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SCOTT HENKEL

WORKING CONDITIONS AND LEARNING CONDITIONS AFTER THE NATIONAL LABOR RELATIONS BOARD'S *BROWN UNIVERSITY* DECISION

In July of 2004, the National Labor Relations Board (NLRB) handed down its *Brown University* decision.¹ The decision has high stakes: the Board ruled that private universities do not have to recognize graduate employee unions—even democratically elected ones—unless they voluntarily choose to do so. Taken in isolation, the decision is a clear setback to the labor movement because it is a significant hurdle on the path toward unionization at private universities. *Brown* attempts to stop the graduate employee union movement; I intend this essay to be one of many tools available to organizers who, in response to *Brown*, agitate and organize for new members, new locals, and new allies in the fight to spread the movement. This essay reviews the *Brown* decision and examines why its antidemocratic stance will harm American higher education.

Brown was decided along party lines, with the three Republicans writing the majority opinion and the two Democrats in the minority writing a vigorous dissent. Members of the NLRB are appointed by the President of the United States, and this ruling was put on hold until George W. Bush had appointed a full Board.² Because of a highly charged partisan atmosphere, many people in the labor movement accurately expected that *Brown* would overturn the 2000 NLRB *New York University* ruling, which affirmed bargaining rights for graduate employees at private universities.³ In *NYU*, both the Republican and Democratic members of the Board unanimously decided to “reject the contention of the employer that, because the graduate assistants may be ‘predominantly students,’ they cannot be statutory employees” (1205). *NYU* also found that “there is no basis to deny collective-bargaining rights to statutory employees merely because they are employed by an educational institution in which they are enrolled as students” (1205). The *NYU* ruling cited previous cases which held that “the government has a compelling interest in preventing labor strife and in protecting the rights of employees to organize and bargain collectively” and that the “right of employees to self-organization is constitutionally protected; it is a fundamental right implicit in the First Amendment’s free assembly language” (1208). The *Brown* ruling rejects the idea that graduate employees at private universities have First Amendment rights of free assembly and returns to the rationale that students, because they are students, do not have any rights as workers. The majority in *Brown* wrote, “It is clear to us that graduate student assistants, including those at Brown, are primarily students and have a primarily educational, not economic, relationship with their university. Accordingly, we overrule *NYU* and return to the pre-*NYU* Board precedent” (5).

The *Brown* majority enumerates three reasons for reversing *NYU* and denying bargaining rights for graduate employees: first, *NYU* is not “consistent with long standing Board precedent” (11); second, “graduate student assistants [...] are primarily students” (5); and third, “there is a significant risk, and indeed a strong likelihood, that the collective-bargaining process will be detrimental to the educational process” (11).

The majority's first two reasons are easily refuted. On the question of precedent, the dissenting members of the Board point to several NLRB decisions, including, of course, *NYU*, which provide a foundation for extending bargaining rights to graduate employees. They argue that the two main rulings the majority uses—*Leland Stanford Junior University*⁴ and *St. Clare's Hospital & Health Center*,⁵ both of which were decided in the 1970s—are “woefully out of touch with academic reality” (12). The dissenters point to several other rulings, especially *Boston Medical Center*,⁶ to argue that “while the *NYU* Board did not write on a clean slate, it hardly abandoned a long line of carefully reasoned, uncontroversial decisions. [...] [M]uch has changed in the academic world since the 1970's” (13).

It would appear that at very least, precedent can be found in NLRB rulings to both support and deny collective bargaining rights for graduate employees. If the benefit of the doubt is given to the majority in *Brown* and precedent does dictate that bargaining rights should be denied to graduate employees, should those rights be denied simply because the precedent allows it? The majority's point rests on a logical fallacy. Simply put, because a decision has been made in one particular way in the past does not mean that it is correct. “That's the way it has always been” does not stand up to scrutiny. If this reasoning were applied to other situations, it becomes clear that precedent is sometimes a barrier to progress: if the argument “that's the way it has always been” had prevailed in the 1920s, women still would not have the right to vote in America; if the argument “that's the way it has always been” had prevailed in the Civil Rights era, *de jure* segregation would still be the law of the land.

Still, if we are to break with precedent, there has to be a compelling reason to do so. In this case, as in the examples above, we have one: graduate employees are responsible for a large percentage of the undergraduate curriculum, and, as we will see below, the working conditions for these employees are notoriously poor. The dissent to *Brown* cites both a *Chronicle of Higher Education* study which found that on average, graduate employees teach about a quarter of all classes, and a *New York Times* report which found that teaching assistants are responsible for over half of the core courses at private institutions (17). At many universities, these percentages are higher, and graduate employees often have the same teaching load as tenure-track faculty but are paid about one-fifth of the salary, frequently without adequate health benefits. Because there is a compelling reason to break precedent, *Brown's* first point is unpersuasive.⁷

The second reason that the *Brown* decision gives for denying collective bargaining rights to graduate employees is that grad assistants are “primarily students”:

Because they are first and foremost students, and their status as a graduate student assistant [sic] is contingent on their continued enrollment as students, we find that they are primarily students. We also emphasize that the money received by the TAs, RAs, and proctors is the same as that received by fellows. Thus, the money is not “consideration for work.” It is financial aid to the student. (6)

This is *Brown's* main reason to deny bargaining rights to graduate employees. The majority bases this rationale on an interpretation of Section 2 (3) of the National Labor Relations Act—more commonly known as the Wagner Act—which states that the Act “shall include any employee, unless the Act explicitly states otherwise” (228). They deny bargaining rights to graduate employees on a technicality: if graduate employees are “primarily students,” the Wagner Act does not apply, and therefore there is no legal right to unionize. *Brown's* majority repeatedly asserts this distinction: “inasmuch as graduate student assistants are not statutory employees,” they write, “that is the end of the inquiry” (10).

This argument is a savvy one, and this is probably why we hear it repeated in so many antiunion myths. The NLRB majority chose this as their main reason to deny graduate employees bargaining rights because simply reversing this equation does not make an effective counterargument: no graduate employee would argue that they are “primarily” an employee and not a student. The Board asks the wrong question, however. The question is not whether one role at the university should take precedent over the other: we

are not either students or workers, we are both students and workers. To argue that because someone is a student, they do not have any rights as a worker is no different than arguing that because someone is a daughter, she does not have any rights as a mother. The majority's logic is binary and attempts to force the complex relationships that graduate employees have with their institutions into simplistic categories.

In this case, as in so many others, binary logic is bad logic. *Brown* argues that graduate employees are primarily students because in doing so, they are able to deny that there is a working relationship between the employee and the university. This logic, carried just a little further, allows the majority to argue that stipends are financial aid to students, not wages paid to workers. "Although these TAs [...] receive money from the employer," the majority writes, "that is also true of fellows who do not perform any services. Thus, the services are not related to the money received" (3). In other words, in their opinion, there is no *quid pro quo*: stipends are not wages exchanged for labor. Imagining the consequences for a graduate employee who does not show up to teach class underscores the absurdity of this argument: if a teacher quits teaching, the university quits paying the teacher.

The Board's final reason for denying bargaining rights to graduate employees is that they believe that "there is a significant risk, and indeed a strong likelihood, that the collective-bargaining process will be detrimental to the educational process" (11). This reason is more subjective than the previous two, and it is also more troubling. The majority believes that denying graduate employees bargaining rights will be in the best interests of the university. Because the labor movement should not let this argument go unchecked, the rest of this essay will counter the *Brown* majority's final point. It is important to reject the majority's assertion that a university's economic concerns have nothing to do with a university's educational concerns. Moreover, after *Brown*, those of us engaged in the graduate employee union movement must be able to explain the role that unions can play in improving both the working conditions and the learning conditions at our universities.

***Brown*, Working Conditions, and Learning Conditions**

The *Brown* ruling asserts that the economic interests and the educational interests of the university are fundamentally disconnected. To make this point, *Brown* places a great deal of importance on the NLRB's *St. Clare's Hospital & Health Center* decision. The majority writers paraphrase *St. Clare*, which concluded that

the collective-bargaining process is fundamentally an economic process, [and] that subjecting educational decisions to [collective bargaining] would be of "dubious value" because educational concerns are largely irrelevant to wages, hours, and working conditions. [...] The Board [that decided *St. Clare*] determined that collective bargaining is not particularly well suited to educational decisionmaking (sic) and that any change in emphasis from quality education to economic concerns will "prove detrimental to both labor and educational policies." (7)

One thing is clear from this quote—"quality education" is placed in opposition to "economic concerns." Moving from one to another would require a "change in emphasis," implying that these two things are indeed unrelated. There is very little in the *Brown* ruling to explain why the majority believes that a university's economic concerns have nothing to do with the university's educational concerns. The majority believes that America's universities are neither ivory towers nor sweatshops (11), so perhaps they recognize that the primary mission of the university is to find new knowledge through research and to provide a quality education, not to make a profit. The NLRB's majority nevertheless ignores the fact that universities have to pay attention to the same financial concerns that other organizations do: although we teach algebra and economics, we cannot ignore basic math. In the face of budget cuts, shrinking state funding, and smaller endowment contributions, money has to be made up somewhere; in the past few

decades, the budgets have been balanced on the backs of poorly paid graduate employees and other workers.

Throughout the scholarship on working conditions in higher education, it is easy to find what I like to call “you get what you pay for” arguments. These arguments go something like this: respected, cared-for, and fairly compensated academic workers are capable of inspired teaching and cutting-edge research. You can see this, for example, in the “Foreword” to the first volume of *Workplace*: Marc Bousquet writes that unless teaching “is the only activity at which adult humans don’t improve with experience, training and professional development, offices and telephones, the expectation of a future and a living wage, it seems obvious that Johnny’s education will improve more or less in direct proportion to improvements in Jane’s working conditions” (par. 50). These are sound arguments, and they speak to the historic dignity and progress that resulted from the hard work and sacrifice of generations of union workers. Even though we are notoriously underpaid, the vast majority of graduate employees are dedicated, hardworking teachers. It is very difficult, however, for disenfranchised teachers to perform at their best.

There is a distinction that needs to be made, however, and I want to be clear because *Brown*’s supporters could easily misconstrue it: a worker does not do better work in direct correlation to the amount of her wages. No graduate employee union bargaining team realistically expects that they can negotiate salaries up from \$11,700 per year—the national average wage for graduate employees—to \$465,872 per year—the average wage for university presidents (“Dynes”). The distinction is this: graduate employees do not make a living wage, and university presidents certainly do. If a president’s salary is increased from \$465,872 per year to \$500,000 per year, it does not make this person a better president. Teaching assistants and adjunct instructors—who, taken together, are responsible for an estimated 50-70% of all student contact hours (Lafer 2)—do not make a living wage, and this fact is the key to understanding why organizing for better working conditions helps both graduate employees and the undergraduates they teach. A living wage for teachers will result in a higher quality of education for students because graduate employees who cannot make ends meet will have to find another job just to pay the bills.

To the credit card companies and landlords, the distinction between being a graduate employee and a graduate student does not amount to anything—the bills still come to the same address. When the economy is bad, the manager at the grocery store still marks up the price of milk even if the university administration doesn’t do the same with our paychecks. This issue is not one of simply dealing with hardships during school: most graduate employees are not afraid of hard work and all have been willing to sacrifice financially during their years in their programs. Taking another job to pay the bills will take time and energy away that graduate employees could spend becoming better teachers and researchers. In many ways, a graduate employee’s time is a zero-sum game: every hour spent waiting tables or bagging groceries is an hour taken away from the time available to prepare for class, grade papers, or meet with students. No one expects to deposit huge stipends in the bank during graduate school. The goal in improving working conditions is simply to expand access to graduate education by making the financial burden of graduate school a little lighter and at the same time to provide a quality education to our students.

If, for some reason, the NLRB majority believes that by making a distinction between economic concerns and educational concerns, they will be able to divert attention away from the need for graduate employee unions, they are sorely mistaken. Ignoring the poor working conditions at our universities will not fix the problem, but the past decade’s wave of organizing on campus suggests that graduate employees are growing more convinced that forming unions will. In their dissent to *Brown*, the Democratic members of the Board wrote that the “decision is woefully out of touch with contemporary academic reality,” and they are certainly correct (11-12). Though no university is exactly like any other, I believe that the working and learning conditions at my university provide good examples of why the labor movement in higher education should be supported and expanded. Perhaps what you are about to read will sound familiar.

As one of the unions formed directly after the NLRB's *NYU* ruling, the Graduate Employees Union at Michigan State University has had some success in improving our working conditions—especially when we have pegged them to issues of educational quality. Even though our first contract guarantees annual raises and significant improvements in our health insurance, and even though we have done significant work over the past few years to fight the casualization of labor and potential job cuts, there still is much work to be done.⁸

Michigan State was set up to be, in the words of our outgoing university President M. Peter McPherson, “a more democratic alternative to an aristocratic educational tradition”; a university that is elite but not elitist.⁹ Although these words sound quite emancipatory, Michigan State's Administration clearly runs on the antidemocratic model which *Brown* supports, where major decisions—such as restructuring liberal arts programs and selling the university's medical school—are made with little or no input from anyone beyond the university's central administration.¹⁰ As an ex-vice president for Bank of America, and, during the summer of 2004, the Bush administration's “economic point man in Iraq” (Kahn), McPherson's credentials alone speak volumes about the managerial system at Michigan State. Likewise, the university's Board of Trustees is filled with corporate officers, only one of whom is sympathetic to labor concerns on campus.¹¹ Michigan State is like most other large universities: filled with promise and opportunities to be a progressive, democratic institution, but flush with administrators who undermine those opportunities.¹²

At Michigan State, the average wage for the 1111 teaching assistants during spring semester, 2004 was \$10,852. The Office of Financial Aid at Michigan State estimates that the annual cost of living in East Lansing for an individual, excluding tuition, is \$11,900 (“Costs”). Compound this deficit over the years that it takes to get a graduate degree, and you get a dire picture. As a matter of policy in the College of Arts and Letters, graduate employees are cut off from funding after four years. In the English department, where I work, it takes an average of 6.6 years to get a Ph.D., so this means that, usually around the time doctoral students are beginning their dissertations, they also enter into the cold, dark world of adjunct work. Like at many universities, our class sizes have gone up. We've seen the rise of an exploited adjunct labor force. Our Affirmative Action policies are under assault. Students in the hard sciences are being forced into postdoctoral work after graduation instead of taking over labs of their own. Tuition has gone up (9.9% last year alone). And—prepare yourselves—adjunct positions, typically considered the most exploited on campus, are now being turned into even more exploitable undergraduate “teaching assistant” positions, where presumably talented but thoroughly uncredentialed undergraduates teach their fellow undergraduates for an hourly wage (“Teaching ‘U’”).

Does any of this improve the quality of education at Michigan State? It seems to me that the opposite is true: poor working conditions make a university more exclusive, less diverse, and less democratic, and result in a poorer quality of education. These facts are not secrets: skyrocketing costs makes it harder for working-class and minority students to get into college in the first place, higher class sizes make individualized instruction nearly impossible, and even talented and dedicated workers, when they are disenfranchised, cannot perform at their best. Anyone who believes that these problems will correct themselves has a naïve view of how higher education operates. If the working conditions at Michigan State are typical (and I believe they are), then one thing should be apparent—the NLRB and all universities have a compelling interest in letting graduate employees bargain collectively. Working conditions for graduate employees at our universities are poor, and the only realistic way to improve them is to fight to protect union rights.

The *Brown* majority states that working conditions do not relate to learning conditions; they are wrong. If we do not treat those who teach at the university with dignity and basic fairness, what quality of education can we expect? Working conditions are fundamentally tied to learning conditions: anything that harms those who teach at the university will also harm those who learn at the university. Because *Brown* harms the working conditions of teaching assistants, who are responsible for a large percentage of student contact hours, we have every reason to expect that the ruling will harm students' learning conditions.

Therefore, everyone in the higher education community—students, staff, faculty, parents, and friends—should see *Brown* as a direct threat to the quality of education at our universities.

Serving the University’s Best Interests?

The NLRB majority are not profit-hungry robber barons, and for the most part, neither are the administrators who control our universities. The *Brown* ruling is part of a debate about whose vision serves the best interests of the university: democratic values have long been posed as an alternative to elitist ideas in higher education. When they write that “there is a significant risk, and indeed a strong likelihood, that the collective-bargaining process will be detrimental to the educational process” (11), it becomes clear that *Brown*’s majority favors a top-down, antidemocratic structure for higher education, where graduate employees have little or no say in how the university is governed. Their argument states that unions will not serve the university’s best interests. This is their closing argument, so one is led to believe that they place a high importance on the point. They do not explain in any depth why they believe this to be the case. For whatever reason, they choose to simply state this claim and drop it—as if it is a truth that no one questions. Contrary to what its writers believe, the ruling does not serve the university’s best interests because it is antidemocratic.

The *Brown* decision concedes that public universities have a long history of collective bargaining for graduate employees, but they still seek to draw a distinction between the governance of public universities and the governance of private universities. The majority states, “although under a variety of state laws, some states permit collective bargaining at public universities, we choose to interpret and apply a single federal law differently to the large numbers of private universities under our jurisdiction” (11). The question has to be asked: even though private universities are supported largely through private, not public funds, does this mean that private universities may ignore democratic principles? The Wagner Act, the “single federal law” that *Brown*’s majority chooses to apply, clearly speaks to this question by referring to the First Amendment’s free assembly language:

It is declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. (227-8)

Clearly, the Wagner Act dictates that democratic values are not suspended at the university’s gates. It is on this point that that one might expect that private university administrators and union members could find common ground. This is rarely the case however. Consider, for example, that Dr. Amy Gutmann, president of the University of Pennsylvania, which is home to Graduate Employees Together--University of Pennsylvania, a union campaign under the NLRB’s jurisdiction, has published extensively about democratic education.¹³ Even with Gutmann in the president’s office, however, the graduate employees at Penn are still waiting to have the votes counted in their union recognition election. As with the graduate employee union drive at Brown, after the ballots were cast at Penn, the ballot box was impounded by the university administration. If voting is among the best expressions of democracy, impounding ballot boxes full of votes is the best example of how democratic principles can be trampled.

The majority in the *Brown* decision believes that graduate employees do not have the right to use these ballot boxes in the first place. In their minds, decision-making control should be concentrated in the hands of a select few administrators, because, in father-knows-best fashion, they presumably know better than any others how the university should work. *Brown* assumes that these select few administrators will represent what is in the best interests of the entire university community, and therefore these

administrators need not consult with anyone on matters related to working conditions or learning conditions—especially a union. This belief is misguided because any time almost complete decision-making power is invested into the hands of a select few people and those few are not compelled to respect the interests of the rest of the community, the interests of many will not be represented. It becomes too easy for the select few in power to assume that they know what is in the best interests of the rest of the community and that others will agree with their positions. These select few do not necessarily have the vision or the will to see different perspectives. This, in part, is what leads to such stratification at the university between, for example, the few extremely lucrative administrative and professorial positions and the army of poorly paid teaching assistants and adjunct instructors. These administrators have done very little to challenge this stratification because they believe that it is in the university's best interests for them to have such sweeping decision-making power. This is antidemocratic, and systems based on antidemocratic ideas do not serve the best interests of our universities.

Though the NLRB majority fears that allowing graduate employees to collectively bargain would amount to “taking risks with our nation’s excellent private educational system,” (11), their fears are unfounded. I do not doubt the earnestness with which they write, but union busting will not improve either the working conditions or the learning conditions in higher education. Therefore, while the majority appears as if they are making ethical arguments for the university, they are mistaken—a university with poor working conditions and no graduate employee union misses an opportunity to improve its quality of education by ensuring workplace democracy and opening up access to graduate education. It is important to point out that we’ve heard these pseudo-ethical arguments before. As Philip Wheeler, the UAW's director for New York and New England said in response to the *Brown* ruling, “I understand that [the Board members] say [unionizing] would be too disruptive to the great American education system. [...] Once upon a time, they said that unionizing would be too disruptive for American manufacturing. They were wrong then, and they are wrong now.” They are wrong because the NLRB misplaces the causes of the disruptions. The first sentence of the Wagner Act speaks to its purpose. The Act seeks to avoid the “strife or unrest” which results from “the denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining” (227). Banning graduate employee unions from private universities will only intensify labor unrest. But more importantly, democratically governed universities are simply better universities. Giving everyone who has a stake in a decision a voice in how that decision is made will result in a more stable, fairer, and more just university. Fostering democracy at our universities will also help to deepen democracy beyond the borders of our campuses.

Nowhere in the *Brown* ruling do the writers acknowledge that unions have democratic, humanist interests as well—rather the NLRB majority operates from the false assumption that unions are only economically self-interested organizations. Historically union members have fought for better wages, hours, and working conditions, but we have done so for morally just reasons: to bring about a little fairer distribution of wealth, to give people a healthier, more fulfilled life, and to make sure that people are fairly compensated for the work that they do. The other, broader goals of the labor movement are also morally just, and also ignored by *Brown*: unionists fight for a democratic voice in the decisions that affect them, to restore dignity to people’s life and labor, and to make sure that every person is guaranteed basic liberties and equality in the workplace. If economic interests were our only interests, graduate employees certainly would not spend such large periods of their lives in school making \$11,700 per year, going deeper into debt with each passing semester. When we shout “Unity, Diversity, a Better University!” on the picket lines, it’s not code for “give me a 3% raise and I’ll go home.” We chant this way because we truly believe that unity, diversity, and democracy will make a better university.

Perhaps no one has pointed out to the members of the NLRB majority that graduate employee unions can play a positive role in American higher education. By improving our working conditions, the graduate employee union movement also expands the franchise of graduate education to a greater number of people. It is a myth to think that all graduate employees come from wealth—even those at private universities—and can therefore afford the enormous costs of graduate education. For many, work as a

graduate employee opens doors to educational advancement that would otherwise be shut. Even with tuition waivers and small stipends, though, the related costs of graduate school—especially compared to the wages that could be made in full-time work—are prohibitive for many talented people. The majority on the NLRB may not be aware of the fact that only half of the people who enter doctoral programs in America finish those programs (Smallwood). The cost of graduate education is a major reason for this attrition. It takes almost a decade to get a masters degree and a doctorate in many disciplines, and with every passing year it becomes harder to live on \$11,700. Graduate employee unions fight to improve the rights and benefits of their members, and improved graduate employee compensation will make graduate education more accessible. Without the protection of a union, every time rent, tuition, fees, or healthcare costs rise, more people will be unable to finish school or go in the first place. Every time costs outpace the compensation for graduate employees, we lose some of the people who will teach the nation's children how to read and write; we lose some of the researchers who are working on cures for diseases; we lose some of the innovators in science and industry, and we will lose some of the public servants who will guide American policy.

So, contrary to *Brown*, there is reason to believe that graduate employee unions will serve the university's best interests. Graduate employee unions improve working conditions and in so doing also improve learning conditions. A higher quality of education will make a better university. A better university will produce a better community, both within and beyond the borders of our campuses; this is a compelling interest to all those who benefit from higher education. If the nation's universities are not elite enclaves for the most privileged among us, but rather are intellectual centers which play a vital role in a democracy, we just might find that allowing graduate employees to unionize might produce the generation of teachers who raise America's literacy rate to its highest level yet, the researchers who find the cure for cancer or the public servants who strengthen and deepen American democracy. If we fight and gain the right to unionize in all universities, we will see a group of graduate employees who are capable of remarkable production, cutting-edge research, and inspired teaching because they are protected to do so by their union sisters and brothers. We will also see a group of graduate employees who better represent the economic and social diversity of a democratic nation.

If left unchallenged, *Brown* will be a setback for both the academic labor movement and for the quality of education at our universities. The legislative and legal strategies to challenge *Brown* will be complex. In the end, they will come down to electing pro-labor officials, especially as the President of the United States appoints the members of the NLRB. Regardless of how future elections or legal battles turn out, we should fight this ruling by organizing around it. *Brown* will cause labor unrest on our campuses. What we do with that unrest remains to be seen. We should raise the debate about *Brown* loudly and frequently because doing so will send a clear message: when administrators or the NLRB harm the working conditions and learning conditions at the university, they harm the very thing that they intend to protect. This debate, coupled with our continued organizing and consciousness raising efforts, just might turn the *Brown University* ruling from a setback into a success for both the labor movement and for our institutions of higher education.

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NOTES

¹ *Brown University*, 342 NLRB 42 (2004).

² For more information on the Bush NLRB, see "Labor Board's Critics See a Bias Against Workers" *New York Times*. 2 January 2005. <<http://www.nytimes.com/2005/01/02/national/02labor.html>>.

³ *New York University*, 332 NLRB 1205 (2000).

⁴ *Leland Stanford Junior University*, 214 NLRB 621 (1974).

⁵ *St. Clare's Hospital & Health Center*, 229 NLRB 1000 (1977).

⁶ *Boston Medical Center*, 330 NLRB 152 (1999).

⁷ The data from the *Chronicle of Higher Education* study can be found at <<http://chronicle.com/free/v47/i14/14a01301.htm>>; Karen W. Arenson wrote the *New York Times* article, which appeared on 17 April 2004. For detailed information on the casualization of labor at one private university, see "Casual in Blue," a study by the Graduate Employees and Students Organization at Yale University. The study can be found at <http://www.yaleunions.org/geso/reports/Casual_in_Blue.pdf>.

⁸ Because public universities are generally covered by state public employee laws, *Brown* has no direct bearing on them. The distinction has little impact on my argument, however. *Brown* is neither helpful nor just, regardless of this distinction—an injury to private school employees is an injury to public school employees as well.

⁹ See M. Peter McPherson’s 2002 and 2004 State of the University speeches, both of which can be found at <<http://president.msu.edu/speeches.html>>.

¹⁰ See, for example, articles from the *State News*, Michigan State’s student-run newspaper: “Listen Up: Feedback Sessions Only Work If Administrators Listen To Constituents, Clearly Answer Questions” <http://www.statenews.com/op_article.phtml?pk=22622> and “Trustees Mum at Annual Retreat” <<http://statenews.com/article.phtml?pk=24853>>.

¹¹ For more information, see the MSU Trustees website: <<http://trustees.msu.edu>>.

¹² For more information on McPherson and Michigan State’s involvement in both the Iraq and Vietnam Wars, see Daniel Sturm, “Where is McPherson Leading Moo U? Critics See Comparisons To MSU’s Vietnam-Era Role,” which can be found at

<<http://www.lansingcitypulse.com/040505/040505cover.html>>.

¹³ See, for example, *Democratic Education*, Princeton University Press, 1999 and *Why Deliberative Democracy?* Princeton University Press, 2004.

AFFILIATIONS

Scott Henkel is past president of the Graduate Employees Union at Michigan State University and is a doctoral candidate in the English Department. His research is on grassroots politics in the literatures of the Americas. He teaches first-year composition at the University of Notre Dame.