltimore Penguin Books, 1975), pp 11-36 Charles Hampden-Turner, "The Factory as an Oppressive and Non-Emancipatory Environment," in Gerry Hunnius, G David Carson, and John Case (eds.) *Workers' Control: A Reader on Labor & Social Change* (New York. Vintage Books, 1973) (hereafter cited as *Workers' Control*), pp 30-45 Bruce Stokes, *Worker Participation—Productivity and the Quality of Work Life* (Washington, D.C : Worldwatch Institute, 1978) (hereafter cited as *Worker Participation*). *Democracy and Productivity*

[27] Joseph Winski, "Some of 'Secrets' to the Japanese Business Success," *Chicago Tribune*. Sept. 10, 1980.

[28] Paul Blumberg, *Industrial Democracy: The Sociology of Participation* (New York Schocken Books, 1973), p. 123

[29] Special Task Force, *Work in America* (Cambridge MIT Press, 1975)

[30] *Workers' Control*, pp 30–45.

[31] *Worker Participation*, p. 37.

[32] U.S Bureau of the Census, *Current Population Reports*, Series P-60, No 114, "Money Income in 1976 of Families and Persons in the United States," Table 47, 1978.

[33] Martin Carnoy and Derek Shearer, *Economic Democracy: The Challenge of the 1980's* (White Plains, N.Y : M.E. Sharpe Inc., 1980) (hereafter cited as *Economic Democracy*), p 175.

en four basic forms. One kind of innovation has been referred to as "humanization of work" or "quality of work life" programs. Under these programs, which are generally initiated by management, jobs may be redesigned to eliminate some of the more boring tasks, flexitime arrangements are made so that within limits people can choose their own starting time, part-time and job sharing options are made available for those who do not want full-time jobs, rigid hierarchical relationships may be broken down into more informal cooperative relationships, and other efforts are made toward generally making the workplace a more pleasant place to be. Ted Mills, the Director of the American Center for the Quality of Work Life, has summarized these programs as efforts to:

> . . .provide people at work (managers, supervisors, rank and file workers) with structured opportunities to become actively involved in a new interpersonal process of problem-solving toward both a better way of working and a more effective work organization, the payoff from which includes the best interests of employees and employers in equal measure.[34]

Among the corporations which have been involved in such experiments are General Motors, General Foods, Corning Glass, Proctor and Gamble, and Ralston Purina.[35]

A second approach is the establishment of labor-management committees. Like "quality of work life" programs, these committees seek out new work arrangements that will provide employees greater flexibility and autonomy on the job and generally "humanize" the work place. A major difference is that these projects are designed and implemented jointly by labor and management. Perhaps the best known example is the experiment launched by the United Auto Workers and Harman International Industries which manufactures automobile rearview mirrors. As a result of this program, shopfloor workers began for the first time having a say in how the plant would be run. While not without its problems one basic result has been that employees do have a say in resolving problems that arise in the plant.[36] A community-wide model, the Labor-Management Committee of Jamestown, New York, was established in 1972 in efforts to stem the decline for that area's economy. The committee consists of equal representation of management and labor from twelve organizations. In its eight years of operation it has successfully turned around the Jamestown economy, and now rather than losing employers and jobs is attracting them.[37] The concept of joint labor-management activities is much more prevalent in Europe, however. For example, the co-determination requirements in West Germany and the governmentally mandated self-management program in Yugoslavia provide labor with substantially more representation on the governing bodies of businesses than is true in the United States.[38] The recent announcement by the Chrysler Corporation that the United Auto Workers union would be given a seat on that company's board of directors may, however, indicate a new direction in labor-management relations in the United States.[39]

A third form is employee ownership. As indicated above, employee ownership itself has taken several forms. In some cases, particularly where the ownership is in the form of an ESOP, employee participation is often no different than in a conventional organization. In fact, discontent among workers in some of those companies most frequently cited as examples of successful employee takeovers has increased in recent years precisely over the issue of control. Arrogance of management and inability of the new owners to exercise any decision-making authority are typical of the complaints that are being raised.[40] In other employee-owned firms, however, employees may exercise almost complete control over those functions generally considered to be the prerogative of management.

A fourth form is frequently referred to as "worker control" or "democratic self-management." This represents a qualitatively different approach than other workplace innovations which it often subsumes. In an organization which is controlled or managed by the workers, employees or their representatives make all decisions pertaining to production, marketing, investments, salaries, fringe benefits,

[34] Ted Mills, *Quality of Work Life: "What's In A Name?"* (Washington, D.C. The American Center for the Quality of Work Life, 1978), p. 23.

[35] *Democracy at Work*, p. 3

[36] *Democracy at Work*, pp. 41-52

[37] *Commitment at Work: The Five Year Report of the Jamestown Area Labor—Management Committee* (Jamestown: Labor Management Committee).

[38] *Industrial Democracy in Europe: A 1977 Survey* (Washington, D.C.: The American Center for the Quality of Work Life, 1978). Executive Board of the West German Trade Union Federation, "Co-Determination in the Federal Republic of Germany," in *Workers' Control*, pp. 194-210. Gerry Hunnius, "Worker's Self-Management in Yugoslavia," in *Workers's Control*, pp. 268-321.

[39] "Fraser to be on Chrysler board," *Chicago Tribune*, Oct. 26, 1979 (hereafter cited as "Fraser to be on Chrysler board").

[40] "When Employees Buy the Company." "Workers Still Workers."

and any other function of the operation. In essence, all management functions are assumed by employees. Structures vary but the basic objective is to create a democratic system within the firm so that all those affected by its operation have a voice and those who make final decisions are accountable to the employees. International Group Plans and the plywood firms noted earlier probably come the closest to meeting the criteria of worker control and self-management in the United States.[41]

The concept of workers becoming owners and managers of their own enterprises has not met with universal support, even among labor organizations. Many labor leaders fear that these initiatives are tactics implemented by management to weaken unions, speed up production, and generally co-opt workers while allowing them smaller pieces of the economic pie. As Robert Rodman of the International Association of Machinists and Aerospace Workers stated: "We have a feeling that if we get into bed with management there's going to be two people screwing the workers instead of one." And, according to Thomas Donahue of the AFL-CIO: "We do not seek to be a partner in management—to be most likely the junior partner in success and the senior partner in failure." On the other hand, United Auto Workers Vice-President Irving Bluestone stated:

> In our system of industrial organization participation by workers in 'managing the enterprise' by shaping decision as to such matters as product, product design, accounting procedures, purchasing, sales, long-term expansion, capital investment, etc., is a 'scary' subject for management and workers. Yet at some point the workers will want and should participate in many areas of decision-making because such decisions can drastically affect the welfare, the security of the workers, as well as of the enterprise.[42]

Apparently, Chrysler President Lee A. Iacocca agrees. He recently stated: "I sincerely believe that the voice of the worker will be heard in the highest echelons of the Chrysler Corporation. If the workers are going to have a voice in their own destiny, they should be represented when these crucial decisions are made."[43] And apparently most workers agree. In a 1975 poll by Hart Research, 66 percent of the respondents expressed a preference for working in an employee-owned firm rather than in a firm owned by private investors or a government organization.[44]

As indicated in Chapter 2, the increasing concentration of wealth in the hands of selected individuals who are unaccountable to society in general is a major factor which accounts for the closing down of viable businesses and the movement of such businesses to other, frequently overseas, locations. Because of their location within the American economic order, racial minorities are the most frequently victimized group, yet for the same reason, they are the most powerless in the face of those forces which shape (and limit) their opportunities. As a result, minorities stand to benefit the most from efforts to redistribute wealth (and economic power) throughout the population in general. Expanding employee ownership and decision-making authority within American businesses represents one effective step in that direction. As the Senate Select Committee on Small Business concluded:

> . . .employee ownership provides a means to save businesses and jobs when a company would otherwise close, be liquidated, or relocate, possibly abroad. . . .Whatever the causes of the trend towards employee ownership may be, however, the results appear to be very positive: a broader distribution of equity and participation in the capitalist system, the preservation of businesses and jobs that would otherwise have been lost, greater profits, and higher levels of productivity, wages, and worker and management job satisfaction.[45]

Despite the advantages offered by employee ownership, today there is no Federal program which expressly addresses this type of economic development. In light of the fact that the major barrier to employee purchases appears to be the inability to raise sufficient capital in a relatively short period of time, the report of the Senate Select Committee on Small Business suggested that the Federal government could play an important role in this brief transitional period. In a situation where a firm would otherwise close down, that committee concluded the government has basically two choices:

> It can pay unemployment insurance and possibly food stamps and welfare to unemployed

[41] *Democracy at Work.*
[42] *Democracy at Work*, pp. 165-180.
[43] "Fraser to be on Chrysler board."
[44] William Foote Whyte, "In Support of Voluntary Employee Ownership," *Society* September/October 1978, p. 74.
[45] "Federal Government and Employee Ownership," pp. 1, 2.

workers or it can lend the workers money for buying the plant and keeping their jobs. In the first case, the money is a permanent transfer; in the second, it is a loan and, presumably, most of the loans will be repaid.[46]

The Federal government is, of course, heavily involved in matters of economic development. According to the recent *Guide to Federal Resources for Economic Development,* published by the Northeast-Midwest Institute, there were more than 50 Federal programs authorized to provide over $33.5 billion in grants and loans for the purposes of economic development in 1979.[47] This assistance does not include $80 billion in Federal procurements, domestic and international trade development programs, and tax credits available for a variety of investment and employment activities. But with the exception of the tax benefits available to firms which establish an employee stock ownership plan, Federal support of employee ownership has consisted basically of a few loans to a handful of small businesses which just happen to be owned in part by the employees. Given the current structure of Federal economic development assistance, the Senate Select Committee report identified four sources which could substantially aid at least some employee groups seeking to purchase their firms in order to save their jobs.[48]

One source is the Economic Development Administration (EDA) of the U.S. Department of Commerce. Under its Title IX program, EDA can grant and lend funds for business development in areas of high unemployment. Funds must be granted on a priority basis to areas suffering economic dislocation due to defense realignment, environmental protection enforcement activity, and natural disasters. According to the Senate Select Committee report, EDA has assisted nine employee organizations in purchasing their companies through low interest loans or grants to local agencies which in turn made loans to the employee group. EDA was appropriated $88.5 million for its Title IX program in 1979. Given these financial and programmatic limitations, EDA's overall impact on employee ownership and economic development in general, is of course limited.

The Farmers Home Administration (FmHA) of the U.S. Department of Agriculture was appropriated $1.1 billion for loans and $10 million for grants to aid business development in rural areas in 1979. FmHA has made one loan to an employee-owned firm. But regulations restrict such aid to businesses in places of 25,000 people or less, thus limiting its impact on the development of employee-owned companies.

The Small Business Administration (SBA) represents another source of funds. Under its Section 7(a) program SBA was authorized to distribute $220 million in direct loans and $3.1 billion in guaranteed loans in 1979 to aid small businesses unable to obtain financing in the private market. At least three employee-owned firms have received assistance from SBA. However, until mid-1980 SBA regulations virtually disqualified many employee-owned firms which otherwise met all eligibility requirements. For example, SBA would not make loans to ESOP's because, technically, an ESOP is not a small business. Several congressional representatives maintain, however, that because an ESOP is a creation of a business and all loans are guaranted by the business, they should be eligible for SBA funding and, as discussed below, introduced legislation, which recently became law, to remove this restriction.[49]

Another source of funding is the National Consumer Cooperative Bank (also discussed below) which Congress created in 1978 to provide assistance primarily for consumer co-ops. This represents a new source of financial assistance for employee-owned companies.

The Senate Select Committee report estimated that between 15 and 20 percent of employee-owned firms have received government assistance. Federal support for employee ownership has been limited and sporadic. Proposals currently pending in Congress may substantially change this situation. Under the Small Business Employee Ownership Act (S. 388) introduced by Senators Gaylord Nelson (D-WI), Donald Stewart (D-AL), Lowell P. Weiker (R-CT), Orrin G. Hatch (R-UT), and Larry Pressler (R-SD) in February 1979, employee stock ownership plans would become eligible for financial assistance under SBA's Section 7(a) business loan program and

[46] "Federal Government and Employee Ownership," p. 16.

[47] *Guide to Federal Resources for Economic Development* (Washington, D.C: Northeast-Midwest Institute, 1979) (hereafter cited as *Guide to Federal Resources*).

[48] The following discussion of Federal sources of assistance for employee ownership is taken from: "Federal Government and Employee Ownership," pp. 16–18. *Guide to Federal Resources.*

[49] P.L. 96-302. William Schweke, Conference on Alternative State and Local Government, telephone interview Sept. 3, 1980 (hereafter cited as Schweke interview).

its Section 8(a) minority enterprise contract assistant program. Before any loan or loan guarantee would be offered an employee group attempting to purchase their company, a feasibility study would have to be conducted by that group evaluating the future prospects of the company under employee ownership. A plan would also have to be provided assuring that a majority of the stock will be owned by a majority of the employees by the expiration of the loan.[50] Under the recently enacted Public Law 96-302, SBA is now authorized to provide financial assistance to ESOP's.[51]

The Employee Protection and Community Stabilization Act (S. 1609) introduced by Senator Harrison A. Williams (D-NJ) would provide Federal financial aid through EDA and HUD for employee organizations seeking to buy out companies that otherwise would close down. In order to be eligible for such assistance the organization would have to be incorporated in the state, assure membership in the organization on a non-discriminatory basis, provide all employees with an opportunity to participate in the ownership plan, and provide a mechanism for acquiring stock held by people no longer associated with the firm. The bill calls for the Federal government to give priority in its procurement practices to those companies which were kept open by employee buy-outs. The bill also calls for employers planning to close or relocate their facilities to provide a variety of assistance to its employees and the community left behind (to be discussed below), but absolves those companies of such responsibilities if an employee organization assumes ownership.[52]

Perhaps the most ambitious Federal proposal to encourage employee ownership is the Voluntary Job Preservation and Community Stabilization Act (HR 2203) introduced by Congressmen Peter H. Kostmayer (D-PA), Stanley N. Lundine (D-NY), and Matthew F. McHugh (D-NY) in February 1979. According to this proposal EDA would be authorized to make loans available to employee and employee-community groups seeking to buy out companies that would otherwise close down. Such organizations would first have to make good faith efforts to seek private funding. Before any federal funds would be made available, the organization would also have to agree to serve as the government's administrative agent for collecting the loans through a system of wage deductions, be incorporated in the state, certify that the organization allows for the inclusion of new employees in the ownership program, and provide a mechanism for disposing of stock if there is no longer an association with the business. Upon application for such assistance the Secretary of the U.S. Department of Commerce, acting through the EDA, would conduct a feasibility study to determine whether or not the proposed transfer would be successful. Appropriations are authorized for seven years with $100 million available the first year with the amount increasing by ten percent each year.[53] S. 1058, the Senate companion to HR 2203, was introduced in May 1979 by Senators Mike Gravel (D-AK), Gaylord Nelson (D-WI), and Donald Stewart (D-AL). Current efforts to secure adoption of the basic provisions of this bill are focusing on the Economic Development Administration's reauthorization bill. S. 914 in the Senate and HR 5100 and HR 2063 in the House call for the Economic Development Administration to provide Federal financial assistance to employee-owned companies, particularly in those cases where such such aid will preserve jobs and business activity.[54]

A number of policy considerations must be kept in mind if the Federal government is to become more active in the support of employee ownership. For example, as a report of the Northeast-Midwest Congressional Coalition noted, there should be reason to believe an enterprise can survive in the marketplace over the long run, and related to that concern, whether or not adequate managerial and technical expertise will be available under employee ownership. Yet that report concluded:

> After a thorough review of the relevant literature and study of all available employee ownership firms, the authors conclude that employee ownership of economically viable firms, when judiciously pursued, is a powerful tool for economic preservation and development in the Northeast-Midwest region. The authors' research also indicates that an enhanced federal role in facilitating employee ownership is needed to better overcome the difficulties employee

[50] "Federal Government and Employee Ownership," p. 23

[51] Schweke interview

[52] *Congressional Record—Senate*, July 31, 1979.

[53] *Congressional Record—House*, Feb 15, 1979, pp. 635-638

[54] Joseph Blasi memorandum on the Kostmayer employee-ownership bill and the Economic Development Administration reauthorization bill, Commission files

groups now face in moving rapidly and expertly toward ownership positions.[55]

The concept of employee ownership may not be new, but the serious attention it is receiving in Congress is a recent development. Given the interest (and perhaps among some, concern) expressed by workers, labor leaders, and corporate officials, it is apparent that we have just begun to see the beginning of the debates.

Regulating Relocation: Restricting the Rights of Capital or Expanding the Rights of Labor?

Inevitably, of course, some plants will have to shut down and others will relocate. What is not inevitable, however, is that the burden of dislocation should fall as heavily as it does on precisely those segments of the population who have the least control over such developments. The fact that the hardships associated with shutdowns need not be so great and need not be so disproportionately distributed is indicated by the different approaches to these problems in the United States and in several European countries. As the FTC consultants concluded:

> A striking difference is that, increasingly, Western European countries regard plant closings as an issue for joint determination between labor and management. In the United States such decisions are wholly reserved to owners, management, or the board of directors. . . . The basic findings are that in the United States plant closings occur virtually unimpeded by public regulation or law and that in Western Europe they are principally regulated because of public sector concern for the effects of sudden and prolonged unemployment on workers.[56]

The situation is changing in the United States. Proposals for regulating plant closings and relocations and for softening the impact on those adversely affected are circulating in state and Federal legislatures, among labor unions and public policy research centers, and elsewhere. And some voluntary action is being taken by private industry. Chrysler's board of directors, for example, recently created a Plant Utilization and Human Resources Committee to consider alternatives to plant closings such as finding other uses for factories, facilitating employee purchases of such facilities, and retraining workers.[57]

The problems generated by the "runaway plant" and economic dislocation in general do not suffer from any lack of suggested solutions. Below is a brief summary of some of the approaches which have been recommended:

1. Corporations should be required to give advance notice to employees and their community of any plans to shut down or relocate.
2. When a corporation relocates it should guarantee comparable jobs to all employees at the new location or provide severance pay, training, and other assistance to workers to help them during the transition.
3. When a corporation relocates it should provide financial assistance to the community left behind.
4. A State or Federal authority should begin collecting a variety of data pertaining to plant closings and relocation. The kinds of information should include:
    a. the number of firms closing or relocating;
    b. from each firm closing or relocating — reasons for the move, address of new and former location, product line and industry, projected employment gain and loss by job category by race and sex, tax revenue gains and losses; and
    c. data pertaining to the many ripple effects, including the number of jobs lost by other firms which cut back as a result of shutdown, associated incidence of mental and physical health problems, increases in public service expenditures, and other dimensions of the general welfare which are affected.
5. State and Federal tax and tariff codes should be changed to eliminate incentives to corporate flight.
6. The "right-to-work" provisions of the Taft-Hartley Act should be eliminated.
7. Bank regulation should be structured to encourage investment in areas experiencing high unemployment due to economic dislocation.
8. Cities and States should enter into "non-raiding" agreements and cease using tax incentives as tactics to attract industry.
9. Stronger takeover regulations should be enacted making it more difficult for small and

[55] Anne Kaufman and Doug Ebner, "Employees to the Rescue: The Federal Role in Worker Ownership," Executive Summary (Washington, D.C.: Northeast-Midwest Institute, 1979), p. 5.

[56] "Regulation in the United States and Western Europe," pp. 28, 45.

[57] Reginald Stuart, "Chrysler Panel on Factory Closings May Salvage Jobs," *New York Times*, Aug. 31, 1980.

medium sized local businesses to be taken over by large corporations.

10. Corporations should be required to show cause why they must shut down or move before they are permitted to take such action.

11. Decisions to cut back, shut down or relocate, not just the effects of these decisions, should be subject to collective bargaining with unions.

12. Federal procurement should be targeted to economically depressed areas in order to mitigate the likelihood of shutdowns.

13. Federal anti-trust laws should be strengthened and applied not only in those cases where conglomerate mergers have anti-competitive effects but also where they result in serious economic dislocation and undue concentration of economic, and subsequently political power.[58]

Many of these recommendations have been included in legislation which has been proposed, in many cases introduced, and in some cases enacted. The greatest activity so far has occurred at the state level.[59]

In Wisconsin, for example, since 1975 employers of 100 or more people have been required to notify the State Department of Labor, Industry, and Human Relations 60 days prior to any mergers, liquidations, dispositions, relocations and closings. Employers must submit data on the number of employees affected, the payroll, and wages and other remuneration owed to affected employees. Employers can be fined up to $50 for each employee terminated if the notification and disclosure requirements are not met.

In Maine, employers of 100 or more must provide severance pay equivalent to one week's wages for each year of employment for all workers who have been employed three or more years whenever an establishment is shut down or relocated 100 or more miles away. A bill has also been introduced in the state legislature that would require a one-year prenotification requirement.

Illinois is currently considering a law which would require advance notification of any relocation, severance pay to affected workers, and assistance to communities which are affected. Under the proposed Employer Relocation Act (HB 2768) any industrial or commerical employer of 100 or more people planning to close or relocate facilities 100 miles or more from the original site would have to notify the Director of the Department of Business and Economic Development (now the Department of Commerce and Community Affairs) and the Director of the Department of Labor at least one year in advance of such action. Sixty days before the shutdown or relocation takes place the employer would have to file an economic impact statement with the Department of Labor indicating the reasons for the action, the economic impact on the employees and other businesses in the area, the state and local tax revenues which will be lost, and whether or not the facilities can be purchased by other parties interested in continuing operations. Such employers would be required to pay each employee an amount equal to one week's wages times the number of years he or she has worked at the establishment. No severance pay would be required if (1) the closing or relocation resulted from a physical calamity such as a fire, flood, or other natural disaster; (2) the employee is covered by a contract which provides for severance pay equal to or greater than this bill provides; (3) the employee accepts a position at the new location; or (4) the person has been employed for less than three years. The employer would also have to pay an amount equal to 10 percent of the total annual wages of all employees who will lose their jobs to the Community Assistance Fund created by this Act.

In Ohio the State legislature has been debating a Community Readjustment Act for over two years. Under this bill employers of 100 or more workers would be required to give a two-year advance notice before closing, relocating, or substantially reducing operations. Public, non-profit, temporary and bankrupt employers would be exempt as would businesses which have operated in Ohio for less than five years. The Employment and Community Assistance Administration created by the bill as the chief administrative agency, could exempt a company from the two-year notice if circumstances beyond the control of the employer made compliance

[58] "Closings Methods and Data Sources," pp. 69-72 Ed Kelly, *Industrial Exodus* (Washington, D.C. Conference on Alternative State and Local Public Policies, 1977), pp 11-25. Don Stillman, "The Devastating Impact of Plant Relocations," *Working Papers* July/August 1978, pp 52-53 *Economic Dislocation: Plant Closings, Plant Relocations, and Plant Conversions*. Joint Report of Labor Union Study Tour Participants, 1979, pp 32-34 William H. Behn and Joyce Crain, "Evaluation of Information Systems on Plant Closures and Employment Loss in the United States," (Palo Alto Center for Economic Studies) Mar. 8, 1976

[59] Except where otherwise noted, the following discussion of State action is taken from "Regulation in the United States and Western Europe," pp. 7-20 Ed Kelly and Lee Webb, *Plant Closings: Resources for Public Officials and Activists* (Washington, D.C. Conference on Alternative State and Local Public Policies, 1979), pp 54-76 *Runaway Plant Acts* (Washington, D.C. Conference on Alternative State and Local Policies, 1979).

impossible. If in the case of a relocation the new site is within the same political subdivision, or in the case of a reduction less than 10 percent of the employees are affected, the employer is exempt. Within 90 days of issuing the notification, companies would be required to submit an economic impact statement containing information on the number of employees affected, their wages and other remuneration, state and local tax revenues that will be lost, and the financial effect on other businesses in the community. Upon separation each employee would receive a severance check equal to his or her average weekly wage multiplied by the number of years of employment with the company. The employer would also pay the Community Assistance Fund, also created by the Act, an amount equal to 10 percent of the total annual wages of employees who lose their jobs. Employees, residents of the community, or employee representatives could bring suit against employers who violate any provision of the Act and the courts could enjoin the company from carrying out the relocation or reduction until proper notice is given.

Under the proposed New Jersey Employment Relocation Assistance Act, commercial employers of 100 or more workers must give a one-year advance notice of any closing or relocation affecting 15 percent or more of all employees to the Director of the Employment Relocation Division (created by the Act) of the State Department of Labor and Industry. An economic impact statement must also be prepared specifying the reasons for the action, the expected employment loss, plans to alleviate the effects of the action on the employees and the community, and detailing the financial condition of the company and any parent or subsidiary. Grants could be made from state tax revenues to communities with seasonally adjusted unemployment above 8 percent caused substantially by plant closings or relocations. Municipalities could receive up to 75 percent of the revenue lost as a result of such actions. If a company fails to meet the notification requirements and the Director determines that the employment loss could have been avoided with proper notification, the company can be fined up to $25,000. An Advisory Council on Employment Relocation is also established to develop recommendations for new programs to provide adjustment assistance and alleviate the effects of unemployment on the communities.

A Michigan proposal would require employers of 100 or more to provide a two-year pre-notification prior to closing or transferring 15 percent or more of its operations at a single location to another site outside the state. The notice must specify the reasons for the action and the number of employees who will be affected. If a plant is to be sold under this proposal, the employer must give the affected employees an opportunity to purchase it before accepting any offer from another prospective purchaser. To facilitate a purchase by the employees the Michigan Department of Labor may conduct a feasibility analysis of an employee takeover, provide technical assistance to the employee group in financing the purchase and operating an employee-owned firm, and coordinate the efforts of local, state, Federal, and private agencies in assisting in the development of the firm. In 1979 Michigan enacted a law, P.A. 44, which provided for state support of the establishment of employee-owned corporations in cases where the firm would either shut down or relocate.[60] Under this new law the Department of Labor is authorized to provide a number of support services including: collection and dissemination of information; economic feasibility studies; counseling; assistance in obtaining financing; coordination of local, state, and Federal governmental effort and private initiatives; and recommendation of appropriate supportive legislation.

The Massachusetts Notification and Assistance Act includes many of the same provisions contained in the Wisconsin law and the Ohio, New Jersey, and Michigan proposals. Under this bill all employers who have operated for at least the last five years and who employed 50 or more people at any time during the last 12 months would be required to provide a one-year notice to the Commissioner of Labor and Industries, all affected employees and employee organizations, all affected establishments, and all affected municipalities of any closing, relocation, or reduction affecting 250 people or a number which reduces employment by half or to less than 25, which ever is greater. Such employers would have to submit an economic impact statement reporting the number of employees affected, wages and compensation paid during the past year, state and local taxes paid in the past year and the expected loss of tax revenues resulting from the action, and other information required by the Commissioner. Each

[60] Information supplied by Michigan Department of Labor, Commission files.

person employed for one year or longer terminated by the action would receive a payment equal to at least the average weekly wage times the number of years employed. The company would also have to pay the Community Job Assistance Fund (created by the Act) an amount equal to 15 percent of the affected annual payroll. In case of bankruptcy, the Fund would provide the severance check which affected individuals would have received from the employer. The Commissioner, employees, or employee organizations could sue a company if it violated the Act and the court could enjoin the action until compliance was secured.

Similar proposals have been introduced in several other states including Rhode Island, New York, Pennsylvania, Connecticut, and Oregon.[61] A limitation to this approach noted by several analysts, however, is that a given state can put itself at a competitive disadvantage if other states do not enact similar legislation. Critics contend that such legislation would have the opposite effect of that which is intended. For example, Lester W. Brann, president of the Illinois State Chamber of Commerce, responded to the proposal introduced in that state that it would discourage a business from expanding "if it thought it could be held hostage by a local community if it tried to phase out operations or move later." In addition, Brann and others have argued this kind of legislation would discourage businesses from moving into the state, that it would serve as "a flashing red light" that something is wrong with the business climate in the state. By increasing the cost of doing business within its borders, it is argued, a state would be discouraging rather than encouraging economic development.[62] Illinois State Representative Fred Tuerk characterized that state's proposal as incredible, incredulous, unbelievable, preposterous, and asinine. His colleague, Representative Ronald Stearney stated:

> Even Yugoslavia, Rumania, [and] Bulgaria are breaking away from that socialist thinking. What bothers me though is that this thought . . . . is still alive and as Leon Trotsky would say, 'It belongs in the trash heap of history,'[63]

Yet advocates of the Ohio proposal maintain their bill would provide substantial benefits to affected employees and communities at very little expense to most corporations. One analysis indicates such payments would amount to between .008 percent and .40 percent of corporate sales and between .029 percent and .56 percent of profits. In addition, Ed Kelly of the Ohio Public Interest Campaign has stated: "Advanced notice requirements would actually improve the business climate for most businesses since the customers and suppliers of the company which is moving would have time to adjust to the situation."[64] Most supporters of such legislation acknowledge, however, that it would be more effective if adopted at the Federal level.[65]

Perhaps the most ambitious effort to regulate closings and relocations is the National Employment Priorities Act introduced in the U.S. Congress by Representative William D. Ford (D-Mich.). This Act, which was originally introduced by Ford in conjunction with then Senator Walter F. Mondale in 1974, parallels and exceeds most state proposals. This bill would require employers to notify the Secretary of the U.S. Department of Labor of any closing or transfer that would affect 15 percent or more of the employees. Two years advance notice would be required if 500 or more workers were terminated, 18 months if between 100 and 500 were terminated, and six months if less than 100 were affected. Shorter notice would be permitted if the Secretary determined the employer could not predict such action so far in advance. After such notification and upon request of a labor organization or 10 percent of the employees, or upon request of 50 percent or more of the employees prior to the notification, the National Employment Priorities Administration (NEPA), created by the bill under the Labor Department, would conduct an investigation to determine: the economic reasons for the action; the estimated impact on employees, local governments, and other businesses affected; and what steps can be taken to prevent or minimize the employment loss. Under this Act employers would be required to offer to transfer employees to any other establishment under their control at the same

[61] "Plant Closings. Legislative Initiatives," *Ways and Means* July-August 1979, p. 2. "The Status of Anti-Plant Closings Legislation," (Washington, D.C.: Conference on Alternatives State and Local Public Policies, 1979), pp. 2-3. William Schweke, *Plant Closing Strategy Packet* (Washington, D.C.: The Progressive Alliance and the Conference on Alternative State and Local Policies, 1980).

[62] "Pro & Con: Should Company Pay Aid to Town It's Leaving," *Chicago Tribune*, Dec. 30, 1979. David A. Henson, Caterpillar Tractor Company, statment before Illinois State Subcommittee of the House Labor and Commerce Committee, Jan. 24, 1980.

[63] Debate in the Illinois House of Representatives, May 22, 1980, Commission files.

[64] Ed Kelly, Ohio Public Interest Campaign, telephone interview, Mar. 4, 1980.

[65] "Youngstown is Not Unique," p. 15. Victor S. Kamber, "When Corporations Get Up and Leave Town," *New York Times*, Aug. 26, 1979.

pay level and to cover all relocation expenses. If no such transfer is feasible, the company would have to pay each employee 85 percent of his or her average wage for up to 52 weeks with $25,000 being the maximum pay to any individual. That payment would be reduced by the amount of unemployment compensation received by the employee. The company would also have to make a one-time payment to the local government of 85 percent of the ensuing tax loss. If the plant is moved overseas, the company would have to pay the Federal government three times the resulting income tax loss.

NEPA would be authorized to provide a variety of assistance, including loans, marketing advice, and a five percent credit in bidding on Federal procurements, in order to keep the plant from closing or relocating. If the closing or relocation takes place, however, NEPA would also be authorized to provide assistance to workers who lose their jobs in the form of retraining assistance, job placement services, relocation expenses, emergency mortgage or rent payments, food stamps and other kinds of aid. Local governments would also be eligible for NEPA assistance if the closing or relocation substantially reduced tax revenues or increased demand for social services or increased the number of unemployed people in the community. Other businesses which may be forced to cut back their employment because of a plant closing or relocation may also be eligible for NEPA assistance.

Any company which violates the notification or assistance requirements of the Act could in effect lose all tax advantages and other savings anticipated as a result of a shutdown or relocation. The Secretary of Labor would be authorized to fine such companies up to the amount of any depreciation claimed for equipment transferred or disposed of, any tax credit claimed for such equipment, any business deduction, all economic benefits paid for by a foreign government, and one year's savings to the business in wages and unemployment taxes associated with the closing or relocation.[66]

The Employee Protection and Community Stabilization Act introduced by Senator Williams contains, in addition to the provisions for employee takeovers discussed above, the same basic provisions as does Representative Ford's bill. The Williams bill is somewhat less restrictive, and less punitive, however, requiring for example just one year's notification and only when that is feasible. And Senator Metzenbaum's Employment Maintenance Act also embodies the same basic provisions although it specifies certain limitations in the companies which would fall under its jurisdiction. For example, the pre-notification requirement would apply to businesses with assets or sales exceeding $100,000,000 and the employee payment obligation would apply to those with assets or sales exceeding $250,000,000.[67]

The status of the various state and Federal proposals addressing plant relocation problems changes on a regular basis as amendments are proposed, new bills are introduced, and previous proposals are defeated. Perhaps the best source of current information is the Conference on Alternative State and Local Policies in Washington, D.C.

The experience of several European nations is instructive for the United States.[68] A number of Western European countries in particular have developed more comprehensive approaches to regulating relocations and easing the transitional stages individuals and communities must go through when dislocations cannot be avoided. In general the problems associated with shutdowns and relocations are viewed in light of an overall policy to promote economic balance, job security, and high levels of employment. Trade unions as well as governments play important policymaking roles by working and negotiating with management over such matters as notification requirements, severance pay, retraining, relocation assistance, and related issues which are generally considered solely the prerogative of management in the United States. (The contract signed by the United Rubber Workers in 1979 indicates this situation might be changing. Under this contract Goodyear, Firestone, B.F. Goodrich, and Uniroyal must provide, among other considerations, six months advance notice of any shutdown, full pension after 25 years of service or after five years for those over 55 for all workers losing a job because of a shutdown, preferential hiring at other company plants, and the right to negotiate ways of saving the plant or the manner in which it will be closed if that is necessary.)[69] In addition, several European gov-

[66] Summary of the Major Provisions of the National Employment Priorities Act of 1979, document provided by Congressman William D. Ford's staff. Commission files.

[67] S. 2400, 96th Cong., 2d Sess. (1980)

[68] The following discussion of European experiences is taken from "Regulation in the United States and Western Europe," pp. 27-46

[69] Ron Shinn, "Workers Had No Warning of Firestone Plant Closings," *In These Times*, Apr. 9-15, 1980, p. 6.

ernments provide assistance to and incentives for investment in economically depressed communities as well as aid to individuals adversely affected by dislocation.[70] Below is a summary of how three Western European nations handle these concerns.

In Sweden, employers must consult with employee representatives before relocating a plant. The union can negotiate with management over the need to relocate, the size of the reduction where workers are to be laid off, compensation for affected employees and related issues. If a settlement cannot be reached, the matter is referred to a labor court. Before any relocation can take place employers must inform the local county labor market board (there are 24 county labor market boards and one national office, the Labor Market Board, charged with monitoring labor market conditions), the relevant labor union, and affected employees. The amount of advance notice which must be provided ranges from two months if between five and 25 employees are affected to six months if over 100 jobs are lost. The county labor market boards provide job placement services and other government funds are available to subsidize retraining, visits to new communities, and relocation expenses. In some cases, the government will purchase a worker's house if he or she relocates to a new community. In order to avoid a relocation, Sweden provides loans, wage subsidies, and other support to some firms. In addition, companies can receive governmental financial assistance if they move to targeted areas experiencing high unemployment. Public works projects to improve the infrastructure of economically depressed areas are also financed by the government in efforts to rejuvenate those communities and encourage more balanced economic development.

In West Germany no relocation or significant reduction in a company's work force can take place without the agreement of the works council. Under German law every enterprise with five or more employees must have a works council elected by the employees. Management must confer with and provide all relevant data to the works council on matters pertaining to the operation of the company including relocation and reduction. The works council can suggest measures to avoid such action or to minimize the adverse impact. If the relocation or reduction cannot be avoided, management and the works council develop a social plan to help terminated employees. These plans can include severance pay, retraining, time off to seek new jobs, relocation subsidies, and any other mutually agreed upon aid. If the two parties cannot reach agreement, the mediation service of the statewide labor office may intervene. If that fails, the conciliation board, part of the West German government, has the authority to construct a binding plan. Failure to comply with the social plan can result in a \$10,000 fine in addition to payment of all compensation called for in the plan. In addition, any action that would result in the dismissal of five workers in any organization employing 20 people, or 50 in a workforce of 500 or more, must be brought to the attention of the regional Department of Labor. Labor may delay such action for 60 days and arrange for retraining, job search assistance, and unemployment compensation for affected employees. Economic dislocation is generally dealt with, however, in the negotiations between management and the works councils.

In England, layoffs, or redundancies, resulting from shutdowns or other factors which affect 10 or more employees and the reasons for such actions must be reported to the Department of Employment 60 days before taking effect. If 100 or more employees are affected, 90 days notice must be given to the Department and the trade union. Those who have worked for two years or more are eligible for severance pay, ranging from one-half week's pay for each year of employment for 18- to 21-year olds, and up to one and one-half week's pay for those between 41 and 65. Employers can obtain rebates for severance pay from an employer-financed redundancy fund administered by the government. If the employer is unable to make the severance payments, the government will. Employers are required to permit workers to take time off to find new jobs. At the same time the government provides retraining assistance and in some cases will provide relocation assistance. The union and the government can consult with the employer in efforts to find ways to avert the closing or redundancy. In some instances loans and wage subsidies are available to companies where the problems appear to be a short term matter.

[70] Though more prevalent, such developments are not unique to Western Europe. For example, the Mexican government now offers tax incentives and cheaper energy to encourage investments in areas around Mexico City, Guadalajara, and Monterrey in efforts to decentralize economic development which currently is concentrated within the urban centers. "Mexico Bets on Industry to Make the Most of Its Oil Boom," *New York Times*, Dec. 9, 1979.

As the FTC consultants concluded, the plant closing regulation currently under consideration in the United States is directed primarily to lessening the adverse effects of economic dislocation on individual workers, their families, and their communities. At least to some extent, this objective is being met in some European communities.

Civil Rights Compliance—Broadening the Meaning of Affirmative Action

Voluntary compliance with prevailing civil rights requirements on the part of private industry and more effective enforcement on the part of civil rights enforcement authorities would substantially reduce the disparate impact of corporate relocations on minorities. Such activities might also indirectly reduce the frequency of relocations and, therefore, some of the hardships that would otherwise be created. As indicated in the previous chapter, several civil rights authorities maintain that employers are required under Title VII of the Civil Rights Act of 1964 to take measures to assure equal employment opportunity when they relocate if it is foreseeable that failure to do so will disparately impact on the job opportunities of minorities.

Several measures have been recommended by various civil rights experts for employers contemplating a relocation.[71] First, employers are advised to conduct an analysis to determine the potential impact of the move on minority employment. Appropriate housing, transportation and population studies should be conducted in order to determine whether or not the move will create particular hardships for current minority employees. In addition, availability of minority employees in the new location should be examined. If this survey reveals the likelihood that the relocation will adversely affect minority employment, alternative sites should be considered and the decision to move at all should be reconsidered. Throughout the planning and decision-making process, all employees should be kept fully informed of all developments.

Once the decision to move and the particular site for the relocation are confirmed, employers are advised to inform their employees that they may keep their jobs. Special assistance should be provided minorities choosing to locate where there are particular hardships that minorities will encounter. If commuting is a problem, transportation or a transportation allowance can be provided by the company. If the cost of housing is a problem a rent subsidy or other financial assistance might be appropriate. In some cases the employer could sponsor, invest in, or otherwise support the construction of low- and medium-income housing in the new location. If racial discrimination in the local housing market presents a barrier, an employer can provide legal assistance to victimized homeseekers; contract with or otherwise support local fair housing centers to locate housing for minority employees; apply informal pressure on local realtors, lenders, appraisers, and other appropriate individuals to stop their discriminatory practices; or take any other steps which will open up the housing market. Employers can also use their influence with local public officials and private groups to develop better public transportation and to seek changes in building codes and zoning ordinances where such regulations restrict housing opportunities.

Some experts advise corporations to maintain (and compliance agencies to enforce) the same affirmative action goals at the new location as they had at the former. Frequently, this requires special recruiting efforts, including, for example, developing relationships with minority referral agencies, seeking out potential employees at minority schools, and advertising in media which reach minority audiences.

Another measure is to assist those minority employees who are unable to relocate in securing comparable jobs in their community. This can take many forms. Employers can contact other firms who utilize workers with similar skills. They can work with public and private employment services and, again, with local minority referral agencies, in efforts to locate new jobs. And, they can provide financial assistance to those who find themselves temporarily out of work because of the corporate relocation.

[71] The following discussion of voluntary measures is taken from the following sources: Alfred W. Blumrosen, "The Duty to Plan for Fair Employment: Plant Location in White Suburbia," *Rutgers Law Review* Vol. 25 No. 3 Spring (1971) (hereafter cited as "Duty to Plan"). Equal Employment Opportunity Commission Memorandum, *Congressional Record—Senate*, February 22, 1972, pp. 4926, 4927 (hereafter cited as EEOC Memo). Suburban Action Institute, "Petition to the United States Department of Labor for a Ruling That Union Carbide is in Violation of Federal Contract Compliance Requirements Pursuant to Executive Order 11246," 1977 (hereafter cited as "Petition"). Samuel C. Jackson and Michael E. Abramowitz, "Housing, Transportation and Fair Employment," paper presented at the Symposium in Observance of the Tenth Anniversary of the United States Equal Employment Opportunity Commission, Rutgers University Law School, Newark, New Jersey, Nov. 28, 1975 (hereafter cited as "Fair Employment").

Several corporations have already taken many of these steps in their efforts to minimize, if not eliminate, the disparate impact of relocation as well as transfers among existing locations on minorities.[72] Below is a brief summary of the activities of just a sample of those employers who have initiated such action.

In many communities private employers have contracted with fair housing centers for assistance in locating housing for the firms' minority employees. Through various contractual arrangements, including fee-for-service, flat fee, or individual referral fees, fair housing centers advise minority homeseekers on their rights under law, help them determine how much money they can afford to spend on a home, refer them to realtors who will show them homes in the desired neighborhoods and price ranges, arrange financing, and provide legal assistance where necessary. In New York, the Open Housing Center of the New York Urban League, the Urban League of Westchester County, and the Westchester Residential Opportunities Inc., are three such services which have had contractual agreements with many corporations, including the following: General Electric Co., Consolidated Edison, Arthur Anderson and Co., IBM Corporation, General Motors Corporation, Equitable Life Assurance, Bankers Trust, Chemical Bank, General Foods Corporation, Bristol-Myers Co., Philip Morris, Standard Oil Company of New Jersey, and the New York Telephone Company. In Cincinnati, Housing Opportunities Made Equal (HOME) has provided similar services for General Electric and Proctor and Gamble. In San Francisco the Midpeninsula Citizens for Fair Housing has contracted with, among others: Hewlett-Packard Company, Syntex Corporation, Stanford University, and several city governments. Another example is the Denver Metro Housing Center which has assisted Western Electric Co., Martin Marietta Corporation, United Bank of Denver, and Honeywell.

Many fair housing centers have received financial and other contributions from local employers. Operation Equality in Seattle, Connecticut Housing Investment Fund, Morris County (New Jersey) Fair Housing Council, Baltimore Neighborhoods Inc., and the Fair Housing Council of Orange County are just some who report donations from such corporations as: Boeing, Rainier Brewing Co., Scott Paper, Western International Hotels, Xerox, Pitney Bowes, Remington Electric, Timex, Warner-Lambert, IBM, Sears, Roebuck & Co., Baltimore Life Insurance Co., Monumental Properties, Hunt-Wesson Foods, and many others. The Gillette Company loaned one of its employees for six months to the Association for Better Housing to open up an office in suburban Newton, Massachusetts. And Emerson Electric Company released one of its employees three days per week for one year to direct the Fair Housing Council of the San Fernando Valley.

In many instances corporate employers have intervened when their minority employees were having difficulty securing housing because of racial discrimination. For example, when a black GTE Sylvania employee was having difficulty renting an apartment in a Danvers, Massachusetts complex, the personnel manager informed the owner that Sylvania would not tolerate discriminatory treatment of its employees. The apartment was subsequently made available. In 1968, IBM employees in Lexington, Kentucky encountered difficulty in obtaining housing because they were unable to get access to suitable broker listings. IBM advised a local bank that it would do business only with those brokers who would offer their services on a nondiscriminatory basis. The bank notified the local realty board and its member brokers, and IBM's minority employees soon noted a dramatic improvement in the services they received. A black Allstate Insurance Company employee was advised by a local realtor that he "wouldn't be happy" in a suburban neighborhood where the employee wanted to buy a house. The assistant vice-president for personnel and company counsel threatened to sue the realtor, and the employee was then sold the house.

Many corporations require realtors to sign fair housing pledges before they will refer their employees to the broker. In Cleveland, for example, 15 companies, including General Electric, General Motors, Standard Oil, Republic Steel, and Ford Motors, jointly decided to utilize only those realtors who showed homes on a nondiscriminatory basis. Under an agreement worked out with the Businessmen's Interracial Committee and the Cleveland Real Estate Board, and with the assistance of Operation Equality of the Cleveland Urban League, real estate

[72] The following discussion of specific steps taken by corportions is taken from. Westchester Residential Opportunities, Inc., *Equal Opportunity in Housing. A Manual for Corporate Employers*, prepared under contract with the U.S. Department of Housing and Urban Development (Washington, D.C.: U.S. Government Printing Office, 1973)

brokers were required to sign a pledge of nondiscrimination as a prerequisite for receiving referrals from the companies. (See Appendix A for a copy of the announcement of the agreement and a directive from General Electric to its employees.) Among the companies requiring similar pledges in other communities are: McDonnell Douglas and Monsanto in St. Louis, AT&T in New York, Illinois Bell Telephone Company, Control Data Corporation in Minnesota, and Shell Oil in Houston. Other corporations have issued policy statements affirming similar principles. In New Jersey, for example, 27 companies signed a statement in 1971 endorsing "the principle of fair housing for all Americans" and asserting "we do not knowingly cooperate with any individual, firm or agency which discriminates against any of our employees with respect to housing."

Some companies have taken more direct actions to assure housing opportunities for their minority employees. General Electric established an inhouse Minority Housing Council at its Lynn, Massachusetts location in 1970. The center uses the services of fair housing centers and realtors who have committed themselves to the program. In its Hendersonville, North Carolina plant, General Electric leased an entire apartment building to assure adequate housing for its minority trainees who are on assignment for six months to one year at that location. The company also subsidizes the rentals. Polaroid has also rented apartments which it then made available to its minority employees in Boston. Fairchild-Hiller signed leases with three Hagerstown, Maryland apartment complexes to assure housing opportunities for its minority employees in that community.

In at least one case, a corporation did go to court charging a landlord with racial discrimination when a black employee was unable to rent an apartment. Caterpillar Tractor Co. claimed that the landlord's discrimination hindered efforts to recruit and promote minorities. The company argued in court:

> Caterpillar Tractor Co. has suffered and will continue to suffer damages for the reason that such racial discrimination as heretofore alleged makes it more difficult for plaintiff Caterpillar Tractor Co. to recruit competent and skilled black employees. Such racial discrimination casts doubt upon the good faith of plaintiff Caterpillar Tractor Co. . . .(*Caterpillar Tractor Co. v. Hansen*, U.S. District Court, So. Dist. Ill., 1971). The case was settled out of court when the employee was offered the apartment and $1,500 in compensation.

Other voluntary initiatives, though not taken to address the express concerns of minority workers, have served to cushion the burdens of relocation for all employees. For example, when Cal-Farm and Cal-Farm Insurance Companies relocated from Berkeley to Sacramento, California in 1979 all full-time employees had been notified two years in advance of the move, all were offered their current jobs at the new location, a relocation consultant was hired who offered to purchase employees' houses and to assist them in locating housing in Sacramento, employees were offered reimbursement for moving expenses and for all expeneses incurred in up to three days of house hunting, compensation was offered for the differential in interest rates between employees' new home mortgages and their former ones, those employees paying two rents would be reimbursed for up to two months of the rent for the vacant home, and other financial inducements were offered to encourage employees to relocate. Employees who chose not to relocate but who remained with the company until their moving date received two or three months salary (depending on length of employment) as a bonus and all group health insurance benefits for up to 90 days after that date.[73] (For a more complete description of the relocation plan see Appendix B.)

Where voluntary measures fail, there are a number of enforcement activities which can be implemented. As indicated in the previous chapter, lawsuits can be, and have been, filed under Title VII of the Civil Rights Act of 1964 and other statutes. Among the kinds of relief which have been sought in various cases are the following: temporarily enjoining the relocation, permanently enjoining the move unless undertaken according to a plan approved by the court, and restoring all persons terminated or laid off for any reason related to the relocation to their former positions, or making them whole for earnings and other benefits lost because of relocation.[74] A corollary to the latter would be relief for future benefits that will be lost. Such relief creates certain administrative problems because of the diffi-

[73] *Moving to Sacramento*, Merrill Lynch Relocation Management, Inc (undated) Thomas H Burnham, attorney representing Cal-Farm Insurance and Cal-Farm Life Insurance Companies, Letter to Gregory D Squires, June 10, 1980

[74] "Fair Employment," pp 37-54

culty in estimating precisely what benefits are lost. But if one examines simply the financial benefits associated with a job, it is clear that the loss is substantial. As indicated in Chapter 2, workers who lose their jobs because of a corporate relocation experience extended periods of unemployment, tend to receive lower wages when they do find work, and often have a drastically reduced income over their lifetime. These administrative problems, of course, do not negate the importance of such relief to these victims. As the courts have argued, "difficulty of ascertainment is no longer confused with right of recovery" (*Bigelow v. RKO Radio Pictures*). All that is required is "a reasonable basis of compensation. . .although the result may be only approximate." (*Eastman Kodak Company v. Southern Photo Materials Co.*)[75]

An analogy is frequently drawn between Title VII and the provisions of the National Labor Relations Act (NLRA) which prohibits companies from relocating to avoid labor unions. The assumption which is made is that if the law prevents employers from relocating to escape unions it should certainly prevent them from moving to avoid minority workers.[76] One form of relief available under the NLRA is to require the employer to return to the original location. Similarly, it is argued that one remedy which should be available under Title VII is that of ordering the employer to return "home." Those who cite this approach as one possible remedy acknowledge that it should be implemented only in extremely unusual circumstances but conclude:

> If the rights of minority employees under Title VII cannot adequately be protected, or any resulting injury adequately compensated, without preventing a proposed move or ordering a return from a completed move, then these forms of relief, extreme though they may be, should not be rejected out of hand.[77]

A law enforcement approach which has been recommended on several occasions is the development of guidelines by the EEOC which would specify an employer's obligations to assure equal employment opportunity when relocating, or when opening up a new facility.[78] Among the provisions of the guidelines would be a requirement that employers maintain detailed records pertaining to location decisions that would be available upon request to appropriate enforcement authorities. Employers would also be required to file employee impact statements before making a move detailing the effect of a proposed move on minority employment. In those cases where a disparate impact on minorities is anticipated, the guidelines would indicate the kinds of steps the employer can take to assure compliance with all equal employment opportunity requirements. Such steps would include, but would not be limited to: providing transportation services or allowances; providing house-hunting assistance; pressuring local officials, realtors, and lenders to assure equal opportunity in housing and housing-related services; providing housing directly; considering alternative sites that would be less discriminatory, and reconsidering the move altogether. Promulgation of such regulations would alert employers to their equal employment opportunity obligations, they would strengthen the Federal government's civil rights enforcement effort in this area, and they might encourage a few employers to reinvest and remain in their current facility.

Such a regulatory program could be implemented at the State level, but would be more effective if carried out by the Federal government. As Professor Blumrosen argued:

> The States compete for new business and industrial facilities. A regulatory program of the type described [here] would be viewed as impeding the location of a facility in a State which adopted such a program, unless all of the competitor States also adopted such a program. Since such cooperative State action is unlikely, I believe that a federal solution is necessary.[79]

(For a model regulation, developed by Blumrosen, see Appendix C).

Not all observers are sympathetic to the regulatory approach suggested by Blumrosen, the attorneys who drafted the EEOC memorandum, and others. For example, in response to the EEOC memorandum then Senator James Allen (D-AL) stated:

> Granted that business relocations from urban to suburban areas undoubtedly present a problem to the communities where they occur. But they do not rise to the level of a threat which warrants the adoption of an abomination in the

[75] "Fair Employment," pp. 47, 48.
[76] EEOC Memo, p. 4926.
[77] "Fair Employment," p. 42.
[78] "Duty to Plan," pp. 388–404; "Petition," pp. 40–43; EEOC Memo, p. 4927; Alfred W. Blumrosen and James H. Blair, *Enforcing Equality in Housing and Employment Through State Civil Rights Laws* (Newark, N.J.: Administrative Process Project of Rutgers Law School, 1972), pp. 499–502.
[79] "Duty to Plan," p. 385.

> name of equal employment opportunity which shows a contemptuous disregard for the essential freedoms of American citizens and strikes dangerously at the foundations of American life. . . .The memorandum is, in its essential features, a wicked and anti-libertarian attack on the rights of individuals and on the whole concept of due process of law.[80]

Noting that a small (about seven percent) and declining proportion of American workers are self-employed, several analysts have labelled this position as anachronistic.[81] An assessment of individual freedom and liberty, they argue, must focus on the rights of the vast majority of Americans who are employees rather than on selected rights of a generally privileged few.

If the Federal government is serious about addressing the problem of employment discrimination and the second class status minorities endure, the phenomenon of plant closings and relocations cannot be ignored by the civil rights enforcement machinery. In the words of U.S. Appeals Court Judge J. Skelly Wright:

> . . .prevention of overt employment discrimination will *not* mean equal employment opportunity as long as 85 percent of all new jobs are created in suburbs, walled off from central city residents by superhighways and rendered inaccessible by inadequate public transportation and inordinate commuting time and expense. . . .Nor will prevention of overt employment discrimination mean equal employment opportunity so long as dual housing markets and restrictive suburban zoning laws prevent minorities from residing near places of employment.[82]

Uneven Development, Equal Opportunity, and Economic Democracy

Employee ownership, regulation of plant closings and relocations, and broadened affirmative action initiatives all represent efforts to increase the flow of capital and other economic resources to those people and communities not adequately served by private markets and the myriad of public programs. In many communities plant closings and relocations have been key factors in accounting for the drain of vital economic resources. The problem of plant closings, however, is not an isolated phenomenon. The many ramifications of this particular concern cannot be fully understood or adequately dealt with without considering the larger economic development context in which it is imbedded. As economists Bennett Harrison and Barry Bluestone concluded:

> Plant closings are real, and the injury to workers and communities when a company closes down is real. But there is much more going on, and far more extensive injury, than 'only' what relates explicitly to relocations, e.g., from North to South. . . .The context within which to understand—and resist—plant closings and relocations is the changing political economic structure of international capitalism, specifically those changes in law, politics, and technology that have increased the mobility of private capital. Ultimately, unless we are prepared to seize control over these conditions, we will at best only cosmetically treat what is only one part of a much larger problem.[83]

As several economists and public policy analysts have demonstrated, traditional attempts to stimulate development in economically depressed communities and to address the "larger problem" are predicated on the need to attract private capital.[84] According to the President's Urban Policy Report of 1978:

> The private sector must help. Only it can provide capital needed for rebuilding and growing; only it can carry out the large scale development programs necessary to provide healthy local economies. No matter how well conceived public efforts might be. . .the ultimate outcomes depend on private decisions and private investment.[85]

Public officials, therefore, design programs aimed at creating a favorable environment for private capital as an incentive for what they hope will be socially beneficial as well as profitable investment activity.

This "trickle down" approach to economic development is being challenged. As indicated in Chapter 2, serious questions have been raised about the effectiveness of tax incentives and other financial

[80] Senator James Allen, *Congressional Record—Senate*, Feb. 22, 1972, pp. 4927, 4928.
[81] *Economic Democracy*, p. 307.
[82] J. Skelly Wright, "Are the Courts Abandoning the Cities," cited in "Fair Employment," p. 13.
[83] Bennett Harrison and Barry Bluestone, "Capital Mobility and Economic Dislocation," outline of paper commissioned by the Progressive Alliance, 1979, p. 1.
[84] "Influencing Capital," Jeremy Rifkin and Randy Barber, *The North Will Rise Again* (Boston: Beacon Press, 1978) (hereafter cited as *The North Will Rise Again*).
[85] "Influencing Capital," p. 3.

inducements offered by public officials to private industry in influencing location decisions and creating jobs. Alternative investment practices, in terms of the types of structures to be invested in, the source of investment capital, and the objectives of economic development in general are being suggested. Like the responses to shutdowns and relocations described above (i.e., employee ownership, regulation, and affirmative action), these alternatives call not only for changing the flow but also for redistributing the control of economic resources. In some respects these efforts are motivated simply by the desire to bring selected groups into the mainstream of American life and give them a piece of what is hoped will be an expanding pie. But in other respects they represent efforts to alter the structure of the mainstream and redistribute portions of that pie whether or not it is expanding. Below is a brief review of some of the proposals which have been offered as alternative (and hopefully more effective) approaches to the general problem of economic development as well as the particular concerns of shutdowns, relocations, and dislocation.

One possible alternative to the private market for investment capital would be publicly-owned banks.[86] City or State-owned banks could be created to provide funds for socially beneficial projects which may not yield the kind of return that would attract private funds, or which have difficulties securing financing in the private market because of redlining activities. Community development corporations (discussed below), cooperatives, and other small businesses often are refused financing because of the preference for many lenders to deal with large corporations. Such practices frequently contribute to the unemployment problems of urban communities, and therefore create a number of public expenses. Public banks could service such needs and might be able to justify a somewhat lower profit margin than private institutions because of the social benefits that might result and the public costs which could be avoided. Reducing unemployment and promoting long term economic development are just two examples of socially beneficial objectives that could justify relatively higher risks that a public institution might take which a private one would not. Advocates of public banks do not claim such institutions should adopt a "take-all-comers" approach to their investment activities or that they should operate at a loss. In fact, generating revenues (or profits) for the city or State is a principal objective of the bank. The one publicly-owned bank in existence demonstrates that these varied objectives can in fact be met.

In 1919 the state of North Dakota established the Bank of North Dakota for the purpose of encouraging and promoting agriculture, commerce, and industry.[87] Impetus for the founding was the fact that farmers in the state had difficulty securing loans from conventional sources. Capitalized at $2 million from the sale of Bank Series Bonds, total net operating earnings since 1919 exceed $100 million. In 1976 the bank returned $8 million to the state's general fund. With a total of approximately $500 million in resources the bank participates in FHA, VA, FmHA, SBA, and FISL (Federally Insured Student Loans) programs and provides financing to state and local governments. At the end of 1976, total loans reached over $147 million. Deposits totalled more than $362 million, including all state monies, ten percent of all other public deposits, and approximately 4,000 individual and business accounts. H.L. Thorndal, President of the Bank of North Dakota, summarized the institution's activities in the following manner: "A state-owned bank is a form of 'credit allocation.' True, public money for public good- what's wrong with that?"[88] Others are beginning to agree with Thorndal's sentiments as indicated by the legislation which has been drafted to create public banks in California, Washington, D.C., Massachusetts, New York, Oregon, Washington, and Florida. And in Illinois, the Illinois Public Action Council has organized a campaign to establish a state development bank.[89]

Massachusetts has created a similar type of investment vehicle. The Massachusetts Community Development Finance Corporation (CDFC) was created by the legislature in 1975 to provide equity and venture capital to finance businesses and create jobs in the Commonwealth. Capitialized at $30 million, the CDFC provides loans and direct grants to nonprofit community development corporations principally located in low-income communities. Aid is to be targeted to those organizations where "front end"

[86] Derek Shearer, *Public Control of Public Money: Should States and Cities Have Their Own Banks?* (Washington, D.C.: Conference on Alternative State and Local Public Policies, 1976) (hereafter cited as *Public Control of Public Money*)

[87] *The Bank of North Dakota 1976 Annual Report*. Remarks by H.L. Thorndal before the Senate Select Committee on Investment and Objectives, San Francisco, California, Sept. 19, 1977 (hereafter cited as Thorndal remarks). *Public Control of Public Money*

[88] Thorndal remarks, p. 14

[89] "Job Loss Campaign," Illinois Public Action Council, Sept. 20, 1979

capital can have the greatest impact on economic development and job creation. Designed to avoid the public subsidies to large corporations which most other state financing programs provide, CDFC funds are allocated among local community development corporations whose boards represent a cross-section of the community to assure democratic participation and control over these resources.[90]

At the Federal level, legislation was enacted in 1978 to create the National Consumer Cooperative Bank. The bank will provide financial assistance to non-profit cooperative organizations. Among the kinds of organizations eligible for fundings are neighborhood and community groups, churches, and labor unions. Potential project areas include food, housing, agriculture, energy, and auto repair. The U.S Treasury is authorized to provide $300 million to the bank which will be permitted to borrow up to ten times that much for a total capitalization of $3 billion. Loans will be made at market rates, with the bank required to attempt to direct at least 35 percent of the funds to co-ops serving low-income areas. An Office of Self-Help Development and Technical Assistance is also created to provide equity grants and interest subsidies to low-income co-ops that would otherwise not qualify for bank assistance, and to provide training, market research, and other assistance to all cooperatives.[91]

The state of Connecticut has implemented a unique approach to economic development with its Connecticut Product Development Corporation (CPDC).[92] Created in 1972 this agency provides interest free loans up to $200,000 to small and medium-sized Connecticut business for research and development of new products. In return, the state receives a royalty on future sales of successful products. An additional benefit is the jobs created for Connecticut residents for the research and development projects and the additional jobs created in those companies where the new products prove to be successful.

A source of capital which is just beginning to be recognized as a reinvestment tool is pension funds.[93] Worth over $500 billion, pension funds which own over 20 percent of the equity in American corporations currently represent the largest source of investment capital in the United States. Over $200 billion in pension fund capital comes from union members and public employees in the northeastern and midwestern states. In other words, according to some observers, a source of capital exists which would enable the economically depressed snow-belt states to break their dependence on private capital and develop their own economic base.[94] Not only is the money there, it is argued, but with the political power of organized labor, unions could elect public officials who, in conjunction with labor, would work together to enact legislation necessary to transform local economies from private to public control.[95] In many ways, pension funds, particularly those of union workers in the northeast quadrant, are being used against those whom they are supposed to benefit. Most pension funds are controlled by banks, insurance companies, and other financial institutions whose interests do not necessarily coincide with organized labor. The fact that pension fund investments in the stock market have not done as well as the market itself certainly raises questions about the interests, competence, or both of the professional money managers handling these funds. An example of what at least appears to be a conflict of interest is the ironic fact that 25 percent of the outstanding shares of J.P. Stevens' stock is held by banks and other institutions which hold billions of dollars in pension fund assets. J.P. Stevens is itself a "runaway plant" which left New England for the South, eliminating thousands of union jobs in the process. The firm has repeatedly been found in violation of national labor relations laws and for years was the target of a national consumer boycott because of its anti-union policies, before agreeing to a union contract in October 1980 after a 17-year struggle.[96]

Recent studies in Wisconsin and Massachusetts and the record of some public employee pension fund investments in these states as well as Kansas, California, and New York indicate that targeting investments to meet social objectives need not compromise the security or income of the funds. The private sector is also begining to take social

[90] *The North Will Rise Again*, p 198 *Massachusetts Community Development Corp* (Washington, D C Conference on Alternative State and Local Policies, 1979)

[91] "The Co-op Bank New Funds for Community Development," (Washington, D C Conference on Alternative State and Local Policies (undated))

[92] *The North Will Rise Again*, p 204

[93] The following discussion of pension funds is taken from *The North Will Rise Again*.

[94] *The North Will Rise Again*, pp 10,11

[95] *The North Will Rise Again*, pp 195, 196

[96] *The North Will Rise Again*, pp 114–124, 153–169 Charles Madigan, "How Union 'Wrapped Up' Textile Giant J.P Stevens," *Chicago Tribune*, Oct 26, 1980

objectives into consideration in investment decisions. For example, the Dreyfus Third Century Fund in New York, one of the 25 most successful investment funds over the past five years, considers a company's record on equal employment opportunity, environmental protection, and occupational safety before selecting an investment.[97]

The question of pension funds as a reinvestment tool has been raised in Illinois. Currently, of the more than $2 billion invested by Chicago public employee pension funds, over 80 percent is invested in stocks, bonds, and securities having little or no connection with the city. Much of this money is going to the sunbelt and to overseas locations, including U.S. corporations operating in South Africa which do not comply with fair employment guidelines, called the "Sullivan Principles," which many other American companies do follow.[98] One of the objectives of the Illinois Public Action Council's "Job Loss Campaign" is to secure passage of state legislation that will provide for the use of public employee pension funds as an investment tool to maintain and create jobs.[99]

Another vehicle for economic development is the community development corporation (CDC).[100] CDC's are organized efforts on the part of local citizens to develop community-wide responses to community problems. Rather than focusing on training, financing, or other assistance to individuals, CDC's represent a collective response to those social and economic forces which impinge on entire communities. CDC's do provide education and job training, they develop local businesses, and they provide a variety of services to the community. The objective, however, is to increase the power and influence of low-income communities as a whole rather than of selected individuals within those neighborhoods. For example, businesses are established in efforts to stabilize the financial position of the community rather than to develop successful individual entrepreneurs. Funding comes from a variety of sources, including foundations, labor organizations, private industry, and residents themselves. The two largest supporters of CDC's however are the Ford Foundation and the Community Services Administration. Each of the dozens of CDC's currently operating in over 30 states have certain unique characteristics, but all are directly or indirectly by-products of the civil rights movement.

CDC's face many problems, particularly financial ones. In addition to attracting sufficient funds to operate, they frequently must face difficult decisions in allocating their resources. Particularly difficult decisions arise when CDC's are forced to choose among those projects which prove to be financial successes and others that may not be as lucrative but provide a necessary community service. Maintaining high levels of community participation also can present problems. According to at least one evaluation, however, CDC's generally meet with greater success than other small businesses within comparable low-income communities.

CDC's are involved in a variety of activities. For example, the Harlem Commonwealth Council (HCC) in New York is involved in several businesses, including the manufacture of display and counter facilities for supermarket chains, land development, and tourism. The ultimate objective is to turn the businesses over to Harlem residents through the sale of stock in HCC's holding company which currently owns the various ventures. The Lummi Indian Tribal Enterprise Inc. in the State of Washington has developed an extensive aquaculture business grossing between six and seven million dollars annually. In 10 years of operation, the median family income of the CDC members increased from $2,000 to almost $10,000 annually. The Roxbury Action Program (RAP) has rehabilitated or built more than 100 low- or moderate-income housing units in that Boston neighborhood since its inception in 1969. While its other business ventures have not been as successful as its housing development, RAP has also provided valuable counseling services, other youth and education programs, senior citizens programs and crime prevention projects.[101]

Employee ownership and participation, affirmative action, public banks and investment corporations, and the other innovations discussed above constitute a seemingly disparate array of approaches to the interrelated problems of economic development, shutdowns, and equal opportunity. Yet, in general, they all share three critical underlying tenets which distinguish them from more conventional approaches. First, they place primary empha-

[97] Lawrence J. Tell, "From VWs to Kansas, 'Targeted' Investing Yields Local Gain, No Peril to Pensions," *The Chicago Reporter*, July 1980.

[98] Lawrence J. Tell, "Public Pension Investments Drain Millions From City Economy," *The Chicago Reporter*, July 1980.

[99] "Job Loss Campaign."

[100] *Community Development Corporations* (Cambridge: Center for Community Economic Development, 1975).

[101] Stewart E. Perry, *Building a Model Black Community: The Roxbury Action Program* (Cambridge: Center for Community Economic Development, 1978).

sis on meeting public or social needs directly rather than as an indirect result of an activity aimed principally at maximizing a financial return on invested capital. Second, they encourage broader, more equitable and more accountable control of economic resources and the concomittant power those resources bring, rather than concentration of resources controlled by increasingly fewer, more distant, and anonymous individuals. And third, they are directed to achieving equality in fact for racial minorities and women within more democratic social, economic, and political arrangements rather than equal opportunity within a rigid, hierarchical system. There are exceptions. Some ESOP's, for example, were created simply for the financial advantages they provided company stockholders. No doubt there are employee-owned and controlled firms whose racial policies are no different, and may be far worse, than the norm. Yet, this does not deny what appears to be at least a roughly emerging consensus among a growing number of public policy analysts and public officials, based on non-traditional values, advocating non-traditional structures, yet seeking what is an eminently traditional American goal, that being a democratic society.

The plight of racial minorities in Illinois and throughout the United States is intricately intertwined with the flight of capital and jobs from central city locations and the Northeast in general to suburban locations, other regions of the country, and other nations. In turn, these developments and their racial implications cannot be separated out from questions of ownership and control of economic resources and the dynamics of economic development in general. From a still broader perspective it is evident that political rights and economic opportunities go hand in hand. In other words, movement in the direction of greater economic democracy can only have a salutary effect on the struggle of minorities and women to secure their civil rights in employment and in virtually all other areas of life. (By economic democracy we are referring to (1) greater public control over major investment activities to assure that public needs are more adequately served, and that those who exercise such economic power are in fact more accountable to those affected; and (2) broader ownership, participation, and control within individual economic units.) Failure to move in this direction will make progress in the civil rights arena all but impossible.

Public policies like the investment tax credit, relocation assistance (or the lack of it), and "right-to-work" laws may be debated in non-racial terms, but they have critical implications for the economic life chances of racial minorities. James Farmer was correct when he said the struggles of labor in the '30s and '40s, the struggles of racial minorities in the '50s and '60s, and the struggles of women in the '70s are all coming together today.

Chapter 5

Findings and Recommendations

The Illinois Advisory Committee to the U.S. Commission on Civil Rights has found that the phenomena of plant closings, relocation, and economic dislocation in general create severe hardships in selected communities and among particular groups of individuals. Illinois and all other northeastern and midwestern states as well as older urban communities throughout the country have in general been particularly hard hit by patterns of economic development which have emerged over the past twenty years. Once again, racial minorities have suffered a disproportionate share of those hardships, frequently as a result of violations of Federal civil rights law. These developments have raised serious questions among community groups, scholars, and public officials which challenge some of the most fundamental, longstanding, and firmly rooted beliefs about the nature of American society. The findings of this investigation demonstrate the need for even stronger enforcement of current civil rights and affirmative action requirements. In addition they suggest the necessity of broadening the scope of current affirmative action initiatives and of developing altogether new approaches in the struggle to achieve equal employment opportunity. Below are the major specific findings and recommendations of the Committee.

Findings

1. For at least the past two decades the United States has experienced a flow of economic resources (in terms of people, jobs, income, capital investment, and others) from central cities to their suburban rings, from the northeastern and midwestern states to the South, and from all regions of the country to overseas locations. This pattern of uneven economic development has resulted from plant closings, relocations, births of new firms, and branching and expansion of established operations.

2. At the same time there has been an increasing concentration of economic resources among fewer corporations. One Federal Trade Commission report estimated that as few as 0.2 percent of the adult population exercise effective control over all corporate assets. The accumulation of such wealth, and the power which it entails, pose a serious threat to many communities and to the rights of minorities in particular.

3. There are a number of adverse consequences which face those areas experiencing decline, or relatively slower rates of growth. The consequences are particularly harsh and immediate in those cases where the decline results from a sudden shutdown of a major employer or a series of employers. In addition to the jobs which are lost, local tax revenues decline, city services are cut back, demands for such assistance as unemployment compensation and welfare rise when resources to meet these expenditures are strained, and other businesses are discouraged from locating or expanding in the community. In addition crime, divorce, alcoholism, and other social pathologies increase, a variety of mental and physical health problems (including

suicide) are exacerbated, and racial hostilities are ignited.

4. Racial minorities are adversely affected by these economic developments because of their geographic, industrial, and occupational concentration, and because of outright racial discrimination. Relative to the majority population, minorities have constituted an increasing proportion of the population in those areas experiencing economic decline or relatively lower growth rates (e.g. central cities and the northeast and midwest regions) while they have constituted a constant or decreasing proportion in those areas enjoying relatively greater growth rates (e.g. suburban rings and the South). Such trends reduce the proportion of minorities in the pool of labor from which new employees in general are recruited and, in the case of a relocation, adversely affect job opportunities for current minority employees. When minorities attempt to "move with the flow," for example from a central city to suburban location, they face housing discrimination if they attempt to relocate or higher transportation expenses if they choose to commute. Minorities are concentrated in those occupations and industries which have been hardest hit by recent patterns of development. Due to their location in the American occupational structure, they are less likely to receive relocation assistance, they are more likely to lose their jobs, and they are less likely to share in whatever profits result from a closing or relocation. And in some cases, a decision to locate or relocate an employment facility has been motivated, at least in part, by a conscious effort to avoid hiring minority workers.

5. The relocation of an employment facility which adversely affects minority employment violates Title VII of the Civil Rights Act of 1964, Executive Order 11246 and other civil rights statutes if the employer takes no action to mitigate that impact, according to several civil rights authorities including attorneys for the EEOC. Even where such a relocation can be justified on the narrow grounds of "business necessity," the relocation constitutes a violation of these Federal requirements if the employer has not taken appropriate corrective action to mitigate the adverse impact. Under the Executive Order, Federal contractors are required to take such action even if the adverse impact of an employment decision occurs as a result of factors over which the contractor does not have direct control, including the unavailability of suitable housing or transportation facilities for minority workers. Despite the adverse implications of plant relocations for minority employment and the fact that under certain circumstances a relocation violates Federal civil rights statutes, no Federal agency has promulgated regulations pertaining to this employment practice. Several civil rights authorities have recommended that the EEOC and the OFCCP develop such regulations, but none have been drafted.

6. There are many factors which account for recent patterns of economic development and the hardships that result. Many firms which go out of business do so because they are unable to compete in the marketplace. Contrary to conventional wisdom, however, market forces and "business necessity" alone do not explain many of the shutdowns and relocations which have taken place. And in several instances where market forces have entered in, many policy analysts and public officials are questioning whether or not there are larger public concerns that should take precedence over the market considerations. Among those factors which have shaped recent patterns of development are: availability of lower labor costs and a relative absence of environmental and other government regulation, mismanagement by corporate officials, conglomerate merger activity, life style preferences of business executives, and other factors which often have little or no bearing on productivity or profitability, or have adverse public consequences.

7. A major non-market factor which has contributed to these developments is government. Through their zoning, law enforcement, taxation, procurement, and employment practices local, state, and Federal governments have played a major role in the movement of the nation's economic resources out of central cities to the suburban rings, from the northeast and midwest regions to the South, and to overseas locations. Government activity has also exacerbated the adverse consequences of these developments for the nation's minority population. For example:

A. By rezoning residential areas as business districts and by establishing maximum density and minimum cost requirements for residential communities, many local governments have effectively denied housing, and therefore job opportunities, to minorities in those areas where jobs have increased.

B. Failure to fully enforce fair housing laws also results in restricted housing and job opportunities for minorities in several communities. "Right-to-work" laws, which restrict union organization thus depressing wages paid to labor and the income of minority workers relative to the majority population, encourage some employers to locate in those southern states which have enacted such legislation.

C. A variety of financial incentives are offered by each level of government including tax abatements, investment tax credits, and foreign tax credits, which encourage abandonment of older yet viable facilities and investment in new facilities at the expense of central cities, northeastern and midwestern states, and the nation in general.

D. Reliance on per capita income as a basis for the distribution of 40 percent of all Federal grant dollars fails to take into account regional disparities in the cost of living, tax effort, and transfer payments, to the detriment of northeastern and midwestern states.

E. Federal employment and expenditures have increasingly been directed to suburban and southern locations despite the requirements of Executive Order 12072 that central cities, and particularly economically depressed areas, be given top priority in selecting sites for new Federal facilities, and Executive Order 12073 requiring that such areas be given top priority in targeting Federal procurement.

8. Economic dislocation in general, and plant closings in particular, bring many costs in their wake which do not show up in the balance sheets of private businesses when they weigh the costs and benefits of location and investment alternatives. Those costs include public expenditures like increased welfare payments, social problems such as increased divorce and crime rates, and personal tragedies including higher suicide rates. Due to the many public ramifications, location and investment decisions cannot be considered solely the concern and prerogative of private industry. Elected officials have an obligation to respond to the public issues and community problems which are raised.

9. Currently no public agency at any level of government collects or has ready access to comprehensive data pertaining to the number of plant closings, openings, and relocations, the number of jobs and the tax revenues which are lost, or the severity of any of the problems associated with these developments.

10. Several proposals have been offered, and in some cases implemented, to reduce the incidence of plant shutdowns and relocations, to ease the transition for families and communities when they occur, and to assure that the burdens fall more equitably among the diverse parties affected: employers and employees, the company and the community, and white and non-white workers.

One alternative has been the purchase of a plant scheduled to be closed by the employees or an employee-community group. In addition to saving jobs, employee ownership in general increases the productivity and profitability of the firm, results in a more equitable distribution of wealth, andd increases employees' satisfaction with their jobs and their home lives. Employee ownership has proven successful in many American companies, and even more so in several European nations. One barrier to the proliferation of this concept is the inability of many employee and employee-community groups to secure adequate capital in the time required to make the purchase. The Voluntary Job Preservation and Community Stabilization Act and the Employee Protection and Community Stabilization Act currently being debated in Congress would make Federal financial assistance available to groups considering the purchase of potentially viable operations.

Another approach has been to regulate relocations when they occur. Under various state and Federal proposals in the United States, and according to national laws or union agreements in several European countries, firms are required to provide advance notice prior to relocating, job offers and relocation assistance to employees choosing to relocate, severance pay to those who do not relocate, and financial assistance to the community left behind. The National Employment Priorities Act, the Employee Protection and Community Stabilization Act, and the Employment Maintenance Act would provide for such regulation at the Federal level.

To assure that minorities do not suffer a disproportionate share of the relocation burdens several employers have taken a number of voluntary measures including: provision of financial assistance to cover housing or transportation expenses; financial support of fair housing centers to assist minorities in finding housing; development of policy agreements to use only those realtors and lenders who provide their services on an equal opportunity basis; direct provision of housing; and legal assistance in fair housing lawsuits. Where voluntary measures are not sufficient, many civil rights experts have recommended that the EEOC and OFCCP promulgate regulations requiring employers contemplating relocation to prepare an analysis of the anticipated impact on minority employment and to take corrective action where minority employment would be adversely affected.

11. Despite the severity of problems caused by plant closings and relocations, they are in fact manifestations of a larger problem of economic development and disinvestment. According to many public policy analysts and elected officials, the central question is who will control key economic resources and investment activities which have major implications not only for private economic units but for the general public as well. The solution, these observers contend, lies in the direction of establishing more democratically structured economic units and greater public control and accountability over several decisions generally considered solely the prerogative of private industry. Among the approaches offered are the creation of public banks and investment corporations, private community development corporations, and utilization of pension funds and other sources of capital to meet public as well as private needs.

Recommendations

1. The Equal Emmployment Opportunity Commission and the Office for Federal Contract Compliance Programs of the U.S. Department of Labor should jointly promulgate regulations pertaining to plant closings and relocations under Title VII of the Civil Rights Act of 1964, Executive Order 11246, and other Federal equal employment opportunity requirements these agencies are mandated to enforce. The regulations should require employers contemplating a substantial reduction, shutdown, relocation, merger or any other action related to the location where operations are to be carried out to conduct an analysis of how that action will affect minority employment. That analysis should examine such factors as the potential impact on current minority employees (e.g. potential difficulties they will face in relocating or commuting to the new community) and on future employees (e.g. minority representation in the labor pool from which future employees are likely to be recruited). In those cases where the analysis reveals the likelihood that minority employment will be adversely affected, the regulations should require that corrective actions be taken to mitigate that impact. Among the actions employers could take include but are not limited to: reconsidering the closing, relocation, merger or other proposed change, or considering alternative sites; providing housing or transportation services, allowances, legal assistance, or other aid in overcoming these barriers; conducting affirmative recruitment campaigns by advertising in minority media, interviewing at minority schools, and taking other similar initiatives to reach minority job seekers; and setting strict affirmative action goals and timetables.

2. Congress should enact legislation requiring the Bureau of Labor Statistics of the U.S. Department of Labor to collect, and all relevant employers to provide, the following information in those cases where an employment facility is shut down, relocated, merged with another facility, or substantially reduced in any way: number of jobs lost, racial composition of job losers, reasons for the change, address of new and former locations, tax revenues and sales receipts from previous year, and other information the Secretary may deem necessary in order to assess the impact of that development. The Bureau should analyze this information on an annual basis in order to monitor the uneven development of the American economy and how it affects particular communities. This information should be made readily available to state and local planning agencies, elected officials, and members of the public in general.

3. Congress should enact legislation in accordance with the basic objectives of the National Employment Priorities Act, the Employee Protection and Community Stabilization Act, the Voluntary Job Preservation and Community Stabilization Act, and the Employment Maintenance Act which it is currently considering. Such legislation should provide for sufficient pre-notification by the employer to all employees, the community, and all affected individuals prior to any shutdown, relocation, merger or other action which substantially reduces employment at any facility. It should require all such employers to offer jobs to all employees comparable to those they currently hold and relocation assis-

tance for those choosing to relocate, severance pay to those who do not, and financial assistance to the community adversely affected by the action. Any such legislation should provide for Federal financial assistance to those employees and employee-community groups seeking to purchase a facility that will otherwise be shut down. Among the eligibility requirements, recipients of this aid would have to: comply with all equal employment opportunity requirements, demonstrate that the facility can be operated on a profitable basis under the proposed new form of ownership, or demonstrate that maintenance of operations serves an overriding critical public need which justifies continuation even if publicly subsidized.

4. The Executive Office should take whatever steps are necessary to assure that Federal employment and procurements are in fact targeted to economically depressed areas as mandated by Executive Orders 12072 and 12073.

5. The U.S. Commission on Civil Rights should conduct an analysis of the Federal tax code as it pertains to business and employment practices focusing on how the minority population is affected. The study should examine the various investment tax credits, foreign tax credits, and other Federal financial incentives available presumably to stimulate economic development. The study should determine the extent to which such incentives have the intended effect, and the extent to which they adversely affect the "economic climate" of minorities.

APPENDIX A

Cleveland Area Businessmen's Agreement Pertaining to Fair Housing and Directive from General Electric Company Communicating the Agreement to its Employees

THE BUSINESSMEN'S INTERRACIAL COMMITTEE

April 9, 1971

A plan for cooperation in open housing between business corporations and real estate brokers was announced yesterday by Richard B. Tullis, chairman of the housing subcommittee of the Businessmen's Interracial Committee, and Robert H. Arnold, Chairman of the Board of the Cleveland Real Estate Board. Basic purpose of the program is to enable black employees of participating companies to obtain housing without discrimination. In addition, it is believed the program will have a significant effect in reducing discrimination generally.

Discussions between leading realtors and members of the housing subcommittee of the interracial organization were initiated after several large business corporations reported difficulties in employing or transferring black professional and managerial people. Upon accepting offers to work in Cleveland, some of the black employees had trouble in locating residences in areas where they could afford to live. Several declined good job offers because of failure to find suitable housing.

After meetings running over a period of a year, the housing subcommittee and concerned realtors have agreed on a joint program which provides:

> "A list will be made naming industrial and other employers who adopt a policy of actively promoting observance of the Fair Housing Laws by encouraging their employees to list their property with real estate brokers whose policy it is to show property on an open basis. These employers in their own real estate transactions also will deal with such brokers. Every employer in the Cleveland Metropolitan Area adopting such policy and desiring to be named in the list will be included therein.
>
> "Real estate brokers will be encouraged to adopt a policy of showing all available homes which meet the purchasers' requirements, in the respective areas which they service, without regard to race, color, creed or national origin, and to record this commitment with the employers for whom they wish to provide real estate service and for referral to the latter's employees.
>
> "In case an employer is interested in the sale or purchase of a property by an employee, by reason of an employer-initiated transfer or otherwise, the employer will furnish the employee with the names of cooperating brokers.
>
> "Subscribing companies will be asked to give periodic reports of their experiences under the plan. A committee selected by participating brokers and by the employers will meet quarterly for the purpose of reviewing and analyzing progress on the program."

To date, 20 large corporations and an equal number of real estate brokers have joined the program.

(General Electric Company Letterhead)

October 27, 1970

TO: DIVISION STAFF
SECTION MANAGERS
SUB-SECTION MANAGERS (CLEVELAND AREA)

Gentlemen:

Some of you are aware that in the past several years we, along with several other industries in the Greater Cleveland area, have encountered difficulties in recruiting and hiring minority professional people from outside the Cleveland area because of housing problems. While the laws are fairly clear on housing, there are many situations that seem to occur that do not provide a full range of selection to certain people.

We have had a few classic examples within our own Division. In several cases, both in our business and in others, prospective employees have chosen not to accept a position because of the problems that they encountered in the housing market.

A Task Force of businessmen on which we were represented worked on a solution to this problem with representatives of the real estate industry. They found that there are a number of realtors genuinely interested in affirmatively promoting fair housing who need broad industry and community support. It appeared that most of the realtors are willing and anxious to cooperate, but a number may be concerned about taking the lead or suffering economic reprisal for breaking past patterns.

To help correct this, the solution worked out by the Task Force of the Businessmen's Interracial Committee and realtors is as follows:

(For text see "The Businessmen's Interracial Committee" above in this appendix)

Based on this, I am writing to inform you that it will be our policy to attempt, in all cases, to place business with realtors who have pledged in writing a policy to show properties available to them for sale or rental without discrimination based upon race, color, creed or national origin.

We are asking you, as managers, to provide all employees being transferred in or out of Metropolitan Cleveland, and prospective employees being hired, with this list of realtors, including the explanation for the reason of our support. For your information, we have attached a copy of the statement realtors will be given the opportunity to sign. The Relations Operation will provide a list of realtors for your use in advising transferred employees or new hires from outside Cleveland as soon as it is completed. Periodically, it will be updated as additional realtors join the program. In addition, a brief statement is attached which should be used by you in communicating to those employees affected which explains our purpose.

We and others did not reach this decision lightly. It resulted only from the gravity of the problem we and other industries face as we move forward in the area of equal opportunity. Ohio law bars discrimination in the sale or rental of housing accommodations, but we and other employers and employees still run into difficulties. This voluntary cooperative program of industry and realtors recommended by the Businessmen's Interracial Committee may help to promote observance of the law and to prevent subtle actions that can take place which lead to the problems an employer has in recruiting, transferring and holding competent employees.

We believe this is a sensible and practical way of helping real estate organizations in Cleveland recognize that they will have wide backing and support by affirmatively working to promote Fair Housing in accordance with present law. We would hope that within a reasonably short time all responsible real estate firms would be happy to give the assurances requested.

(Final 2 paragraphs omitted)

R.V. CORNING
Vice President and General Manager

APPENDIX B

Plan for Cal-Farm 1979 Relocation from Berkeley to Sacramento, California

CAL-FARM INSURANCE

AND

CAL-FARM LIFE INSURANCE COMPANIES

GROUP MOVE TO

SACRAMENTO, CALIFORNIA

Relocation Policy
Administered By
Merrill Lynch Relocation Management, Inc.

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Program Eligibility

This relocation benefits package is applicable to all permanent, full time employees of Cal-Farm Insurance and Cal-Farm Life Insurance Companies whose jobs are considered to be based in the home office. However, employees hired after July 1, 1977 will be reimbursed for relocation expenses only at the option of Cal-Farm Insurance and Cal-Farm Life Insurance Companies.

You will see the term "move date" used several times in this brochure. It refers to the date designated by Cal-Farm Insurance and Cal-Farm Life Insurance Companies when you are relocated to the Sacramento area, and it will probably be different for each employee. Each employee will be given a move date as soon as we can determine exactly when our new space will be available.

The term "full time employees" refers to employees who have worked 1,000 hours or more during the year prior to their move dates.

These policies were approved in May, 1977, and we do not anticipate any changes. However, we may find in the months ahead a need for some policy revisions. You will be advised of any changes as soon as they occur.

Homesale Services

Your Homesale Coordinator:
(714) 752-0707

Cal-Farm Insurance and Cal-Farm Life Insurance Companies is concerned that your transfer be as smooth and efficient as possible. The Homesale Service allows you to sell your residence to MLRM quickly and conveniently at its Fair Market Value which is determined from objective and independent appraisals. Your equity will then be available to you as soon as you are ready to purchase a home in the Sacramento area.

Cal-Farm Insurance and Cal-Farm Life Insurance Companies has authorized MLRM to extend an offer to you which will be outstanding for 90 days. During this time, you may attempt to obtain a higher price on your own or through your own broker. Should you receive an offer higher than or netting you more than MLRM's offer, you should immediately call MLRM who will contact your buyer and verify his/her financial capability. When MLRM is assured that your buyer will obtain financing and that the offer is free of contingencies, MLRM will amend its original guaranteed offer to the new, higher price and will manage the details of closing for you.

Cal-Farm Insurance and Cal-Farm Life Insurance Companies reimburses MLRM for expenses incurred in selling your property. In addition, MLRM is paid a service fee as compensation for its overhead. MLRM does not participate in gains or losses on home sales.

The following applies to an employee who ownes a single-family or two-family home or condominium as his/her principal residence. These homesale services are a one time opportunity for our employees. Otherwise, the provisions of "Home Sale by Employee" apply.

Cooperative and mobile homes may require handling on a special basis and need prior approval. Should you not wish to sell your mobile home and want to transport it to the Sacramento area, notify your MLRM Homesale Coordinator who will notify Cal-Farm Insurance and Cal-Farm Life Insurance Companies. If transportation of your mobile home is approved, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will pay such moving expenses in advance.

The MLRM Homesale Process Step-By-Step

Step 1. The Initiation: Ordering appraisals, a Broker's Price Opinion and Preliminary Title Search
After MLRM has been notified of your transfer, you will be contacted by a Homesale Coordinator to discuss the sale of your house. The Coordinator is available throughout your transfer to answer questions regarding the sale of your home.

The Coordinator will then initiate the valuation process to determine the Fair Market Value of your property, which will become MLRM's guaranteed offer price to you.

Two appraisals will be ordered from qualified, independent appraisers who work in the area where your home is located. You may choose both of these appraisers from a list supplied by MLRM. A broker price opinion will also be ordered from an independent real estate brokerage firm, assuring that current market conditions and competing properties have been considered. The broker's opinion of value is not an additional appraisal, but will be used by MLRM as a means to evaluate the appraisals for accuracy and consistency, and to develop a suggested listing price and marketing strategy for the sale of your home.

In addition, your Coordinator will ask you for the name of your mortgage lender, so that your equity can be computed based on MLRM's eventual offer. He/she will also order a routine termite inspection and initiate a title search to determine if there are legal problems that need to be solved before your home can be sold.

Step 2. Determining Fair Market Value

One of the first and most important steps in selling your house is to establish its Fair Market Value. This is the price you can reasonably expect to receive in the open market based on recent comparable sales, average sales time in the local market, and the condition of your property. A more formal definition states, ". . . the amount a buyer would be willing to pay for the property in its present condition and location, after time for negotiation. The price should be reasonable for the area and not based on any immediate sale due to pressures on the seller to transact a quick sale."

The appraisers will use a market data approach to determine their opinions of value. This is simply an evaluation of the condition of your property, the prices of recent comparable sales, the terms of those sales, and the current market conditions.

If the two appraisals vary by no more than five percent of the higher value, they will be averaged to determine the guaranteed offer. If the variance is greater, a third appraisal will be ordered and all three will be averaged.

Only those appraisers who have maintained a high standard of performance will be asked to appraise your property. In the event that MLRM receives an appraisal which has been improperly prepared, it will be discarded and replaced with the approval of Cal-Farm Insurance and Cal-Farm Life Insurance Companies.

It is to your advantage to work with the appraisers when they are viewing your property by answering their questions. You may wish to leave certain personal property like appliances behind when you vacate your house. While any such items must be added to the Contract, they may not add a significant amount to the Fair Market Value. However, inform the appraisers so that they can consider this factor in their judgments. Anything that is attached, such as wall-to-wall carpeting, drapes, or television antennae, is normally considered part of the property (real estate) and therefore inherent in the appraisers' opinions.

The appraisers give consideration to the condition of your property compared to recent sales of comparable homes in determining Fair Market Value. Therefore, it is to your advantage if your home looks clean and in order during the inspection.

The entire valuation process will generally be completed within two weeks and you will receive MLRM's offer promptly.

Step 3. The MLRM Offer

A Contract of Sale will normally be mailed to you on the same day the Coordinator calls to discuss the offer. (See the Contract of Sale in the back of this brochure.) You will have 90 days from the date the Contract of Sale is mailed to you to decide whether or not you will accept this offer.

If you decide during the consideration period to accept the offer, please sign the Contract, have it notarized, and return it to your Relocation Coordinator. The Contract must be received no later than the 90th day.

An advance of $1,000 on the equity due you will promptly be sent to you by MLRM. Additional advances will be available to you if needed for the purchase of your new home. Additional advances in excess of $1,000 will be provided under a separate arrangement and will be contingent upon the employee's acceptance of the MLRM offer within the 90 day period. Normally, the balance of your equity will be paid to you when you vacate the house. Once you vacate, you will have no further obligations with respect to the house.

Note that in signing the Contract of Sale, you will be giving MLRM a warranty that the property is entirely free and clear of any legal encumbrances and that there is no impediment to the sale. (See section headed "Warranties" in the copy of the Contract of Sale in the back of this brochure.)

The Contract of Sale as presented here has been worked out between MLRM and Cal-Farm Insurance and Cal-Farm Life Insurance Companies. This Contract of Sale is the only one MLRM may make with you and is not subject to change.

Step 4. Your Option: Selling on your Own

You may on your own attempt to obtain a higher price than the Fair Market Value MLRM offered to you. MLRM's offer will give you some bargaining power for such an effort. If you do not succeed in obtaining a higher bid within the offer period, you can still allow enough time to accept MLRM's offer before its expiration date.

If you decide to list your house with a real estate broker, you should make sure that your listing agreement allows you the leeway to take MLRM's offer without paying a sales commission to your real estate broker.

Be sure to include the following clause in your listing agreement:

> The owner(s) reserve the right to sell this property to Merrill Lynch Relocation Management Inc. at any time. Upon the execution by Merrill Lynch Relocation Management Inc. and me (us) of a Contract of Sale with respect to the property, this Listing Agreement shall immediately terminate with no obligation on my (our) part or on the part of Merrill Lynch

Relocation Management Inc. for the payment of a commission or to continue this listing.

If you succeed in obtaining a higher offer, let your Homesale Coordinator know immediately. He/she will help you evaluate the offer as to price and terms to determine if it represents a greater net cash return than MLRM's offer, after deducting from the higher offer those costs for which you would be responsible.

These costs include:

(a) any estimated discount points that would have been paid by Sellers in connection with the proposed transaction;

(b) any real estate commission to be paid by Sellers in excess of local customs unless approved in advance by the Purchaser;

(c) the estimated cost of any improvements, remodeling or repairs that would have been made by Sellers in connection with the proposed transaction;

(d) a prorated amount based on one (1%) percent of the Appraised Value per month for the estimated number of days to closing in excess of sixty (60) days from the date the amended offer is accepted by Purchaser; and

(e) estimated closing costs customarily borne by the third-party purchaser which Sellers agree to pay in connection with the proposed transaction, including, without limitation, termite, structural or other inspections of the Dwelling House.

The Coordinator will review this policy with you.

If, after deducting all of these costs, a greater net cash return does result from the offer you've obtained on your own, MLRM will declare that new amount to be the "Amended Value Offer." MLRM will authorize you to amend the original Contract of Sale to show that amount. You can then sign it, have it notarized and mail it back to MLRM.

As soon as MLRM receives it, you will be sent a $1,000 equity advance. Additional advances in excess of $1,000 will be provided under a separate arrangement and will be contingent upon the employee's acceptance of the MLRM offer within the 90-day period. Your final equity payment will be mailed to you the day you vacate the house.

If you elect the Amended Value option, you must notify MLRM promptly so they can evaluate the offer and respond before the expiration of their own offer.

Step 5. Vacating and Final Equity Payment

Once you have vacated, MLRM will assume responsibility for all maintenance and carrying costs and will make all further mortgage payments until the property is resold. At that time MLRM will also ask you to sign a deed, which is required to transfer title to the new owner. Nothing further will be required of you after you move. Any bills or notices you receive for services after that time should be forwarded to your Homesale Coordinator.

Your equity is based on your Vacating Date or Contract of Sale Date, whichever is later. Be sure to inform your Coordinator if your estimated Vacating Date changes, so that your equity can be calculated accurately.

Please review the Contract of Sale at the back of this booklet for more complete information on the Merrill Lynch Homesale program. Keep in touch with your Homesale Coordinator with whom you can consult regarding any problems or questions that may arise during your relocation.

Homesale by Employee

You also have the option not to use MLRM. You may sell your own residence directly or through a real estate agent of your choice. If so, you will be reimbursed for the following actual expenses incurred in selling your residence:

a. Appraiser fees.

b. Title insurance charge.

c. Structural pest control inspection and report. The cost of repair work recommended in the report <u>will not</u> be paid for.

d. Any prepayment penalty incurred.

e. Closing costs normal to the area, including real estate commissions, but not including loan fees and points.

Home And Apartment Finding

After the group orientation meetings, you and your spouse can receive personal homefinding or rental counseling by appointment with an experienced Merrill Lynch Relocation Management (MLRM) Homefinding or Rental Counselor. Your Counselor will provide you with a packet of materials on the Sacramento area, including information on schools, colleges, transportation, shopping, housing, taxes, cultural and recreational activities.

Your Counselor will ask you and your spouse questions about preferences and requirements for a home and community, what you feel you can afford, your family's lifestyle, and how much time you are willing to commute. This information will be helpful in producing a family profile. The Counselor will then suggest those communities in the Sacramento area that best match your lifestyle, personal needs, and financial capability.

Your Homefinding Counselor will schedule homefinding appointments for you and your spouse with brokers who have met strict MLRM qualifications. It is to your advantage to use these brokers since MLRM's business represents a significant factor in their market and MLRM is able to exert more leverage than an individual home buyer to assure performance from the real estate agent.

The broker will have received from MLRM a profile of your family's housing needs, which enables him/her to select ahead of time a number of possible homes that meet your needs. The MLRM Counselor will stay in touch with you and the real estate agent throughout your home search up until you have completed the purchase of your new home.

Once a home has been purchased in the Sacramento area, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will reimburse you for closing costs normal to the area, including loan origination fees on the new residence and points paid by you up to a limit of two points.

If you wish rental assistance, your Rental Counselor will ask you and your spouse questions about preferences and requirements for a community, what you feel you can afford, your lifestyles, and feelings about commuting time. Again, the Counselor will use this information to produce a family profile.

After suggesting several communities, your Rental Counselor will make appointments for you and your spouse with apartment managers and leasing agents so that you can visit available rental units. Your

Rental Counselor will keep in touch with you throughout your entire apartment search.

The Sacramento Area

During all counseling sessions, Merrill Lynch Relocation Management will make available the following information and visual aids regarding the Sacramento area:

- color slides of representative homes and communities (including single family homes, apartments and condominiums).
- an audio-visual presentation regarding the general Sacramento area.
- packets of information including community profiles, fact sheets, regional materials and maps.
- tax rates, housing and rental costs, schools and educational, recreational and cultural activities.
- mortgage financing availability and assistance.

Mortgage And Interim Financing Assistance And Reimbursement For Higher Interest Rates

Through Merrill Lynch Relocation Management's vast connections within the real estate brokerage community and its own corporate affiliations, your Homefinding Counselor is prepared to assist qualified employees in attaining adequate mortgage and interim financing assistance once a home has been purchased through a Merrill Lynch Relocation Management qualified broker. While there is no guarantee that such financing will be available, Merrill Lynch Relocation Management feels confident that it can greatly assist in attaining and evaluating required financing commitments.

Should your new loan be at a higher rate of interest than your present home loan rate, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will compensate you for the difference in interest rates between the loans on your old and new residences as follows:

1. Reimbursement will be based only on the amount of the loan remaining on the old residence.
2. Regardless of the time remaining on the old loan, or the term on the new loan, you will be reimbursed for the differential in interest rates

for five years, contingent upon your continued employment (including retirement) at Cal-Farm Insurance and Cal-Farm Life Insurance Companies and occupancy of the same residence.

3. Reimbursement will be paid in five annual installments, calculated as follows:

   a. Determine the amount of the old loan on sale date.

   b. Subtract the old interest rate from the new interest rate.

   c. Multiply "a" times "b" to determine annual reimbursement.

Duplicate Rent Or Breaking Of Lease Payments

If you are forced to make two rent payments, one on the new residence and one on the old residence, you will be reimbursed for the rent on the residence in which you are not residing for a period of no longer than two months. This payment will not be made in addition to the payment for breaking a lease.

Reimbursement for breaking a lease shall not exceed two months' rent.

Furniture And Household Goods Service

(415) 781-4400

Cal-Farm Insurance and Cal-Farm Life Insurance Companies has retained Merrill Lynch Relocation Management to coordinate the movement of your furniture, personal effects and household goods to the Sacramento area. Providing that you move items ordinarily considered household goods and personal effects, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will pay the entire moving cost if you elect to utilize MLRM's Transportion Services. Any employees not wishing to use MLRM's Transportation Service may arrange to move their household goods on their own, and be reimbursed in cash for 50% of the authorized mover's estimate. In such a case, the employee is personally responsible for the balance.

Because of its vast experience in this area, MLRM's Transportation Department will select a licensed carrier in your area and coordinate the packing, moving and unloading of your household goods.

All you need to do is contact your Homefinding or Rental Counselor at (415) 781-4400. An MLRM Transportation Counselor will immediately contact you to explain the MLRM moving services, let you know which van line will be used, and help you with pre-move details.

Your MLRM Transportation Counselor will notify the van line of your departure and expected arrival dates, and arrange for the packing, moving and unloading of your household goods to be done as close as possible to your specific time requirements. All invoices for moving services will be forwarded directly to MLRM, who will arrange for payment through Cal-Farm Insurance and Cal-Farm Life Insurance Companies.

While it is expected that the moving company will treat your furniture and personal effects with extreme care, occasionally damage or breakage may occur. Should a claim arise, promptly notify your MLRM Transportation Counselor who will work through the assigned van line to resolve the claim for you.

Unless otherwise mutually agreed upon, the following allowances will be made for moving your household goods and personal effects:

- *Weight: up to 15,000 pounds.*
- *Insurance coverage: $2 per pound.*
- *Necessary storage: up to 60 days.*

Reimbursements For House And Apartment Finding Trips And Travel Expenses

Travel Expenses While Moving
Cal-Farm Insurance and Cal-Farm Life Insurance Companies will reimburse travel expenses for you and your family, including reasonable in-transit meals and lodging while moving from your old to your new residence. Mileage for no more than two personal automobiles will be reimbursed at 15¢ per mile.

Expenses Incurred While Looking For Housing You will be allowed three working days to look for a new residence (not to be charged against vacation time). Cal-Farm Insurance and Cal-Farm Life Insurance Companies will make reasonable reimbursements for the amount you actually spend on the following:

- ***Three round trips at 15¢ per mile.***
- ***Family lodging for up to two overnight stays.***
- ***Family expenses for up to three days.***
- ***Child care expenses for up to three days.***

Commuting Expenses If your move date occurs before you can move your family and household goods, or if your family should move to the Sacramento area prior to your move date, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will reimburse the following reasonable commuting expenses that you incur until relocation, not to exceed 30 days:

- ***Transportation at 15¢ per mile (Fleet car or other employer transportation is to be used when available.)***

- ***Restaurant expenses (Those who commute daily, however, will not be reimbursed for meals.)***

- ***Lodging***

Temporary Lodging and Meals Cal-Farm Insurance and Cal-Farm Life Insurance Companies will reimburse the following reasonable expenses incurred by you and your family for a period not to exceed 30 days while waiting to enter your new residence, or waiting for your household goods to arrive:

- ***Restaurant Expenses***

- ***Lodging***

Miscellaneous Relocation Expenses Cal-Farm Insurance and Cal-Farm Life Insurance Companies will pay you $1,000 on your move date to cover miscellaneous relocation expenses not covered elsewhere. (Six months after your move date, you will receive an additional $1,000 bonus-providing you are still a full time employee of the Company.)

Reimbursement Procedures For any reimbursements, complete your reimbursement claim form, attaching applicable receipts. Submit the forms to your division manager for approval within two months after the date the expense was incurred. Reimbursement of authorized and approved expenses will be made to you by Cal-Farm Insurance and Cal-Farm Life Insurance Companies, not by Merrill Lynch Relocation Management.

Period Of Eligibility For Reimbursement And Exceptions To Policy

Period of Eligibility For Reimbursement Reimbursement for expenses incurred under Expenses Incurred While Looking for Housing is authorized any time after July 1,1977.

To be eligible for reimbursement for all other expenses under this move policy, expenses must have been incurred no earlier than November 1, 1978 and no later than one year following your move date, except:

Cal-Farm Insurance and Cal-Farm Life Insurance Companies, upon application, may consent in writing to reimbursement for expenses in connection with your move prior to November 1, 1978.

Policy Exceptions There may be exceptions or special circumstances which are not covered under this policy. You may not agree with an interpretation of the policy by Cal-Farm Insurance and Cal-Farm Life Insurance Companies.

A special committee selected from employees, management, and the Board of Directors will be formed to make determinations on exceptions.

All requests for exceptions must be submitted in writing to your division manager.

Policy For Employees Who Cannot Relocate

If you are not able to relocate, you will be offered an incentive program to work for Cal-Farm Insurance and Cal-Farm Life Insurance Companies until your move date. Cal-Farm Insurance and Cal-Farm Life Insurance Companies will pay you a cash bonus to motivate you to stay on the job until the date your position is "moved" to the Sacramento location, and to give you economic stability after that date, while you seek suitable employment elsewhere.

Cash Incentives

The cash incentives which Cal-Farm and Cal-Farm Life Insurance Companies will pay to you will be based upon the length of time you have worked for the Company. All permanent employees working in the Berkeley office will be eligible, providing they work continuously up to their move date.

The cash incentives will be paid on the move date as follows:

1. All permanent employees, as of July 1, 1977, who work continuously up to their move date will receive two months' pay.

2. All permanent employees, as of July 1, 1977, who work continuously up to their move date and were hired prior to July 1, 1975, will receive an additional month's pay, or a total of three months' pay.

3. All employees hired after July 1, 1977, who work continuously up to their move date, will receive the pro rata equivalent of two months' pay. The pro rata amount will be computed as follows:

   a. The number of full calendar months employed prior to move date, divided by,

b. The number of full calendar months from July 1, 1977 until move date, times,

c. Two months' pay.

This amount equals the pro rata amount.

In addition to the above, Cal-Farm Insurance and Cal-Farm Life Insurance Companies will continue at no expense to you, your group health insurance, group life insurance, and group dental insurance. These coverages will be provided for 90 days, or to the date you have similar effective coverage with a new employer, whichever occurs first.

These cash incentives are in addition to the usual separation benefits (vacation pay, for example) now in effect.

CONTRACT OF SALE
STANDARD CONTRACT

This agreement, effective as of the date of execution by MERRILL LYNCH RELOCATION MANAGEMENT INC. as hereinafter set forth, made by and between

whose address is

STREET ADDRESS

CITY

STATE

herein referred to as "Sellers", and MERRILL LYNCH RELOCATION MANAGEMENT INC., a California corporation, having its office at

STREET ADDRESS

CITY

STATE

hereinafter referred to as "Purchaser".

WITNESSETH:

Sellers agree to sell to Purchaser and Purchaser agrees to purchase from Sellers the real property, with appurtenances, situated in the County of

State of

described as follows:

THIS OFFER OF PURCHASE BEING IN THE AMOUNT OF

$ ______________ IS MADE EFFECTIVE AS OF
OFFER PRICE

THIS DATE ______________ AND SHALL
DATE OF OFFER

EXPIRE AT MIDNIGHT ON ______________
EXPIRATION DATE

UNLESS OTHERWISE AGREED TO BY PURCHASER AND SELLERS.

SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

1. PRICE

Purchaser agrees to purchase from Sellers and Sellers agree to sell to Purchaser the above-described real property for the price of

$

as arrived at by independent appraisal of the property's fair market value, less any sums deductible under Article 6 hereof or rider attached hereto.

2. PROPERTY INCLUDED

The real property covered by this agreement includes all items of property that have been affixed to or used in connection with the realty and the removal of which would tend to make the dwelling house incomplete, including, but not limited to, landscaping, fences, swimming pool equipment, window shades, venetian blinds, draperies, curtain rods, storm screens, combination doors and windows, television antennae, electrical fixtures, plumbing fixtures, heating fixtures, lighting fixtures, carpeting permanently attached to floors, and the following items of special equipment:

3. SELLERS ACCEPTANCE

If this agreement is satisfactory to Sellers, it must be executed and transmitted to Purchaser on or before

Ninety (90) days.

f satisfactory to Purchaser, this agreement shall be executed by 'urchaser within one (1) working day after receipt of the greement signed by Sellers.

4. PRE-EXISTING BROKERAGE AGREEMENTS

n the event that Sellers have entered into any brokerage greement regarding subject property, this agreement shall not e executed unless all rights under any such brokerage agreement ave been terminated in a manner satisfactory to Purchaser.

5. POSSESSION

ellers shall vacate and deliver possession to Purchaser on or efore a date

Sixty (60)

ays from the effective date of this agreement, in substantially ie same condition, reasonable wear and tear excepted, as on the ate this agreement is executed by the Seller, and in good orking order. In the event it is not practical for the Sellers to icate the property on or before the Vacating Date, then ossession may be continued with prior written approval of the ırchaser for a period not exceeding

Thirty (30)

ays. The date Sellers actually vacate the premises shall be called e "Vacating Date". Sellers shall be responsible for all utilities, aintenance, loan payments, property taxes, and insurance until ch time as Sellers vacate the premises or the effective date of is agreement, whichever shall occur later, at which time ırchaser shall become responsible therefor. Sellers agree that ter the execution of th s agreement, Purchaser through its ents may show the property to prospective purchaser upon asonable notice and at reasonable hours, including Saturday d Sunday, while Sellers are in possession.

6. EQUITY

The amount payable to the Sellers for the Sellers' equity or interest in the property shall be computed, by deducting from the price set forth in Article 1 hereof, the following items:

(a) All loans secured by the real property. (Sellers shall be credited with any monies held on deposit or in escrow by mortgages and thereafter such funds shall belong exclusively to Purchaser.)

(b) Real property taxes, special assessments, and owner's dues, fees and maintenance charges, if any.

(c) Cost of required termite and pest control treatment.

(d) Rental deposits and prepaid rent, if any; cost of utilities incurred by Sellers; and any other charges, including insurance, against the property that are the Sellers' obligation.

(e) All other indebtedness and encumbrances against the property.

All items that, in accordance with local customs, are prorated and apportioned shall be prorated and apportioned as of the date hereof or the Vacating Date, whichever is later, at the applicable rate determined in accordance with local customs. Anything contained herein to the contrary notwithstanding, in the State of Minnesota only, Sellers shall pay or be charged for all real estate taxes due and payable in the same calendar year as the date as of which prorations are computed.

7. TERMITE

Sellers warrant and represent that, as of the Vacating Date, or the date of this contract, whichever is later, the property will be free of any damage from or infestation by wood-destroying pests and organisms, including, but not limited to, termites, dry rot, and fungi. Sellers shall have the option of making repairs and correcting the condition at their expense, or allowing Purchaser to make said corrections and repairs and deducting the costs thereof from Sellers' equity as set out in Article 6 hereof. If the Sellers make such repairs, they warrant that no liens for the cost of such work will be filed against the property.

8. INSURANCE

Sellers hereby agree to keep the property insured and bear all responsibility for damage until the Vacating Date or the date of this contract, whichever occurs later, after which Purchaser is authorized:

(1) To continue existing insurance policies subject to insurer's approval, with Purchaser responsible for reimbursing premium to Sellers prorated in accordance with the provisions of Article 6; or

(2) To replace any existing insurance policies affecting the subject property, whereupon it shall be Sellers' responsibility to cancel and obtain any refund on the replaced insurance; and the existing mortgagee or other encumbrancer, if any, is hereby authorized and requested to effect such insurance changes in accordance with the instructions of Purchaser.

9. EXISTING MORTGAGES

Purchaser or its assignee may continue or assume any existing loan and encumbrances upon the property and shall make all payments thereon coming due after the Vacating Date, or date of this contract, whichever occurs later. Payment in no way affects the rights of Purchaser as set forth in Article 6.

If the property is subject to an FHA or a VA loan that must be satisfied before Sellers can obtain similar financing, Purchaser agrees to satisfy any such loan within 30 days after receiving written notice plus proof that Sellers cannot obtain similar financing on a pending purchase of a residence unless such loan is paid in full.

Purchaser agrees to hold Sellers harmless from any claim for deficiency that may be made against the Sellers as the result of the assumption of an encumbrance by a third party.

10. ASSIGNMENT OF FUNDS

Sellers hereby assign to Purchaser all of their right, title and interest in and to all monies now or later held on deposit or in escrow by any mortgagee or any other encumbrancer, all deposits and rents under any tenancy agreement affecting the subject property, and all prepaid insurance premiums for which Seller has been reimbursed by Purchaser. In the event Seller receives any funds that have been assigned to Purchaser hereunder, Seller agrees immediately to pay over such funds to Purchaser.

11. CONVEYANCE

Sellers agree that upon execution of this agreement and upon request of Purchaser they will convey to Purchaser or Purchaser's designee, a good and marketable title by a deed with general warranties of title in form approved by Purchaser and consistent with the local custom in the area in which the property is located. The deed to the Premises will be executed by Sellers and delivered to Purchaser at the time Sellers vacate the Premises or upon executing this contract, whichever occurs later.

Sellers covenant and agree for themselves and their heirs, executors, administrators and assignees to execute any deed, affidavits, agreements and documents prepared by Purchaser necessary to carry out the intent of this agreement immediately upon their presentment to Sellers, and Sellers shall procure any additional assurance of title deemed necessary to Purchaser.

12. OBJECTIONS TO TITLE

Purchaser shall obtain a title search (or its equivalent) and cause the property to be surveyed, if deemed necessary by the Purchaser, within a reasonable time after the effective date of this agreement, and Purchaser shall promptly thereafter give Sellers notice in writing specifying any defects in title disapproved by Purchaser. Sellers agree to be bound by the opinion of counsel or certificate of a title company selected by the Purchaser as to what constitutes a defect in title.

Purchaser agrees that the following shall not be considered objections to title:

(a) Existing covenants, conditions, restrictions, easements, rights of way, licenses, reservations, mineral rights, profits, U.S. patents, zoning ordinances, provided that the foregoing items are of the type normally applicable to residential property in that community, and do not prohibit the present structure on the premises and do not preclude the continued use of the premises for the purpose for which the same is presently being used, and provided further that this agreement or a conveyance of title or use of the premises, is not subject to the approval of a third party;

(b) Non-delinquent mortgages, taxes, and assessments which constitute a lien on said premises, in the aggregate not in excess of the Price set forth in Article 1 hereof;

(c) Tenancies, whether by lease or otherwise, of which Purchaser has been advised, and with respect to which the rent is not in arrears, provided said tenancies are assigned to Purchaser and are terminable at the option of Purchaser upon notice not exceeding sixty (60) days.

13. TITLE NOT MARKETABLE

Upon notification of Sellers by Purchaser of any defects in title as set out in Article 12 hereof, Sellers shall have thirty (30) days within which they may clear any such defects. If said defects are not cleared to Purchaser's satisfaction within thirty (30) days after said notification, Sellers sole obligation shall be to immediately repay to Purchaser any sums paid to or on behalf of Sellers by Purchaser.

14. ASSIGNMENT

Neither Sellers, nor Sellers' legal successors or assigns, shall assign or encumber this agreement without the prior written consent of Purchaser in each instance, and any such assignment or encumbrance without such consent shall be ineffective as to the Purchaser or, in the alternative, Purchaser shall have the option of terminating this agreement and upon such termination Purchaser shall be entitled to a refund of all sums paid to or on behalf of Sellers.

This prohibition against assignment shall not apply to Purchaser, who expressly retains the right to assign this contract.

15. RECORDING

Neither Sellers, nor Sellers' legal successors, assigns or agents, shall record in the office of the Recorder of Deeds in the County where said property is located or in any other public office this agreement, or any copy thereof, or any statement, paper or affidavit, in any way or manner referring hereto.

This prohibition shall not apply to Purchaser, who expressly retains the right to record.

16. GENDER

As used in this agreement, the masculine, feminine and neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates. Each of the persons herein collectively referred to as the Sellers designates the other as his or her agent to receive notices and give receipts for payment or equity hereunder.

17. NO WAIVER

The failure of Purchaser to seek redress for violation of, or to insist upon the strict performance of any term, covenant, condition, provision or agreement of this contract, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation.

18. REMEDIES

In addition to all other rights and remedies at law or in equity, Purchaser shall have the option to rescind this contract and recover all payments made pursuant hereto, if possession of subject property is not delivered to Purchaser by the date hereinabove provided, or if Sellers shall otherwise fail to perform this contract.

19. WARRANTIES

(a) Sellers covenant and warrant that to the best of their knowledge and belief this contract or conveyance of title or the present use of the premises is not subject to the approval of a third party; that the same is not in violation of any encumbrance or other instrument affecting the property; that prior to the execution of this agreement neither they nor their agents have received any notice issued by any governmental authority of a dwelling code violation in the structure or structures upon the premises herein described; and that they have no knowledge whatsoever of any actual or contemplated proceeding in condemnation, urban renewal or eminent domain affecting this property.

(b) Sellers covenant, represent and warrant that to the best of their knowledge, information and belief the Sellers have disclosed to the Purchaser all information regarding the physical condition of the premises of which they have knowledge, and Sellers have not misstated or omitted any material fact with regard to any condition affecting the premises that if known would have an effect on the value of the premises.

20. MISCELLANEOUS

(a) The language in all parts of this agreement shall be construed according to its normal and usual meaning and not strictly for or against either Sellers or Purchasers.

(b) This agreement is offered to Sellers for signature by Sellers, and it is covenanted and agreed that this agreement shall not be binding upon Purchaser until such time as Purchaser shall have executed the same.

(c) This contract contains the entire agreement between the parties, and recites the entire consideration given and accepted by the parties. Any agreement hereinafter made shall be ineffective to change, modify, waive or discharge it in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, waiver or discharge is sought.

(d) Time is of the essence in this contract.

(e) Unless otherwise provided herein, the terms, covenants and conditions of this agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, and assigns of the respective parties hereto.

(f) All warranties, covenants and other obligations contained in this agreement shall survive delivery of the deed.

(g) Purchaser is relying upon the representations of and information supplied by Sellers and Sellers agree to make any future adjustments to the financial settlement to be made hereunder, which are necessary and consistent with the intent of this agreement.

Additional Provisions Nos. 21, 22, 23 annexed, are made a part hereof as though entirely set forth herein.

ADDITIONAL PROVISIONS OF CONTRACT OF SALE

21. PAYMENT OF EQUITY

(a) Sellers' equity shall be computed, and all items set forth in Ar[illegible] 6, prorated and apportioned as of the Vacating Date or [illegible] Contract of Sale date, whichever is later. Sellers shall no[illegible] Purchaser of the intended Vacating Date as soon as that da[illegible] known. Purchaser will pay Sellers their equity in the property [illegible] follows: If the equity in the property is $1,000 or less, it shall [illegible] paid upon receipt of the executed Contract of Sale. If the equ[illegible] of the Sellers is more than $1,000, it shall be paid $1,000 up[illegible] receipt of the executed Contract of Sale and the balance on [illegible] Vacating Date.

(b) In the event Sellers require an equity advance in order to acqu[illegible] a new residence, Purchaser agrees to advance such equity up [illegible] a maximum equal to the amount computed pursuant to Artic[illegible] 21(a).

22. AMENDMENT OF SALES PRICE

If Sellers, prior to executing this Contract of Sale, notify Purchaser of a val[illegible] offer from a third party to purchase the property which would result in a sa[illegible] at net cash return to Seller greater than the Appraised Value (as set out i[illegible] Article 1 hereof), Purchaser shall, after (1) verifying that said offer will, wi[illegible] all the terms considered, produce a greater net cash return than th[illegible] Appraised Value, (2) ascertaining that the third party has received, or ha[illegible] been assured that he will receive adequate financing to consummate th[illegible] sale pursuant to such offer, and (3) ascertaining that the contract of sal[illegible] with the third party contains terms reasonably consistent with the terms o[illegible] this agreement and that such contract with the third party is at a fixe[illegible] purchase price and is not contingent on the sale of another property o[illegible] obtaining interim financing arrangements, amend the offer price (as set ou[illegible] in Article 1 hereof) to an amount (the "Amended Value") equal to th[illegible] third-party offer. Such offer shall then be adjusted to take account of th[illegible] cash equivalent of any net difference between the offer contained in th[illegible] Contract of Sale and the third-party offer as to terms other than price whi[illegible] shall include, but not be limited to:

(a) any estimated discount points that would have been paid b[illegible] Sellers in connection with the proposed transaction;

(b) any real estate commission to be paid by Sellers in excess o[illegible] local customs unless approved in advance by the Purchaser;

(c) the estimated cost of any improvements, remodeling or repair[illegible] that would have been made by Sellers in connection with th[illegible] proposed transaction;

(d) a prorated amount based on one (1%) percent of the Apprais[illegible] Value per month for the estimated number of days to closing [illegible] excess of sixty (60) days from the date the amended offer [illegible] accepted by Purchaser; and

(e) estimated closing costs customarily borne by the third-par[illegible] purchaser which Sellers agree to pay in connection with th[illegible] proposed transaction, including, without limitation, termite[illegible] structural or other inspections of the Dwelling House.

Purchaser shall promptly advise Sellers of the Amended Value determine[illegible] above. If Sellers accept Purchaser's amended offer at the Amended Value[illegible] verbally within two (2) days of receipt of such offer, then upon receipt by Purchaser (provided such receipt occurs within ten (10) days of the date of Purchaser's amended offer) of this Contract as amended and executed by Sellers, and the fully executed contract of sale with the third party, Purchaser agrees that the price set out in Article 1 hereof shall be amended to an amount equal to the Amended Value. If Sellers fail to accept such amended offer within such time, the amended offer shall expire.

23. ADDITIONAL AGREEMENTS OF SELLERS

Sellers will cooperate with Purchaser by promptly supplying:

(a) information required to complete any disclosure or settlement statement required by law; and

(b) information requested by Purchaser pursuant to the Real Estate Settlement Procedures Act of 1974.

Please initial ____________________

Merrill Lynch
Relocation
Management Inc.

ACKNOWLEDGEMENT BY SELLERS

STATE OF

COUNTY OF

On

before me, the undersigned, a Notary Public in and for said State, personally appeared

known to me to be the person whose name subscribed to the within instrument and acknowledged that executed the same.

WITNESS my hand and official seal.

____

SIGNATURE

NAME (Typed or Printed)

(THIS AREA FOR OFFICIAL NOTARIAL SEAL)

IN WITNESS WHEREOF, the parties hereto have executed this contract on the day and year shown after their signature.

SELLERS:

____

SIGNATURE

____

SIGNATURE

DATE OF EXECUTION:

PLACE OF EXECUTION:

PURCHASER:

MERRILL LYNCH RELOCATION MANAGEMENT INC.

____

DATE OF EXECUTION:

PLACE OF EXECUTION:

APPENDIX C

Propcsed Guidelines on Plant Location and Relocation

Taken from: Alfred W. Blumrosen and James H. Blair
<u>Enforcing Equality in Housing and Employment Through State Civil Rights Laws</u> (Newark, N.J.: Administrative Process Project of Rutgers Law School, 1972).

1. *Findings and Policy.* The Equal Employment Opportunity Commission finds and determines that there is a substantial likelihood that the location of a plant or other facility in a suburban area will have an adverse effect on minority employment opportunities in said facility. The difficulties which minority persons experience in finding housing in suburban areas, and the inadequacies of public transportation to such areas from central cities in which substantial proportions of minority persons reside, contribute to the persistence of low utilization of minority employees in facilities located in the suburbs. A study conducted by the EEOC Office of Research based on EEO-I reports of employees of more than 100 employees demonstrates conclusively that facilities in the suburban areas of the nation are likely to have a lower proportion of minority employees than those in the larger urban centers. Under these circumstances, it is clear that an employer decision to locate in the suburban areas, if not done with due regard for assuring that there will be minority participation, will inevitably and foreseeably produce low minority employment. Employers making planning decisions with respect to the location of facilities are hereby advised that, unless they take the steps outlined below, and if these planning decisions have the effect of limiting minority employment opportunities, the employer will be viewed by the Commission as in violation of Sec. 703(a)(1) and (2) of Title VII of the Civil Rights Act of 1964.

Introduction

Employers contemplating the location or relocation of a facility in a suburban area in which the percentage of minority population is less than half the percentage of minority population in an urban center within 30 miles of the facility should establish minority employment goals based on minority population, minority work force in relevant job categories, minority unemployment, and availability of minority workers of relevant skill, existing in the urban center, as well as those located nearer his establishment and, in addition, should adopt as a minimum goal, the retention of the level of minority employee participation which he has previously attained in any facility or facilities which are subject to a relocation move.

2. *Affirmative Action.* The employer plans to (locate a new facility) or (relocate an existing facility) ______________________ in ______________________ an area where the immediate labor force and/or population is largely non-minority, he shall take affirmative action to plan for fair employment including, but not necessarily limited to, the following:

(A) Prior to the acquisition of property for the purpose of establishing or relocating a facility, or, if property is already owned by the employer, prior to making the decision to establish or relocate a facility, the employer shall conduct a study to determine whether minority group individuals will be able to obtain or retain employment at the facility without suffering an adverse effect due to lack of availability of housing or transportation facilities in and near the location of the proposed facility. In conducting this survey, the employer shall review the employment patterns of similarly situated employers in the proposed area; shall contact regional offices of appropriate federal agencies, and private organizations having as an object the improvement of minority employment or housing opportunities.

(B) The employer shall, in the event of a proposed move of an existing facility, survey his existing minority employees to determine if they plan to move to the new location, and whether housing or transportation problems would constitute a barrier to such movement.

(C) If, as a result of the survey, the employer determines that the proposed location or relocation will have an adverse effect on minority employment patterns making it unlikely that he will meet his initial employment goals, established pursuant to, he shall examine not less than two alternative sites to determine if such sites are as economically desirable as the first but provide a greater opportunity for fair minority employment. In selecting from among the sites examined, the employer shall fully document the elements of business necessity which lead to his decision and shall retain that documentation on file and available for a subsequent compliance review.

(D) If the proposed facility is anticipated to employ more than 300 employees at full capacity, the employer shall notify the regional office of the Equal Employment Opportunity Commission of his proposed acquisition by submitting a copy of the documentation, described in paragraph 3, supra, ten days before making said acquisition.

(E) If the survey with respect to acquired property discloses that there is likely to be an adverse effect on minority employment or that the employer will be unable to meet his initial minority employment goal, he shall:

(i) Establish a minority services office. This office shall:

(a) Engage in efforts to retain existing and to recruit new minority employees for the new facility;

(b) Seek to secure improvement in public transportation facilities, or determine the feasibility of establishing company operated transportation facilities;

(c) Determine amounts necessary to assure that minority employees will be able to afford adequate transportation, including, but not limited to, the possibility of rendering financial assistance to enable such employees to obtain private transportation;

(d) Determine amounts necessary to assure that minority employees will be able to rent housing facilities close enough to the new facility to permit effective minority employment;

(e) Assist prospective minority employees in obtaining adequate housing within a reasonable distance of the facility by providing or securing the services of real estate agents;

(f) Provide legal services to present and prospective minority employees in the event of any apparent violation of federal and/or state fair housing laws;

(g) Use his good offices to facilitate the development of low and middle income public and private housing within a reasonable distance of the facility by seeking or supporting applications for zoning variances, and in other ways.

(ii) Adopt such transportation and rental subsidy programs, to last not less than 2 years, as are appropriate in light of the determinations in paragraph E(i)(c) and (d) supra, and incorporate same in his recruitment program.

(F) The employer may fulfill his obligations under the preceding subsection (8) by making housing accommodations available to prospective minority workers.

(G) When the employer undertakes new hiring at the facility, he shall:

(i) Establish continuing relationships with the appropriate offices of the State Training and Employment Service and at least two private organizations which have as an object the improvement of employment opportunities for minority persons.

(ii) Notify the State Training and Employment Service and each of the organizations with respect to all estimated jobs and vacancies to be filled during the ensuing six-month period which are not to be filled by promotion from within, indicating the titles of such jobs, the expected number of vacancies, qualifications required and starting pay. A similar estimate and notification will be made for each succeeding six-month period.

(iii) Notify the State Training and Employment Service and each of the organizations whenever a vacancy occurs in any job not to be filled by promotion from within which was not included in the semi-annual estimate.

(iv) Identify himself as an equal opportunity employer in all employment advertising and comply with the guidelines on testing CFR.

(v) Request all minority persons who contact the contractor for employment to file an application regardless of whether vacancies exist at the time. Employment applications by minority group persons will be promptly reviewed and will be either accepted, rejected or held pending a vacancy or further evidence of qualifications. Such applicants will not be rejected because the position applied for has been filled. Such applications will be reviewed to determine if some position other than that applied for is available for the applicant, either presently or prospectively. If this is the case, such applicant will be so advised and if not hired will be placed in an affirmative action file for consideration for such other positions when available. Such applicants will be notified in writing of the contractors' decision within ten working days of filing an application for employment.

(vi) If a minority group person is rejected, advise such applicant in writing of the reasons, and retain a copy of such rejection notice for six months as required by Equal Employment Opportunity Commission Regulation 29 CFR 1602.14.

(vii) With respect to minority group persons whose applications are not rejected, maintain a separate file to be known as the Affirmative Action File to be utilized, in connection with job vacancies which occur and are not to be filled by promotion from within, as follows:

(A) As such job vacancies occur for which no minority group applicant is then presently available, the employer will first consult the Affirmative Action File to determine if qualified applicants are listed thereon, and will give consideration to hiring applicants from such file before consulting other sources.

(B) If, after further review, the employer concludes that a particular applicant in the Affirmative Action File is not and cannot become qualified for a vacancy, or that other reason therefor exists, the employer may remove such name from such file, notifying the applicant of such removal and the reason, and noting on the file the date of each review and the reason for rejection. If the contractor is of the view that certain steps taken by the applicant could qualify him for employment, the contractor shall so inform the applicant in writing, maintaining a copy of such notice in the file.

(C) The maintenance and use of the Affirmative Action File does not require exclusion of consideration of other applicants, nor does it imply a quota system for hiring of any racial or ethnic group. It is intended to assist the employer in achieving his minority employment goals.

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