

An Analysis of Employment at Will and Its Effect on
the Discharge Policies of Industries
in Bladen and Robeson County

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AN INTRODUCTION TO "EMPLOYMENT AT WILL"

In a 1980 issue of the Harvard Business Review, Clyde Summers states that only thirty percent of the work force in the United States is protected by law from arbitrary dismissal.¹ This is a staggering statistic, especially in a country which is built on a foundation of rule by the majority.

Common law, that law which is based on court decision or custom, presently permits employers to dismiss their employees whenever the employer sees fit, with or without justifiable cause. This is known as the doctrine of employment at will. Although employers have, in many cases, adopted the ethic that employees should not be discharged without a stated and morally justifiable cause, the fact remains that our legal system still grants an employer the legal right to discharge at will.

There exist, of course, exceptions to the rule. For example, the problem does not apply to such groups who are afforded employment protection through anti-discrimination legislation as women and minority groups, including Blacks, Hispanics, handicapped persons, et cetera. The passage of the Wagner Act (also known as the National Labor Relations Act) further restricts an employer's right to fire at his discretion. Enacted in 1935, this law prohibits the dismissal of employees for participation in union activity. For employees who are union members, the unions provide protection for their rights and offer assistance in matters of unjust discharge as well. However, only twenty percent of the approximately one hundred six million members of the American work force are unionized.² Government workers are also afforded extensive means of employment protection and are therefore not subject to employment at will.

As revealed in a Harvard Business Review survey conducted in 1971, the general public commonly feels that an employee has the duty to obey his or her employer's "reasonable" demands; however, the only alternatives to

obeying an unreasonable demand are to resign from the position or to file an expensive legal suit.³ If the employee is unable to find another job or cannot afford the expense of a lawsuit, he will be forced to perform the unreasonable task.

Discharge is a delicate issue for it deals with the sensitive relationship between an employer and an employee. It is, however, of great importance to the employee in question, the employer, and society as a whole. A discharged employee must bear a number of hardships as a result of the dismissal, including a loss of income, and often social problems such as alcoholism or divorce result from a sense of failure and the inability to provide for loved ones. Discharge is expensive for the employer as well; there are costs of locating and training a replacement as well as a loss of the investment made in the training of the dismissed employee. Society must also bear a burden; it is responsible for providing unemployment and welfare compensation for the discharged worker. Therefore, employment at will poses an important social, economic, and political problem which affects a great number of people and demands immediate attention.

The first step which must be taken to resolve the dispute over employment at will is the determination of the degree of social responsibility that a business must possess in matters concerning employee relations. The following chapters explore the issue of employment at will in greater detail and examine the opinions of those concerned with employee relations regarding the social responsibility of business in the area of discharge of employees.

REVIEW OF THE RELEVANT RESEARCH AND THEORY

There has been a significant increase in the amount of research conducted and literature published in the past decade concerning the issue of employment at will. Noted business periodicals such as The Wall Street Journal and the Harvard Business Review, have shown a growing interest in this subject and books by such authors as David W. Ewing, senior editor of the Harvard Business Review, have been published as well.

Since the beginning of employer-employee relationships, David Ewing discloses, employment at will has been in existence. He lists Roman law, slavery, capitalist economics, and employee attitudes as the major factors contributing to the long-accepted doctrine of employment at will. Ewing makes reference to Lawrence Stessin, Professor Emeritus at Hofstra University, who feels that the doctrine actually dates back to the "Code of Hammurabi", (eighteenth century B.C.), which ruled that "an organizer could staff

his workplace with the people he considered suitable."⁴ Economic viewpoint also supported the doctrine. Adam Smith's view of free competition stresses that an employee is free to go from firm to firm in search of better pay, working conditions, et cetera.⁵ Milton Friedmar, a noted modern economist, agrees in his book Free to Choose; he writes: "a worker is protected from his employer by the existence of other employers for whom he can go to work."⁶ Slavery, which was practiced in our country until the middle of the nineteenth century, also encouraged an emphasis on employer rights rather than employee rights. The above reasons stem from sources other than employees; perhaps what is more surprising is that employee attitudes themselves played a major role in the acceptance of the anti-employee doctrine of employment at will. A lack of education and technical skill coupled with a lack of motivation led to the employee's acceptance that, as Ewing puts it, "wisdom and insight reside in the heads of organizations."⁷ Regardless of what stimulated its acceptance, employment at will developed a strong following which has permitted the practice of the doctrine to continue for thousands of years.

Today's society is beginning to turn the tables against this long-accepted doctrine. Challenged by more and more employees (as well as other persons concerned with employee rights) the future of employment at will looks dim. Ewing describes four factors leading to the declining stability of the employment at will doctrine. They are: a greater amount of leisure time; the stress of modern education on individualism in thought; better communication; and increased technological advancement.⁸ Joanne Lublin, in The Wall Street Journal, agrees: "The right to sack subordinates ... is coming under an unprecedented legal assault." She explains that these court cases usually deal with a conflict in public policy; however, terminations involving the assurance of job security or discharges of tenured workers which were handled unfairly are also being taken to court --- and won. And it is not just small, private companies which are being beaten. Among the companies losing such suits are International Business Machines, Atlantic Richfield, and McGraw-Hill --- powerful corporate structures previously thought by many to be invincible.⁹

Surveys of public opinion demonstrate society's unwillingness to accept the totalitarian attitude of business toward employee rights in discharge. The Harvard Business Review conducted one such survey of approximately ten thousand of its readers in 1971 to determine their current opinions regarding the subject of employee rights, including those involved in cases of discharge. They received over three thousand responses to their questionnaire. The survey revealed that the readers of this influential business publication are viewing dismissal at an employer's will with "growing disfavor." It is felt that an employee should be given the right to defend himself even when the discharge is in the best interest of the company. The readers also feel that an employee should be made aware of all allegations made against him in the case and should be allowed to disobey unethical demands without being discharged or resigning. However, readers do not feel that an employee should be permitted to damage the corporate sales effort in any way; for instance, an employee should not publicly slander the company in a vengeful attempt to turn consumers against the company or its product.¹⁰

Several protective statutes exist which guard many, though not all, employees from unjust discharge. Legislation such as the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 afford protection for those who are discriminated against in the areas of age, race, color, religion, sex, national origin, and handicap. In addition, the working conditions of employees are regulated by the Occupational Safety and Health Act. Those actively involved in unionization are protected by the National Labor Relations Act enforced by the National Labor Relations Board. Some government agencies provide employment protection for their employees as well --- though this is not always the case. That employee who possesses none of the above characteristics remains legally a "sitting duck", virtually unprotected from willful firing or unjust discharge. Clyde Summers defines this group as "foreman, lower- and middle-management, and professional and administrative personnel." He cites the following three reasons for his choice: this group is seldom covered by collective agreements, usually prefer not to unionize, and are often prohibited from organization.¹¹

In the magazine Personnel Administrator, Maria Leonard gives a more generalized definition which does not exclude hourly or unprofessional personnel. She describes this unprotected employee as "the white Anglo-Saxon protestant male under age forty who was not a veteran, not handicapped and did not belong to a union."¹²

Ewing notes in his book Do It My Way or You're Fired, that there has been "a significant shift in the balance between management prerogatives and employee rights...."¹³ An organization in today's business world is expected to provide for the psychological, as well as the physical and environmental needs of its employees. However, Ewing stresses that managers must retain their right to discharge in cases of poor discipline, lack of skill, insubordination, et cetera. In cases of dishonesty or fraud where there is justification for discharge, it is even considered unfair to other employees for a manager to fail to investigate and exercise discipline. Edward J. Mandt is quoted by Ewing as follows: "no organization ... should be required --- or even expected --- to retain superfluous, incompetent, or problem workers. On the other hand, employers have a moral

obligation to think through any decision to terminate anyone."¹⁴ Any solution to the problem of employment at will must include provisions for the employer's interest as well as the employee.

Business Week defines the basic issue in the debate over an employer's right to fire at will as "the company's right to manage its business as it sees fit."¹⁵ Many companies fear courts could begin to challenge even legitimate business decisions in discharge cases. The single thread running throughout the debate on an employer's right to discharge at will is the question of the amount of social responsibility which a business must demonstrate in matters relating to employees' rights. What degree of social responsibility is to be considered satisfactory by all?

Differing opinions have been expressed regarding this question. In "A Friedman Doctrine", Milton Friedman argues that "the social responsibility of business is to increase its profits."¹⁶ One goal of business must be to make a satisfactory profit and return on investment; the sustained absence of satisfactory profit or return on investment inevitably must result in a failure of a business to survive.

In a case of decreased or terminated production activity, both the employee and the employer lose since this usually results in layoff or termination attributable to poor business conditions. Ewing disagrees; he defines profit as a cost of business that will not be affected one way or another by good employee relations. He finds additional support for his opinion from successful businessmen Henry Ford and C. Peter McCollough. Ford feels "the general welfare" of a company is the purpose of industry, not to make a profit. McCollough, chief executive officer of Xerox, sees his company as a "social institution as well as a business institution."¹⁷ The flourishing financial achievements of the companies run by these two socially conscious men demonstrate that firms can move from a purely economic motive and become more socially responsible to its employees; not only surviving, but succeeding as well.

An employment is a legal relationship between two parties which is very similar in nature to that relationship involved in contract law. Known as an agency, employment requires specific duties of each of its parties. An agent (employee) "must act with reasonable care and

exercise skill and knowledge typical to the place where (he or she is) to perform"; he or she must notify the principal (employer) of all matters concerning the agency; in addition, he or she must be loyal to the principal in all matters pertaining to the business relationship. The principal possesses specific duties, as well; he or she must compensate and reimburse the agent for services rendered, cooperate with the employee and assist --- not hinder --- him in the performance of his duties, and provide a safe working place with good working conditions for the employee.¹⁸

An agency may be terminated at any time by either of the two parties. Therefore, an employee legally possesses an equivalent right of termination to the employer. Ewing, in Freedom Inside the Organization, reveals that the courts view employment technically independent of all other factors in society unless there exists a specific contract between the parties.¹⁹ Under the doctrine of freedom of contract, the parties are equal partners and enter the relationship willingly. Therefore, each should maintain equal contractual rights.

A question arises when associating an agency with contract law: is there an implied contract formed which ensures

job security when an employer hires an employee and that employee accepts the position? A 1982 article in Business week reveals that several "state court decisions (were) handed down in the past three years in Michigan and California which hold that expressed or implied corporate policies are tantamount to an employee contract."²⁰ A representative of MacGraw-Hill, Inc., which has undergone much legal action involving its exercise of the employment at will doctrine, feels the acceptance of an implied contract places too great a burden on the court to make or second-guess decisions of people who are experienced in making discharge decisions and have been making them for years.²¹ The litigation involving employment at will is "a developing area of the law", according to an attorney representing one major retailer facing such a lawsuit. He continues "... it is very hard to predict just how far the courts will go. But the likelihood is that we're going to see a great deal more litigation in this area."²² The increased number of cases raised against companies since the early seventies supports his conclusion. Workers are much more aware of the alternative to unfair dismissal and they

are becoming more aggressive and are more willing to stand up for themselves; and the courts are very sympathetic with the battle of the employee. The judgment of Savodnik versus Korvettes, Inc., in which an employee was fired after ten years of service to the company in order to avoid vesting of pension rights, demonstrated the changing attitude of the judicial system regarding the issue of employment at will. The judgment stated: "courts cannot hide in ivory towers ignoring the economic and social realities of modern society ... (a)s that society changes, so must our thinking."²³ The court ruled in favor of the employee, Savodnik. It should be noted that such practices as this led to the passage of the Employment Retirement Income Security Act (ERISA). As is often the case, neglect of social responsibility led to the federal regulation of business.

Anticipation of legal action stemming from the acceptance of an implied contract makes employers more wary of written material directed toward employees, especially employee handbooks. Some companies have gone as far as to eliminate the handbooks all together. Others have reworded the handbooks to protect their right to fire at will; words such as

"permanent" in regard to employees are being stricken from the books and replaced with those words which make no allusion to job security (i.e. "regular"). Robert Coulson, president of the American Arbitration Association, finds companies even more cautious: "now some employers may protect themselves by including a statement (in their handbooks) that they have the right to discharge any employee with or without cause."²⁴ An example of such a company is Blue Cross-Blue Shield of Michigan. As the result of a tremendous amount of litigation pending against the company, this large insurance firm now warns employees they "can be terminated at any time without reason."²⁵ The message companies are now sending to their employees in these alterations is, according to Forbes magazine, "we won't treat you badly. But if we want to fire you, we can."²⁶

A company's move to guard itself against legal action by discharged employees who feel they have been unfairly treated may trigger a result which could be as equally unpleasant to the employer: unionization. With ten percent of the work force unemployed, any move to place an employee's job security in jeopardy can be quite unsettling to the worker.²⁷ This leads to an atmosphere conducive to the

development of pro-union sentiment among employees. Marvin Goldstein, a partner in the labor law firm of Grotta, Glassman, and Hoffman, feels that a company attempting to protect its position on the matter of employment at will "will not only be giving unions a leg up, it will also be doing work for the unions ... convincing employees they do not have job security." Changing handbook wording, for example, can be a "written invitation" to unions.²⁸ Employees of companies that are clarifying their position on employment at will and defending their right to discharge must be assured that everything possible is being done to provide for the protection of the employees' rights. An attorney representing an anti-union company during a campaign to organize its employees utilized a strategy to provide the employees such assurance. When union representatives told employees that a union was necessary to protect their jobs, the management countered by assuring the workers that there was nothing which could be provided by a union that was not granted by the policy of the business; they also reminded the workers of the workers' right to file court action if the company did not live up to its promise. The

attempt at unionization failed as workers voted in favor of the company. Obviously, fair discharge policy can aid a company in keeping its relations with its employees on a one to one basis, barring union mediation.

One of the solutions to the dispute over employment at will strongly advocated by David Ewing is "due process", defined as "managerial guarantees that employees will be given a fair chance to keep their jobs."²⁹ Ewing looks at due process as "institutionalized caring" and, although he admits it is not the answer to every problem, it can be of great value to the employee and employer.

Jack Stieber, of the Michigan State University School of Labor and Industrial Relations, estimates that one-half million employees are fired unjustly each year.³⁰ An unjust discharge is based not on a lack of competence or cooperativeness, but on arbitrary whims of management. American society resides on a foundation which allows people to "air grievances, express opinions, and voice disapproval ...".³¹ An inconsistency exists in employment relations regarding this right. Where is the employee's democratic prerogative? Does democracy end at the door of an employee's workplace? Ewing

feels due process can alleviate this inconsistency; he explains, it "does little good to set such rights forth in a corporate code, (or) an employee manual ... unless there are means for implementing them fairly in the eyes of the employees."³²

The primary ingredient in a system of due process is a fair hearing procedure within the company with impartial parties presiding. Such an implementation would, according to Ewing, have several advantages. It could correct many injustices against employees and could ensure the protection of employee rights of freedom of speech, privacy, and conscientious objection to the performance of unethical tasks. The fair hearing procedure could aid management by decreasing the likelihood of lawsuits filed by terminated employees and could even make office life more interesting by providing lively topics for discussion.³³ The right to a hearing within the company would also be less costly than an appeal to the civil court, since it would eliminate the enormous court expenses incurred by both parties. Cases of abusive discharge, when settled in a civil action, often result in heavy punitive damages resulting from the psychological distress of the discharged worker. Internal systems

of due process can also allow a dispute to be handled more promptly, reducing the cost of time involved in the matter.

Clyde Summers, Fordham professor of law at the University of Pennsylvania, suggests another alternative --- the implementation of statutory protection for those presently defenseless in cases of unjust discharge. He explains that "employers and unions ... have accepted as fundamental the right of employees not to be discharged without just cause; but the law on the books (the common law) denies the existence of such a right."³⁴ A corporate legal consultant, as quoted in Business Week, refers to the proposed statute as the "white male manager's discrimination law", since this is the group, as mentioned earlier, which is hit the hardest by the exercise of the employment at will doctrine.³⁵ Already, according to Ewing, almost fifty percent of the states in the United States have passed laws prohibiting the termination of employees who irritate employers in some way, or who exercise rights which are guaranteed by law with which a superior happens not to agree. Michigan's "Whistleblowers' Protection Act" of March, 1981, is an example of such legislation; it provides protection

for employees who report on wrongdoings of the employer, violations by the company of public policy, et cetera.³⁶

Many of the enactments protecting employees have originated since the late seventies, emphasizing the increasing momentum of negative public opinion toward employment at will.³⁷

Due process provides a solution evolving from within the company; statutory protection provides a solution externally generated. The combined efforts of employers and those concerned with the protection of employee rights will be necessary to ensure a feasible solution to the problem of employment at will which is favorable to both parties involved.

From a legal viewpoint, employees share an equal footing with employers in the agency relationship; however, the balance actually tips in favor of the employer due to the domination of business in the areas of size, political influence, and financial resources. Concerned members of society feel that business should begin to exercise greater social responsibility toward employees, especially in the area of discharge. Management feels compelled to stand its ground and protect its ability and freedom to run its

business in any manner it desires; however, management has begun to realize that it must ensure the fair treatment of its employees in matters of discharge or face consequences such as unionization or government regulation.

In order to examine the current state of discharge policy and attitudes concerning the employment at will doctrine in the Bladen and Robeson County area, a research project was designed by the author. A description of this project and its results will be found in the following chapters.

THE DESIGN OF THE STUDY

It is the hypothesis of this author that industries located in the Bladen County and Robeson County area abide by an employee discharge policy which reflects a high degree of social responsibility evidenced by a definite concern for the employee and his right to protect his employment. Therefore, the industries in question do not completely adopt the doctrine of employment at will nor do they exercise their legal right to discharge an employee without just cause. Three major factors which the author feels affect this hypothesis include small plant size relative to others in the same industry, a concern for an employee's personal welfare, and a desire to dissuade unionization.

In order to test the hypothesis, a study was designed involving a survey of local firms. The sample size of

sixty-six was selected from the Directory of North Carolina Manufacturing Firms obtained through the North Carolina Department of Commerce located in Raleigh, North Carolina. Those firms employing fifty or more persons were selected. (*NOTE: Survey results revealed employment at one plant as low as thirty-five persons indicating a slight variance from figures provided by the directory.) Businesses known to have discontinued their operations were omitted; those firms with identical mailing addresses were combined in order to avoid the receipt of multiple questionnaires by the same personnel executive which could have negatively affected the overall response rate. Questionnaires which were mailed but were undeliverable were also omitted from the sample.

Two methods of data collection were selected --- descriptive survey and personal interview. The survey centered on general information, while the personal interviews were directed toward more specific information necessary to clarify the survey results.

A questionnaire consisting of twenty-five questions (see Appendix A) dealing with the policies and attitudes of the management of sample firms toward employee discharge

was developed with the aid of background literature, examination of a recent Harvard Business Review survey of similar nature, and consultations with professors in the Business and Psychology Departments of Pembroke State University. Due to the sensitivity of the subject of employer-employee relations, great care was exercised in the selection of questions to be used. The questions chosen emphasized management's consideration of employee rights in cases of discharge (i.e. employee knowledge of established procedure, employee's right to appeal, et cetera) as well as management opinion regarding employment at will. Three types of response were employed: yes/no, fill in the blank, and Likert scale. Upon completion of the development of the questionnaire, it was presented to the Chancellor's Scholars Council, in conjunction with the thesis prospectus, for review. Suggestions submitted by the council members were considered and incorporated where the author felt they were appropriate.

A cover letter (see Appendix B) was prepared to accompany the questionnaire, clearly stating the intended use of the data to be provided and ensuring the anonymity of the respondent. The letter also granted the respondent the option to omit any questions he or she desired. The cover letter and

questionnaire were mailed on Wednesday, January 4, 1984; a self-addressed stamped envelope was included to encourage response. A target response rate was set by the author at thirty-five percent based primarily on the response of 34.53 percent received in the Harvard Business Review survey mentioned in an earlier chapter.

Company personnel managers to be personally interviewed were arbitrarily selected on the basis of size, location, and willingness to cooperate. Three firms were selected from each county representing five different industries and ranging in size from fifty to one thousand five hundred seventy-five employees. Those to be interviewed were contacted by telephone and interviews were scheduled. A basic format of questions used in the interviews may be found in Appendix C. Following the interview, a draft of notes taken during the appointment was prepared and sent to the interviewee for his or her approval. This provided documented reference for facts used in the paper and ensured the correctness of the data. Five of the six interviewees returned these drafts to the author.

The study does not attempt to form an ethical opinion of the justice or injustice of a firm's exercise of the

employment at will doctrine. Neither does the study examine employee point of view concerning the issue on the local level. The major purpose of the study is to discover the generally accepted discharge policy in the predefined geographical area, to discern what factors local management considers when making a decision to terminate employment, and to determine employer opinion regarding terminations. Results from the study are summarized in the next chapter.

THE RESULTS OF THE STUDY

Response to the questionnaire and interviews was, in the author's opinion, excellent. Of the sixty-six firms comprising the sample, twenty-two responded; all but one of these were received within the first two weeks following the initial survey date. This response fell only two percent short of the target rate of thirty-five percent.

Background information regarding the responding firms was difficult to compile. Response to the industry information sheet which was attached to the questionnaire was not always fully completed and response to the individual items was varied. One respondent indicated that his or her unwillingness to answer the first three items on the sheet was fear of identification. Due to the sketchy response, the author finds it necessary to disclose the total response to each item in parenthesis. The information may be found on the following page.

(18) Privately-owned companies: 15
Publicly-owned companies: 3

(17) Average number of employees:

Total: 308.12
Male: 32%
Female: 68%
Minority: @47%
Largest Plant: 2000
Smallest Plant: 35

(The majority fall in the range 35-200)

(20) Unionized: 0

The results from both the survey and personal interviews yielded a great deal of information regarding termination procedures of industries located in Bladen and Robeson counties, as well as an overall view of management opinion in the geographical area concerning employment at will. Interview response provided the bulk of information which was substantiated by the survey results. Raw data obtained from the survey may be found in Appendix D.

An awareness of both employment at will and society's increased interest in an employee's right to protect his job is evident in the survey results; eighty-six percent of those responding to the survey expressed such an awareness. Those interviewed took a variety of stands on the doctrine. It was felt by many that an employer should retain his right to fire in situations dealing with disciplinary difficulties;

however, it was also looked upon by some as irresponsible for an employer to discharge a worker without stating good cause.

Sixty-eight percent of the respondents strongly disagreed that "employees work at the pleasure of management and that management can terminate employment whenever it feels necessary with or without a stated cause." (See question 20, Appendix D.) The mean of response equaled five. This is the premise of the employment at will doctrine; the negative response indicates that employers do not follow the doctrine completely.

Exactly fifty percent of the respondents strongly agreed that providing just cause in cases of dismissal offered protection for the firm from lawsuits. One company added that "any company that believes that the doctrine of employment at will will place them on firm ground in today's legal climate pertinent to civil damages is operating under a very serious misconception." Companies in Bladen and Robeson counties are, in the author's opinion, increasingly aware that just cause for dismissal is necessary to protect themselves from legal conflict with discharged employees.

Businesses no longer feel safe building employee discharge policy on the foundation of employment at will; the ground has become shaky and cannot support the burdens that the increased awareness of employees of alternatives to unfair discharge has placed upon it.

One hundred percent of the respondents informed their employees of the specific charges to be used against them in a case of dismissal. This right of an employee to know why he or she is being dismissed is strongly advocated by the public in light of Harvard Business Review survey results.³⁸

Probationary periods are often enforced to grant the employer and the employee an opportunity to test the working situation. Twenty of the twenty-two respondents indicated that such a period was enforced. Length of the period varied somewhat between companies (see question 14, Appendix D); ninety days was the length of time most often enforced. Even during a probationary period, however, an employee could not be discharged without specific cause in sixteen of twenty-one cases.

An overwhelming majority of respondents (95%) administered an established discharge procedure of some type. An established

procedure refers to a predefined system which is followed by employer and employee prior to a decision to dismiss. Such a process, if followed closely and fully documented, can save a company a great deal of time and money if the case is ever brought to court. In Business Week, an American Airlines executive, following a suit by an unsatisfied employee against his company, warns that companies "will have to be aware that when they fire managers and other unorganized employees, they had better document the reasons pretty thoroughly because they might end up in court."³⁹ Ninety-one percent of the responding companies maintained a written record of disciplinary action on each employee, indicating management's awareness of the value of well-documented evidence to support a discharge action.

Interviewees described various disciplinary procedures executed by their companies; the basic ingredients included an oral warning, one or more written warning(s), and termination. Periods of days, weeks, or months over which the procedure extended varied from company to company. One company indicated that a three-day suspension period was added to the disciplinary steps listed above. Factors such as overall employee record and the seriousness of the

violation could also, in some cases, affect procedure; steps may be accelerated, repeated, or in extreme cases eliminated altogether. Two of the personnel managers interviewed indicated that salaried employees receive treatment that is different from "hourly" employees (those employees who are paid on an hourly basis). This is due, for the most part, to the added responsibilities of the salaried employees and the increased trust management places on them. For example, a minor theft by an hourly employee might result in the initiation of one of the disciplinary actions described above; however, should a salaried employee steal, much harsher action would be taken by the employer. One manager explained that salaried employees are looked upon as much more "at will" employees than those who are paid by the hour. He further stated that this was the choice of management who could just as easily look at both types of employees as "at will".

All of the companies which follow established discharge procedures communicated the procedure to their employees in some manner: supervisor-subordinate discussion (17)*; employee handbook (13); bulletin board (7); new employee orientation/time of hiring (3). Several respondents indicated

* indicates the number of companies employing this method

that more than one method was employed. There were no indications of written contracts.

Wording of handbooks concerned two of those interviewed. One company indicated that its lawyers were in the process of striking the word "permanent" in regard to employee status from any handbook or written material, preferring "regular"; another interviewee is also planning to make such a move. Blue Cross-Blue Shield of Michigan, (see page 16), made a similar move following a court case in which a former employee charged that he was denied job security assured to him in the employee manual.⁴⁰

In response to the survey question concerning the management belief that "employment represents an implied contract ensuring job security and therefore discharge should only be for specific cause", forty-one percent strongly agreed. Interviewees, however, felt that security was implied only to the extent that an employee did his job well and economic conditions permitted it. Job security is an extremely controversial issue involved in the debate over the employment at will doctrine. Employers feel a need to protect their right to fire employees whenever they feel

necessary, while employees feel that they should not be made to feel insecure about the future of their working lives.

When an employee begins to feel that the future of his job is uncertain, he becomes a prime target for union activists. David Ewing reveals in Freedom Inside the Organization that eighty percent of workers do not belong to any type of union. He notes that, especially in the southern and southwestern part of our nation, "employer resistance to unions remains strong."⁴¹ The National Union Directory ranks North Carolina twenty-eighth out of the fifty states in number of employees unionized; this state is ranked forty-ninth out of fifty in percentage of work force organized.⁴² This low rate of unionization may be attributed in part to the "right to work" law which is enforced by the state of North Carolina. This law, enforced in nineteen other states as well, makes it illegal for a collective bargaining agreement to require unionization of all employees in a company which has a union.⁴³ Regardless of the cause, resistance to unionization in this state has obviously not only been strong but quite effective as well.

Although the survey revealed that companies did not feel that unionization or the threat of unionization affected

discharge policy in any way, a highly pronounced anti-union sentiment was echoed throughout several interviews. (None of the respondents to the survey or interviews were unionized.) One interviewee referred to unionization as "counter-productive" and admitted that union activity was not desired by his company for this reason. An executive from another plant emphasized that management preferred to deal with its employees directly, not through third parties. Another agreed; he felt third parties hindered the settlement of any type of dispute. Interviewees generally agreed that the encouragement of employee rights in matters of discharge did help to dissuade union activity but that this was not management's goal. "Treating employees fairly" was the intent of management above all else; fear of unionization was not the motivating force behind fair employee discharge policy.

One personnel manager interviewed did not feel that union activity affected whom management fired; but instead it caused management to take a closer look at whom it hired. This was due to the fact that the company only discharged employees for good cause; therefore, unionization did not play a tremendous role in discharge decisions. The effect

of unionization on an employer's view of employment at will, as based on the results of the survey, was minimal; but unionization cannot, in the author's opinion, be ruled out entirely as having a subtle, indirect influence upon a company's overall treatment of its employees, including that involved in cases of termination.

A factor which may attribute to the low rate of unionization in this area is the personal concern which management displays toward its employees. Although the response to the statement that "management is eager to aid employees who are experiencing personal difficulty" was noncommittal with a mean of 3.0 and a standard deviation of 1.7, the majority of interviewees agreed that employee welfare did play a role in the firm's overall goals. One personnel manager even referred to his company as "people-oriented". Retirement plans, vision testing, industrial sports leagues, and employee dinners were a few ways in which management displayed concern for employees. Employer benevolence, however, is not the single motivation for these; efficiency was also cited as a cause. Management believes satisfied workers remain with the company for a longer period and tend to perform more efficiently. This is

important in achieving the firm's profit goal since inefficiency results in higher costs which must either be passed on to the consumer or absorbed by the company. Regardless of the underlying motivation, employers in this area are concerned with the welfare of its employees and take steps to exhibit that concern to their employees.

Absenteeism was the most frequently occurring reason for dismissal. (See question 4, Appendix D.) Further investigation revealed that, just as procedures of discipline vary from company to company, definitions of excessive absenteeism differ from employer to employer. One interviewee indicated that three successive absences without a report from the employee results in termination on the assumption that the employee has quit. In other cases, excessive absenteeism may include excused absences as well if there have been numerous occasions. One executive stated that ten days absence for any reason set the disciplinary procedure (oral warning, written warning, et cetera) into motion; while three unexcused absences were sufficient to start the procedure. As is the case with this firm, absenteeism usually results in the execution of some disciplinary measure, not necessarily termination. One

executive pointed out that, in his company, an employee's overall record is examined in conjunction with the initiation of disciplinary measures. If the employee has no previous history of extreme absenteeism, milder action may be taken. Consistent absenteeism coupled with a poor performance and/or disciplinary record is treated in a much more severe manner than the absence of an efficient, dependable employee. One company executive described a point system which weights absences according to their length. An absence exceeding one hour yet less than one day equals one point; an absence of one full day or longer equals two points; and so on. A total of ten points results in disciplinary action. Another executive indicated that his company maintains attendance record on each employee; excessive tardiness or absenteeism is investigated by the personnel manager and the employee is given an opportunity to improve the situation. Since absenteeism plays such a large role in a worker's productivity, it is not unusual that management places great emphasis upon its control; however, it is obvious that employees in the survey area are given ample warning and several chances to prevent their dismissal for this cause.

The final responsibility for discharge decisions lies most often with the plant manager or the supervisor. (See question 5, Appendix D.) Employees who feel they have been unfairly discharged may appeal in thirteen of the twenty-two responding companies. Interviewees who left the final discharge decision to the personnel manager often indicated that employees who were still dissatisfied with the outcome could meet with the plant manager to discuss the problem. As one personnel manager pointed out, however, this seldom results in overturning the original decision since an intensive review of the case is made by most levels of management prior to the action to discharge. An attempt to further analyze the ability of an employee in the survey area to appeal a discharge decision may be found in Appendix E.

A large majority (86%) of the companies indicated an unwillingness to aid discharged employees in the location of other employment. Less than fifty percent of the respondents considered demotion or reassignment as an alternative to discharge; one respondent indicated that demotion or reassignment is considered in cases regarding capabilities, but never in cases dealing with misconduct. This indicates

a harsher attitude of management toward disciplinary problems which was echoed throughout the interviews as well.

The results of both the survey and the interviews indicate a failure of management of industries located in the Bladen and Robeson County area to fully accept and practice the doctrine of employment at will. The implications of this attitude of management with regard to the social responsibility of business will be realized more fully in the conclusions.

SUMMARY AND CONCLUSIONS

It is the opinion of the author that the management of industries located in the Bladen and Robeson County area does not freely exercise its legal right to discharge at will. An extremely high level of awareness of the dispute over the employment at will doctrine exists among the employers examined and this knowledge has awakened them to the fact that they must begin to exercise great caution in matters relating to a discharge of any nature.

The factors of plant size and the anticipation of unionization do not play as great a role in management's refusal to adhere to the employment at will doctrine as was expected by the author. The size of the plant, for example, may affect the manner in which a discharge is carried out; but size has no effect on the discharge policy itself. The smaller the plant, the more likely that each

discharge case is reviewed by the personnel manager himself; however, both small and large plants require stated cause for discharge. Survey results reveal no consistent correlation between size and the exercise of fair discharge policy. The author concludes, therefore, that size has a negligible impact on the denial by management of the employment at will doctrine.

The highly pronounced anti-union sentiment which was noted by the author in the interviews leads to the belief that there exists a slight connection between the anticipation of unionization and the adherence to fair discharge policy. No unionized companies participated in the study. Although these employers feel that by treating employees in a manner which is fair they are eliminating the need for third-party intervention, they do not exercise good discharge policy specifically to dissuade unionization. The author could find no direct, traceable effect of unionization on discharge policy, but does not eliminate it entirely as having a subtle influence upon adherence to sound termination procedures.

The motivating factor behind management's reluctance to follow employment at will completely is, in the author's

opinion, the social responsibility possessed by the employers which stems from the desire of management to avoid litigation, to prevent government regulation, and to demonstrate personal concern for employee welfare. Companies in the survey area realize that employees and other advocates of employee rights are becoming more informed on the subject of employee rights and are more willing to fight to protect those rights. If there exists no ability for an employee to appeal, within the company, an unfair termination, the employee has only one course of action: to turn to the civil court for justice. This is both expensive and time-consuming. Companies are now aware that by providing specific cause, adequate documentation, and/or the ability to appeal, they can either lessen or completely avoid the expense and time involved in such a lawsuit, as well as the negative repercussions which may result from bad publicity. The author finds the desire to avoid the consequences of lawsuits from discharged employees a major factor leading to the social responsibility of management in the area of discharge.

The past failure of management to act in a socially responsible manner in areas such as working conditions and pension benefits resulted in the passage of government acts such as the Occupational Safety and Health Act (OSHA) and the Employment Retirement Income Security Act (ERISA). The desire to avoid such regulation in the area of discharge is another factor leading to management's willingness to be socially responsible. Discharge is not, in itself, a bad thing; it is the abuse of this right which leads to the negative connotation placed upon the action. Termination aids employers in maintaining productive workers and eliminating those who are counter-productive. Management is aware of the importance of this right and attempts to exercise the right in a socially responsible way to avoid its dilution by the enactment of government regulation.

The most obvious evidence of the social responsibility of management in the survey area is the personal concern shown toward employees. This concern is demonstrated through employee dinners, vision testing, sports leagues, et cetera. This concern is the result of both employer

benevolence and a desire to maintain the efficiency of labor by ensuring the physical and mental well-being of employees. These demonstrations of concern may cost the company dollars, but management is aware that the benefits derived from such actions are well worth the expense. Management is not sacrificing profit in order to be socially responsible; instead it feels that social responsibility can lead to greater productivity and the realization of a benefit to the company as well as the workers involved.

Those responding to the study demonstrate a high degree of social responsibility in the area of employee discharge which, the author feels, would be acceptable to any advocate of employee rights. It is this social responsibility which has led to the failure of management in the study area to completely adopt the doctrine of employment at will. Therefore, the author does not find employment at will a problem in industries located in the survey area. In cases of termination, employees are given a fair chance to protect their jobs through the existence of and the adherence to specifically defined discharge policies and procedures, and management's unwillingness to discharge without specific cause.

Due to the vast scope of the overall issue of employment at will and its long history of acceptance by society, one cannot expect it to be resolved overnight. Agreement between two such diverse parties as employer and employee will not be easily achieved. There are three directions in which the dispute could head: toward the establishment of greater limits on employment at will, toward the continuation of the present situation; or toward the allowance of greater freedom of management to exercise the employment at will doctrine. The latter is highly unlikely due to the tremendous pressure placed upon business by society to eliminate the inequalities between employer and employee rights. Although the situation could continue in its present state for a short time, the author feels there will eventually be greater limits placed upon management through some type of government regulation. The author does not believe these limits will totally destroy management's ability to discharge; however, its ability to terminate without cause will be eliminated.

The spark has been ignited to resolve the dispute over the employment at will doctrine as is evidenced by the results of the study described in the preceding chapters;

only time will tell what the ultimate solution or solutions will be. One can be sure that an answer will not be found without a great many more battles being fought across management desks, in corporate boardrooms, and in the legal courtroom. Concerned members of society have declared war against what they feel is the one-sided doctrine of employment at will; and they appear quite capable of achieving victory in limiting an employer's right to fire at will.

ACKNOWLEDGMENTS

A paper of this magnitude would be impossible to complete without the assistance of many people. I would like to take this opportunity to thank those people without whom this paper would never have become a reality.

I wish to extend my appreciation to all persons who participated in the survey and especially to those personnel managers who took the time to be interviewed. Their cooperation in expressing opinions greatly increased my understanding of the topic.

I would like to thank Dr. Robert Brown and Mr. Gerald Blakely for the guidance, encouragement, and wise advice they have given me throughout this project. I wish to thank Dr. Kathryn Rileigh for reviewing my survey, and the remaining members of the Chancellor's Scholars Council for giving me the opportunity to accept this challenge.

I would most especially like to thank my parents for their constant support both financially and morally throughout this past year.

** PLEASE COMPLETE THE FOLLOWING QUESTIONNAIRE BY CIRCLING OR CHECKING THE APPROPRIATE ANSWER. THE RESULTS FROM THE ENTIRE SURVEY WILL BE TABULATED AS A WHOLE AND NO INDIVIDUAL COMPANY'S RESPONSE WILL BE IDENTIFIED. THANK YOU FOR YOUR COOPERATION AND ASSISTANCE.

1. Does your company have an established procedure for employee discharge in cases other than layoffs due to the reduction of business?

Yes _____ No _____

2. Is this procedure communicated to your employees?

Yes _____ No _____

3. If the answer to number two is "yes", by what method?

- _____ (a) employee handbook
_____ (b) bulletin board
_____ (c) supervisor-subordinate discussion
_____ (d) specified in a written contract
_____ (e) other (please specify) _____

4. Please rate the following causes of discharge on the basis of the frequency of their occurrence (one being the most frequently occurring and so forth):

- _____ (a) absenteeism
_____ (b) not getting along with coworkers or supervisor
_____ (c) not capable of performing assigned duties
_____ (d) dishonesty (i.e. theft)
_____ (e) alcoholism, drug abuse, et cetera
_____ (f) other (please specify) _____

5. With whom does the final responsibility for the discharge decision lie?

- _____ (a) plant manager only
_____ (b) personnel executive only
_____ (c) supervisor only
_____ (d) personnel executive and supervisor
_____ (e) other (please specify) _____

6. Does your company consider demotion or reassignment as an alternative to discharge?

Yes _____ No _____

7. Does your company aid discharged employees in the location of other employment?

Yes _____ No _____

8. The skill requirement of an average employee in our company is low.

strongly agree						strongly disagree
1	2	3	4	5	6	

9. It is very difficult for our company to locate and hire replacements for discharged employees.

strongly agree						strongly disagree
1	2	3	4	5	6	

10. In a case of discharge, are your employees informed of the specific charges being used against him?

Yes _____ No _____

11. Can a discharged employee appeal the decision within the company?

Yes _____ No _____

12. If the answer to number eleven is "yes", by what method?

- _____ (a) present his case to a review board
- _____ (b) meet personally with management to discuss the decision
- _____ (c) follow a pre-determined procedure in filing a complaint
- _____ (d) other (please specify) _____

13. Is there a probationary period for new employees in your company?

Yes _____ No _____

14. If a probationary period does exist, how long does it last?

- _____ (a) one week
- _____ (b) two weeks
- _____ (c) thirty days
- _____ (d) ninety days
- _____ (e) other (please specify) _____

15. During the probationary period, can an employee be discharged without specified cause?

Yes _____ No _____

16. Are there any employee actions which result in immediate discharge (i.e. theft, possession of a firearm, et cetera)?

Yes _____ No _____

If so, please specify: _____

17. Our management is eager to aid employees who are experiencing personal difficulty (i.e. divorce, alcoholism, et cetera).

strongly agree						strongly disagree
1	2	3	4	5		6

18. Our company maintains a written record of disciplinary action (conferences, suspensions, et cetera) on each of our employees.

Yes _____ No _____

19. We are aware of the increasing national discussion on an employee's right to a fair chance to keep his job.

Yes _____ No _____

20. Our company feels that employees work at the pleasure of management and that management can terminate employment whenever it feels necessary with without a stated cause.

strongly agree						strongly disagree
1	2	3	4	5		6

21. Our discharge policy is affected by unionization or the threat of unionization.

strongly agree						strongly disagree
1	2	3	4	5		6

22. Unionization plays little or no role in the determination of our discharge policy.

strongly agree						strongly disagree
1	2	3	4	5		6

23. Our management believes that employment actually represents an implied contract insuring job security and therefore discharge should only be for specific cause.

strongly agree						strongly disagree
1	2	3	4	5		6

24. Our company's discharge policy reflects management's ethical values.

strongly agree						strongly disagree
1	2	3	4	5		6

25. Our company feels that by providing just cause in cases of dismissal we are protecting our company from law suits.

strongly agree						strongly disagree
1	2	3	4	5		6

** PLEASE COMPLETE THE FOLLOWING CONCERNING YOUR COMPANY. THIS INFORMATION WILL BE USED FOR STATISTICAL PURPOSES ONLY.

TYPE OF INDUSTRY: _____

LOCATION OF HOME OFFICE: _____

PUBLICLY OR PRIVATELY OWNED: _____

AVERAGE NUMBER OF:

MALE EMPLOYEES: _____

FEMALE EMPLOYEES: _____

MINORITY EMPLOYEES: _____

APPROXIMATE YEARLY EMPLOYEE TURNOVER: _____

UNIONIZED: YES _____ NO _____

Route 2, Box 309
Clarkton, NC 28433
December 2, 1983

Dear Sir:

I am a senior accounting major at Pembroke State University and I am currently preparing a thesis for the Chancellor's Scholars Program. The subject of the thesis is "employment-at-will" and its effect on employee discharge in industries in Bladen and Robeson counties. "Employment-at-will" is a term referring to an employer's legal right to discharge employees at his discretion with or without a stated cause.

This research project requires a survey to discover the trends existing in discharge policy as well as the attitudes concerning employer/employee rights in cases of discharge in the two-county area. For this, I need the benefit of your experience in the field of employee relations.

The enclosed questionnaire has been sent to approximately seventy-five randomly selected companies similar to yours. I hope that you find it simple and not time-consuming. I am aware of the sensitivity of this subject and the questions have been chosen with this in mind. Please feel free to omit any question(s) you do not wish to answer. I wish to assure you that all responses will remain confidential and will be used only in compiling general data. No individual or company will be named in any part of the finished paper.

For your convenience in returning the questionnaire, I have enclosed a self-addressed stamped envelope for your reply. If you would like to examine the results of the survey, please notify me by separate correspondence since I will be unable to identify you from the questionnaire.

For further information concerning this survey or my project, please contact me at the Department of Business Administration, Pembroke State University, 521-4214 extension 463. Thank you for the courtesy of your assistance.

Sincerely

Renee Lee Campbell

INTERVIEW QUESTIONS

1. How many employees are employed by this firm?
How do you rate the size of this firm in relation to other such firms in the same industry?
Does this affect your discharge policy?
In what way?
2. What is the specific goal of this firm?
Is the welfare of employees looked upon as an integral part of this goal?
3. Do you feel that management displays a personal concern for its employees in matters such as sickness, death of a family member, divorce, alcohol abuse, et cetera?
Why or why not?
4. Does your company provide any extra-curricular activities for its employees (i.e. company picnics, inter-company sports leagues, et cetera)?
Does your company encourage or discourage any non-work related activities (i.e. civic organizations, political groups, et cetera)?
5. Is the location of your home office in the South?
Do you think this affects your policy of discharge in any way?
Explain.
6. Does your company feel employment ensures job security?
7. If an employee were discharged and wished to appeal the decision, could he?
How would he go about this?
8. Is your plant unionized?
Does the existence of a union in your plant or the anticipation of such unionization affect the policies your company maintains concerning discharge?
Do you feel that the encouragement of employee rights in cases of discharge deters union activity?
9. Were you previously aware of the employment at will doctrine which states that an employer has the legal right to fire at his discretion, for good reason, no reason, or reason that is morally unacceptable?
Do you agree with this?
Why or why not?
10. Do you feel legislation should be enacted to protect those employees who are unprotected by any existing anti-discrimination statutes?
11. Has your company taken any steps to clarify its position on this matter (i.e. reword written policy concerning job permanence)?
12. A recent Wall Street Journal article quoted a Connecticut attorney as saying:
"I think in five years you won't be able to call an employee in and fire him."
Do you agree or disagree with this statement?
Why or why not?
13. Fighting was listed as a major cause for immediate discharge. Is fighting a problem? What does it normally entail?
14. Absenteeism was rated as the number one cause for discharge. What is considered sufficient absenteeism for discharge?
15. What is the estimated turnover for this company on a per year basis?

RAW DATA

1. Does your company have an established procedure for employee discharge in cases other than layoffs due to the reduction of business?
Yes: 21 No: 1
2. Is this procedure communicated to your employees?
Yes: 21 No: 0
3. If the answer to number two is "yes", by what method?
(17) supervisor-subordinate discussion
(13) employee handbook
(7) bulletin board
(3) new employee orientation, time of hiring
(0) specified in a written contract
4. Please rate the following causes of discharge on the basis of the frequency of their occurrence (the number shown in parenthesis is the number of that place votes the item received compared with total response to that item):
 1. (18/22) absenteeism
 2. (11/17) not capable of performing assigned duties
 3. (11/17) not getting along with coworkers or supervisor
 4. (7/14) dishonesty (i.e. theft)
 5. (9/15) alcoholism, drug abuse, et cetera

* Also listed was the inability to follow instructions.

x

5. With whom does the final responsibility for the discharge decision lie?
(8) plant manager only
(6) supervisor only
(5) personnel executive and supervisor
(1) personnel executive only
 all three
 supervisor subject to managerial review
 personnel executive and plant manager

6. Does your company consider demotion or reassignment as an alternative to discharge?
Yes: 10 No: 11

* One respondent indicated "yes" regarding capability; "no" regarding misconduct. This is not reflected in the above figures.

7. Does your company aid discharged employees in the location of other employment?
Yes: 3 No: 19

8. The skill requirement of an average employee in our company is low.

mean = 3.91 mode = 3 deviation = 1.48

strongly						strongly
agree						disagree
1	2	3	4	5	6	
(4.55%)	(13.64%)	(22.73%)	(22.73%)	(18.18%)	(18.18%)	

9. It is very difficult for our company to locate and hire replacements for discharged employees.

mean = 4.18 mode = 1 deviation = 1.76

strongly					strongly
agree					disagree
1	2	3	4	5	6
(9.09%)	(13.64%)	(13.64%)	(9.09%)	(22.73%)	(31.82%)

10. In a case of discharge are your employees informed of the specific charges being used against him?
Yes: 22 No: 0
11. Can a discharged employee appeal a decision within the company?
Yes: 13 No: 9
12. If the answer to number eleven is "yes", by what method?
(10) meet personally with management to discuss the decision
(3) follow a pre-determined procedure in filing a complaint
(1) grievance procedure meet with manager and supervisor
(0) present his case to a review board
13. Is there a probationary period for new employees in your company?
Yes: 20 No: 2
14. If a probationary period does exist, how long does it last?
(9) ninety days
(6) sixty days
(4) thirty days
(1) eight weeks
(0) one week
two weeks
15. During the probationary period, can an employee be discharged without specified cause?
Yes: 5 No: 16

* One respondent did not answer this question.

16. Are there any employee actions which result in immediate discharge (i.e. theft, possession of a firearm, et cetera)?
Yes: 22 No: 0
If so, please specify: (See page xiii(a))
17. Our management is eager to aid employees who are experiencing personal difficulty (i.e. divorce, alcoholism, et cetera).
mean = 3.0 mode = 1, 3 deviation = 1.75
strongly agree 1 2 3 4 5 6 strongly disagree
(27.27%) (13.64%) (27.27%) (9.09%) (9.09%) (13.64%)
18. Our company maintains a written record of disciplinary action (conferences, suspensions, et cetera) on each of our employees.
Yes: 20 No: 2
19. We are aware of the increasing national discussion on an employee's right to a fair chance to keep his job.
Yes: 19 No: 3
20. Our company feels that employees work at the pleasure of management and that management can terminate employment whenever it feels necessary with or without a stated cause.
mean = 5.18 mode = 6 deviation = 1.56
strongly agree 1 2 3 4 5 6 strongly disagree
(9.09%) (0.0%) (4.55%) (4.55%) (13.64%) (68.18%)

CAUSES FOR IMMEDIATE DISCHARGE
(See question 16, p. xiii)

Theft	(15)
Possession of a weapon	(7)
Fighting	(7)
Use of alcohol	(6)
Gross insubordination	(5)
Use of drugs	(5)
Willful destruction of property	(2)
Willful neglect of employer's interest	(1)
Use of abusive language	(1)
Use of violence	(1)
Not following written policies	(1)
Seven or eight offenses	(1)

*The number in parenthesis equals the number of respondents who indicated this cause.

21. Our discharge policy is affected by unionization or the threat of unionization.

mean = 5.61 mode = 6 deviation = .72

strongly agree					strongly disagree
1	2	3	4	5	6
(0.0%)	(0.0%)	(0.0%)	(4.55%)	(18.18%)	(72.73%)

* One respondent did not answer this question.

22. Unionization plays little or no role in the determination of our discharge policy.

mean = 1.7 mode = 1 deviation = 1.49

strongly agree					strongly disagree
1	2	3	4	5	6
(77.27%)	(4.55%)	(0.0%)	(4.55%)	(4.55%)	(4.55%)

* One respondent did not answer this question.

23. Our management believes that employment actually represents an implied contract ensuring job security and therefore discharge should only be for specific cause.

mean = 2.39 mode = 1 deviation = 1.63

strongly agree					strongly disagree
1	2	3	4	5	6
(40.91%)	(22.73%)	(13.64%)	(4.55%)	(4.55%)	(9.09%)

* One respondent did not answer this question.

24. Our company's discharge policy reflects management's ethical values.

mean = 2.27 mode = 1 deviation = 1.86

strongly agree					strongly disagree
1	2	3	4	5	6
(54.55%)	(18.18%)	(4.55%)	(4.55%)	(4.55%)	(13.64%)

25. Our company feels that by providing just cause in cases of dismissal we are protecting our company from lawsuits.

mean = 2.17 mode = 1 deviation = 1.66

strongly agree						strongly disagree
1	2	3	4	5	6	
(50.0%)	(13.64%)	(13.64%)	(0.0%)	(4.55%)	(9.09%)	

* Two respondents did not answer this question.

AUTHOR'S NOTE: Blank responses were assigned a value of 3.5 in the computation of the mean and standard deviation of the above questions.

BACKGROUND INFORMATION

The response to the industry information sheet attached to the questionnaire was not complete. Therefore, total response to each question is shown in parenthesis.

- (19) Major type of industry: Textiles
- (14) Location of home office:
- | | |
|-----------------|----|
| North Carolina: | 4 |
| Other: | 10 |
- (18) Ownership:
- | | |
|------------------|----|
| Publicly-owned: | 3 |
| Privately-owned: | 15 |
- (17) Average number of employees:
- | | |
|------------------------|--------|
| Total: | 308.12 |
| Male: | 32% |
| Female: | 68% |
| Minority: | 647% |
| Largest Plant: | 2000 |
| Smallest Plant: | 35 |
| Range of the majority: | 35-200 |
- (--) Approximate yearly turnover: inadequate information
- (20) Unionized: 0

MULTIPLE REGRESSION RESULTS

Multiple regression is a statistical method which assumes that a relationship exists between a dependent variable and several independent variables. It is often used as a forecasting technique. With the use of the APPLE computer and assistance from Professor Gerald Blakely of Pembroke State University, the relationships of several selected variables to the ability of an employee in the Bladen and Robeson County area to appeal a discharge decision were examined.

It should be pointed out that this technique may not be the most accurate for the analysis of the selected dependent variable: an employee's right to appeal. This is due to the bipolar nature of the data (yes/no response); however, the author feels that a limited validity may be placed on the results when compared to other factors discovered in the study.

Positive responses to the question "Can a discharged employee appeal the decision within the company?" were assigned a value of one hundred; negative responses received a value of ten. The independent variables selected are listed on the following page.

- 1 The skill requirement of an average employee
- 2 The difficulty of location and employment of replacements for discharged employees
- 3 The eagerness of management to aid employees experiencing personal difficulty
- 4 Maintenance of a written record of disciplinary action on each employee
- 5 Management's awareness of the increasing national discussion on an employee's right to a fair chance to keep his job
- 6 Management's opinion that employees work at the pleasure of management and that management can terminate employment whenever it feels necessary with or without a stated cause
- 7 The effect of unionization or the threat of unionization on discharge policy
- 8 Unionization's role in the determination of discharge policy
- 9 Management's belief that employment represents an implied contract and therefore discharge should only be for specific cause
- 10 Management's desire for protection from lawsuits

The awareness of the increasing national discussion on an employee's right to a fair chance to keep his job possessed the highest degree of correlation to the dependent variable. This knowledge accounted for 47.76% of total correlation. It is reasonable to assume that an employer

who is aware that national opinion is challenging an employer's right to discharge at will would be more cautious in matters of discharge and would be more likely to allow an employee the right to appeal. Those who responded negatively to this statement on the survey, as a whole, did not grant employees the right to appeal. (See question 19, Appendix D.)

The more difficulty encountered in the location and employment of replacements for discharged employees, the more likely a firm would allow its employees to appeal. The regression selected this as the second variable, accounting for an additional 17.4% of total correlation.

The skill level of employees was ranked third in the regression. There was a much smaller variance in the multiple correlation coefficient attributable to this variable. An increase of only 3.8% was observed. Skill level plays an important role in employee rights. As David Ewing reveals in Freedom Inside the Organization, "the more knowledge and skill a job requires of the worker, the greater the tendency for the worker to relate the purpose of his job to the perceived needs of society."⁴⁴

Monetary compensation is not as important to these workers as the feeling of self-worth and pride. These employees are striving to achieve self-actualization and tend to show a greater loyalty to their careers than to their employers. Highly skilled workers, therefore, often react more strongly to the exercise of the employment at will doctrine.

The eagerness of the employer to aid in matters of an employee's personal difficulty was ranked fourth in the regression. It results in an additional 3.7% of correlation. An eagerness to aid employees indicates a concerned management willing to allow an employee to have a fair chance to protect his or her employment through the right of appeal.

The standard error of estimation levels off at this point and begins to increase with the following variable. Therefore, the remaining variables are not felt to have a substantial impact on the right of an employee to appeal a discharge and are disregarded by the author.

The results of this regression analysis are in no way to be considered concrete. The author feels a limited validity may be placed on them and has provided the results

for the interest of the reader. Complete data is given below:

Variable Selected	(a) Multiple Correlation Coefficient	(b) Change in (a)	(c) Standard Error of Estimate
6	.477566933	---	40.7753796
3	.651813879	.1742469	36.1105068
2	.690136817	.038323	35.4024866
4	.727314476	.0371776	34.5474811
9	.738343216	.0110288	34.9943452
12	.742017956	.0036747	35.9252273
7	.743787947	.00177	37.0771801
5	.745605839	.0018179	38.3600431
10	.745633525	.0000277	39.9245427
8	.745639768	.0000062	41.6993876

NOTES

¹Clyde W. Summers, "Protecting All Employees Against Unjust Dismissal," Harvard Business Review, January-February 1980, p. 132.

²Maria Leonard, "Challenges to the Termination-at-Will Doctrine," Personnel Administrator, February 1983, p. 50 and p. 50, n5.

³David W. Ewing, "Case of the Disputed Dismissal," Harvard Business Review, September-October 1983, p. 23.

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