Relations industrielles
Industrial Relations

Third Party Conciliation and Trade Union Recognition: Some British Evidence

La conciliation par une tierce partie et la reconnaissance des syndicats en Grande-Bretagne

P. B. Beaumont

Volume 37, numéro 4, 1982

URI : https://id.erudit.org/iderudit/029303ar
DOI : https://doi.org/10.7202/029303ar

Aller au sommaire du numéro

Éditeur(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (imprimé)
1703-8138 (numérique)

Découvrir la revue

Citer cet article

Beaumont, P. B. (1982). Third Party Conciliation and Trade Union Recognition: Some British Evidence. *Relations industrielles / Industrial Relations*, *37*(4), 827–842. https://doi.org/10.7202/029303ar

Résumé de l'article

L'utilisation des mécanismes de la conciliation volontaire pour résoudre les différends entre les syndicats et les employeurs a une longue histoire en Grande-Bretagne où les revendications en matière de reconnaissance syndicale figurent en première place dans ce travail de conciliation. L'organisme à qui il appartient de pourvoir au processus de conciliation en Grande-Bretagne depuis 1974 se nomme le Service consultatif de conciliation et d'arbitrage (Advisory Conciliation and Arbitration Service). Pendant la période 1976-1980, des mécanismes législatifs de reconnaissance syndicale existaient également, mais le Service consultatif entendit plus de requêtes que le Service existant en vertu de la loi. De plus, le type de réclamation en matière de reconnaissance syndicale différait totalement, les syndicats obtenant plus de succès sous le régime de la conciliation volontaire que sous le mécanisme législatif.

Le présent article étudie le résultat de la totalité des requêtes en reconnaissance syndicale entendues par conciliation volontaire en Ecosse entre 1976 et 1980 par le Bureau régional du service consultatif de conciliation et d'arbitrage. Le nombre total des requêtes s'élève à 290, ce qui représente environ dix pour cent de toutes les requêtes en reconnaissance entendues par le Service au pays pendant toute cette période. Les syndicats ont réussi à obtenir la reconnaissance dans 47 pour cent de toutes les enquêtes en Ecosse, ce qui se compare aux statistiques pour l'ensemble du pays (43 pour cent) et laisse deviner le caractère valable de l'échantillon.

Dans un effort pour préciser la probabilité du succès d'une requête en reconnaissance syndicale, une grille d'analyse fondée sur les études du résultat de votes de reconnaissance syndicale tenus sous le mécanisme de reconnaissance législatif fut mise au point. Cette grille d'analyse consiste en trois types d'influence: 1) l'attrait du syndicalisme et de la négociation collective en général chez les employés concernés; 2) la préférence du syndicat qui présentait la requête; 3) l'importance de l'opposition de l'employeur à la reconnaissance syndicale en général et au syndicat qui formulait larequête en particulier. Sous ces trois rubriques, nous avons vérifié, par analyse corrélative, l'influence des variables individuelles suivantes: le statut non-manuel des employés, le syndicat particulier qui formulait la demande, l'étendue du groupe d'employés compris dans la requête, le temps nécessaire à l'audition et au jugé de la requête, le statut multi-établissements de l'entreprise, la menace ou l'existence effective d'une grève et le secteur d'emploi où il y a eu présentation d'une requête.

Le manque de signification de la plupart des variables jette un doute considérable sur l'utilité de cette grille d'analyse pour identifier les facteurs pertinents valables pour obtenir gain de cause dans la reconnaissance d'un syndicat sous le système de conciliation volontaire. La seule influence significative résidait dans le temps nécessaire à l'audition et à la décision de la requête en reconnaissance. En retour, cette opposition de l'employeur se trouvait reliée à l'étendue du groupe visé par la requête, au syndicat particulier qui présentait la requête et au secteur de l'emploi où elle était présentée. En particulier, on s'est rendu compte que l'opposition était moindre dans le cas des syndicats le plus fortement engagés et dans le secteur manufacturier et qu'elle était plus marquée dans le cas des requêtes visant des groupes d'employés plus considérables.

Les constatations et les conclusions de l'article ont été résumées à la fois dans un but de recherche et en vue d'une action politique. En ce qui concerne la recherche future, nous estimons qu'il est nécessaire de procéder par études de cas approfondies destinées à identifier l'histoire des relations professionnelles dans les établissements particuliers concernés ainsi qu'à identifier aussi les tactiques des syndicats et des employeurs au cours de la procédure de reconnaissance syndicale comme étant les facteurs-clés qui préparent le résultat des requêtes entendues sous ce régime. Au sujet des implications en matière d'action politique, nous estimons que certains changements peuvent agir à l'avenir de façon à amoindrir l'enthousiasme des syndicats qui était apparent pendant la période 1976-1980 pour l'audition des requêtes sous le système de conciliation volontaire, ces changements découlant de l'abrogation en 1980 du régime législatif de reconnaissance syndicale.

Third Party Conciliation and Trade Union Recognition

Some British Evidence

P.B. Beaumont

The author uses information obtained from the unpublished conciliation records of the ACAS regional office in Scotland to look at some of the potential influences on the likelihood of a trade union successfully obtaining recognition under these provisions. Three sets of influence are applied using correlation analysis.

In Britain voluntary conciliation over matters in dispute between unions and management has been a widely accepted feature of the industrial relations system for almost a century[1]. The *Conciliation Act 1896* and the *Industrial Courts Act 1919* provided the Minister of the day with the power to establish procedural arrangements to settle union-management disputes, with perhaps the major such arrangement being conciliation. At the present time the *Employment Protection Act 1975,* which repealed the *Conciliation Act* and parts of the *Industrial Courts Act,* gives the responsibility for providing conciliation services and facilities to the Advisory Conciliation and Arbitration Service (henceforth referred to as ACAS). The essence of third party conciliation is that when bargaining reaches a deadlock an independent party is introduced to try and help bring about a solution. The whole process is entirely *voluntary* in that the two parties in dispute both have to agree to use conciliation, with the conciliator having no authority to make an enforceable judgment. The basic functions, and alleged advantages, of the conciliation process are well summed up in the following terms[2],

* BEAUMONT, P.B., Department of Social and Economic Research, University of Glasgow, England.

** I am grateful to officers of the ACAS regional office in Scotland for the provision of data and comments on the nature of the analysis undertaken here. The invaluable research assistance of Maureen Robb is also gratefully acknowledged. Finally, my thanks go to Jim Dworkin (Purdue University) for a number of helpful comments on an earlier draft of the paper.

1 See, for example, H. CLAY, *The Problem of Industrial Relations,* London, Macmillan, 1926, chapters 7 and 8.

2 E.H. PHELPS BROWN, *The Growth of British Industrial Relations,* London, Macmillan, 1959, p. 128.

The conciliator... helps the parties to communicate with each other more effectively. He can keep the temperature of the discussion down by confining it to the points at issue, and stating them in unemotive terms. When the parties lose their tempers with one another too easily to be able to talk face to face, he can go backwards and forwards between them. He may be able to devise proposals new in form or substance, which go some way to reconcile conflicting claims, or provide a rough compromise, or make it easier to give ground without losing face. He can save one side from trying to call the other's bluff when in fact it is not bluffing. Especially when both sides have stuck fast, thinking it a sign of weakness to be the first to climb down, he can get them to make concessions because he can tell each what the other will do in return, and can make what is given up appear as a favour to him, rather than a concession to the other side.

In short, the basic role of the conciliator is to clarify the areas of agreement and disagreement between the parties, act as an intermediary in the exchange of information and proposals, and to suggest approaches to a settlement.

During the decade of the sixties the annual number of conciliation cases handled by the Department of Employment (the responsible body prior to ACAS) varied between 300 and 450, but from the early 1970s the numbers have increased quite substantially[3]. The extent of this increase has been particularly marked since ACAS took over responsibility for the conciliation function from the Department of Employment in 1974. There were, for exemple, 866 conciliation cases handled by the Department of Employment in 1973, but some 2,228 handled by ACAS in 1975 which was its first year of full operation. The relevant figures (i.e. requests for conciliation) for subsequent years are 3,460 (1976), 3,299 (1977), 3,338 (1978), 2,677 (1979) and 2,091 (1980). The variation in the number of conciliation cases through time has been shown to be significantly influenced by changes in economic factors, such as unemployment and real wages[4].

It would appear that trade union recognition issues have figured prominently in the workload of the responsible conciliation body at any point in time. For instance, in the three years 1970-72 some 31 percent of conciliation cases handled by the Department of Employment involved trade union recognition claims[5], a figure only exceeded by disputes over wages questions (i.e. 38 percent of the total conciliation workload). Moreover, the particular appeal of conciliation to trade union officials involved in seeking recognition for a particular group of workers is well documented in surveys

3 J.F.B. GOODMAN and J. KRISLOV, "Conciliation in Industrial Disputes in Great Britain: A Survey of the Attitudes of the Parties", *British Journal of Industrial Relations,* Vol. XII, No. 3, November 1974, p. 344.

4 See L.C. HUNTER, "Economic Issues in Conciliation and Arbitration", *British Journal of Industrial Relations,* Vol. XV, No. 3, July 1977, pp. 226-45.

5 Cited in GOODMAN and KRISLOV, *op. cit.,* p. 335.

of the attitudes of unions towards the use of conciliation[6]. However, despite the above sort of figures and findings there have always been certain reservations expressed about the ability of the conciliation method to deal adequately with trade union recognition claims. The sorts of reservations that have been expressed are typified by the following extract from the written evidence of the Ministry of Labour (the forerunner to the Department of Employment) to the Donovan Commission (1965-68)[7],

> There may be no common ground as to the facts about trade union membership which can, therefore, only be ascertained by thorough and independent investigation. Also on a recognition issue a conciliator who is seeking a basis for settlement cannot in practice take up a neutral position between the parties. He is bound to appear to the employer as an agent for the trade union. On general grounds this is undesirable.

These sorts of reservations about the ability of the conciliation method to deal adequately with recognition disputes were in fact a part of the case made for setting up an independent tribunal to hear and recommend on union recognition claims brought under statutory provisions[8]. However, the two periods of experience with the operation of statutory union recognition provisions in Britain (i.e. 1971-4 and 1976-80) have not been, to say the least, particularly satisfactory ones, from the management, unions or tribunals point of view[9]. Indeed the difficulties during the years 1976-80 were of such magnitude that statutory union recognition provisions no longer exist in Britain, with Sections 11-16 of the *Employment Protection Act 1975* having been repealed by the *Employment Act 1980.* As a result, at the present time, voluntary conciliation facilities provided by ACAS, under the terms of Section 2 of the *Employment Protection Act 1975,* are the only public policy based route to achieving union recognition in Britain.

These voluntary conciliation facilities were in fact available alongside the statutory recognition provisions throughout the period 1976-80. Indeed trade union recognition disputes were the second largest component (behind disputes over pay and other terms and conditions of employment) of ACAS's total conciliation workload in the years 1976-80, accounting for

6 *Ibid.*, p. 342.

7 Quoted in George Sayers BAIN, "Trade Union Growth and Recognition", Research Paper No. 6, *Royal Commission on Trade Unions and Employers Associations,* London, HMSO, 1967, p. 100.

8 See, for example, BAIN, *loc. cit.*

9 See, for example, Bernard JAMES, "Third Party Intervention in Recognition Disputes: The Role of the Commission on Industrial Relations", *Industrial Relations Journal,* Vol. 8, No. 2, 1977; *ACAS Annual Report* 1980, London, HMSO, pp. 64-102; P.B. BEAUMONT, "Unionism, Collective Bargaining and Regulation: Statutory Recognition Provisions in Britain, 1976-80", *Mimeographed Paper, University of Glasgow,* 1981.

between 17 and 24 percent of completed conciliation cases. Furthermore, there were actually more union recognition claims heard under the voluntary conciliation provisions (Section 2 of the *Employment Protection Act 1975*) than under the statutory provisions (Sections 11-16 of the *Employment Protection Act 1975*) during these years; the relevant figures being 2,292 and 1,613 cases respectively[10]. Moreover, the *ACAS Annual Report* for 1980 indicates that some form of recognition was established for about 77,500 employees as a direct result of cases completed under the voluntary conciliation provisions, compared to a figure of some 65,000 employees who achieved this position via the statutory provisions[11]. This same report went on to indicate that union recognition claims under the voluntary conciliation provisions involved relatively smaller companies, covered smaller groups of workers and were more likely to be for groups of manual workers than was the case under the statutory recognition provisions[12].

However, beyond these few relatively straightforward facts we have little detailed information about the operation of these voluntary conciliation provisions in relation to trade union recognition claims. Accordingly, in what follows we use information obtained from the unpublished conciliation records of the ACAS regional office in Scotland (there are nine ACAS regional offices in the country, with the Headquarters in London) to look at some of the potential influences on the likelihood of a trade union successfully obtaining recognition under these provisions. This type of unit level analysis has been undertaken on the claims heard under statutory union recognition provisions in both Britain and the United States[13], but has not, at least to our knowledge, been undertaken on claims heard under less formal public policy based arrangements such as voluntary conciliation. However, before turning to the details of this analysis we present in the next section an outline of some of the basic characteristics of our set of recognition claims.

THE BASIC CHARACTERISTICS OF THE CLAIMS

The total of 290 recognition claims handled by the ACAS regional office in Scotland during the period 1976-80 constituted approximately 10 percent of the total (country wide) ACAS workload in relation to recognition

10 ACAS Annual Report 1980, *op. cit.*, p. 65.

11 *Ibid.*, pp. 65 and 99.

12 *Ibid.*, p. 65.

13 See, respectively, P.B. BEAUMONT, *loc. cit.* and Marcus H. SANDVER, "South-Nonsouth Differentials in National Labor Relations Board Certification Election Outcomes", *Journal of Labor Research*, Vol. 2, Fall 1981.

claims heard under the Section 2 provisions over this period of time. There were 25 different unions involved in bringing these 290 claims, but fully 59.7 percent of the claims involved only three unions. These three unions were the Transport and General Workers Union (28.3 percent), the Amalgamated Union of Engineering Workers (17.6 percent) and the Association of Clerical, Technical and Supervisory Staff (13.8 percent). No other union accounted for more than 10 percent of the claims, although the Association of Scientific, Technical and Managerial Staffs fell only just short of this figure with a total of 8.6 percent. The majority of claims were for manual workers only (58.3 percent), with 39.7 percent being for non-manual workers only. The mean size of the workgroup involved in the claim was 98 employees, although a standard deviation of 246 indicated that there was considerable variation in this regard. The smallest sized claim was in fact for 3 employees, with the largest being for 3,350. The majority of claims (54.4 percent) were for employees in an establishment that was part of a multi-establishment set up, with the remaining 45.6 percent of the claims being for a single independent establishment. There was a sizeable range of industries represented in the claims, with 58 percent of them in the manufacturing sector and the remaining 42 percent being in services. The largest individual industry groups represented were the Distributive trades (12.7 percent), Mechanical engineering (12.3 percent), Miscellaneous Services (8.9 percent), and Food, drink and tobacco manufacture (8.4 percent).

The mean length of time taken to deal with the claim was 2.1 calendar months, with a similar sized standard deviation. The longest time taken to deal with any one claim was in fact 13.1 calendar months. There was actual or threatened strike action in only 9.8 percent of the claims. The basic outcomes of the claims were as follows:

Full Recognition Achieved	:	39.7 percent
Partial Recognition Achieved	:	7.6 percent
No Recognition	:	37.9 percent
Claim Withdrawn	:	13.4 percent
Uncertain position	:	1.4 percent

The figures indicated that some form of recognition (full or partial[13a] was achieved in 47.3 percent of the 290 claims. The *ACAS Annual Report* for 1980 indicates that 43 percent of completed voluntary conciliation cases in the country as a whole led to some form of recognition for the employees

13a A partial recognition recommendation may, for example, have involved a recommendation that the union be recognized only for matters at the discretion of the local plant management.

concerned[14], which suggests that our data from the ACAS regional office in Scotland may not be unrepresentative of the outcomes in other offices. The ability to generalize from our data, with at least a reasonable degree of confidence, is also suggested by the fact that our sample of claims involved smaller sized workgroups, more manual groups of workers and took much less time to be heard than claims decided under the statutory provisions, which were all points made in the *ACAS Annual Report* for 1980 recognition provisions where the overall operation of the voluntary and statutory were compared. Finally it is worth noting that the ACAS regional office in Scotland knew that at least 23.5 percent of the claims where recognition was not fully or partially achieved through voluntary conciliation were then taken up through the statutory recognition provisions, although we have no knowledge of their outcome in this regard. This figure does, however, point to a substantial degree of *interdependency* between the voluntary and statutory routes to recognition, a fact that is of considerable importance and which will be returned to in our concluding section.

THE DETERMINANTS OF UNION RECOGNITION SUCCESS

In this section we seek to identify some of the *systematic* influences that appear to explain why recognition was achieved in claim A, and not in claim B. This exercise draws on the analysis and findings of studies conducted on claims heard under statutory recognition provisions in both Britain and the United States[15]. For example, such studies have revealed that recognition is more likely to be achieved for claims involving relatively small sized groups of workers. The sort of question posed here is whether this type of finding also holds true for recognition claims heard under voluntary conciliation arrangements. If this does not in fact prove to be the case, then there would appear to be definite limits to the ability to generalize the results of studies based solely on statutory recognition claims to other, less formal public policy means of resolving recognition disputes. The investigation of this matter, therefore, has important research and public policy implications.

The starting point for our analysis is the assumption that the outcome of any individual recognition claim is a reasonably accurate reflection of the wishes of the employee group covered by that claim. This underlying framework of analysis, which has typically been employed in studies of the influence of unit characteristics on recognition outcomes under statutory provisions, may not, however, be entirely appropriate to an analysis of the out-

14 ACAS Annual Report 1980, *op. cit.*, p. 65.

15 See the references cited in Footnote 13.

come of recognition claims heard under voluntary conciliation arrangements. The reason for this *a priori* reservation is the absence of a formal questionnaire or ballot of the employees concerned. The effect of such a ballot under statutory provisions is to focus union and management attention on the task of trying to influence the pattern of employee voting. A major concentration of union and management attention along these lines is arguably less likely to occur under voluntary conciliation arrangements due to the absence of such a central focus or basis for deciding the outcome of the claim. For the moment, however, we proceed on the assumption that the wishes of the employees concerned with regard to recognition (or not) will be of paramount importance and that these wishes will in turn be influenced by three, *interdependent* sets of considerations: (i) the attractiveness of unionism and collective bargaining coverage in general; (ii) the attractiveness of the particular union bringing the claim; and (iii) the extent and nature of employer opposition to recognition in general, or to the particular union bringing the claim. The individual hypotheses and variables under these three sub-headings will be discussed in turn below.

Under the first sub-heading we distinguish between claims for manual and non-manual workers only. The investigation of this particular influence follows from the extensive body of literature on the alleged differences in the attitudes of manual and non-manual workers towards the institutions of trade unionism and collective organization in general. The essence of the argument about the alleged differences in attitudes is that non-manual workers who join unions are assumed to be motivated primarily by *instrumental* considerations which are sufficiently strong to outweigh their principled objections to unionism, whereas manual workers are assumed to be motivated primarily by a principled commitment to unionism[16]. This argument is certainly not without its critics[17], but is sufficiently prominent in the literature to warrant consideration here. The expectation is that recognition is more likely to be achieved in claims for manual workers only. This is supported by some of our basic results which indicate that 64.3 percent of the recognition claims where full recognition was achieved were for manual workers only. Furthermore, 43.8 percent of the manual worker only claims achieved full recognition, compared to only 34.8 percent of the non-manual only claims, although a further 13 percent of the non-manual claims (only 3 percent of the manual) achieved partial recognition.

16 For studies that have considered this line of argument see, for example, D.E. MERCER and D.T.H. WEIR, "Attitudes to Work and Trade Unionism Among White Collar Workers", *Industrial Relations Journal,* Vol. 3, No. 2, Summer 1972; F.G. COOK et al, "White Collar and Blue Collar Workers Attitudes to Trade Unionism and Social Class", *Industrial Relations Journal,* Vol. 6, No. 4, Winter 1975/6.

17 See Georges Sayers BAIN, David COATES and Valerie ELLIS, *Social Stratification and Trade Unionism,* London, Heinemann, 1973, pp. 126-36.

Turning to our second sub-vector, we musttake account of the argument that the supply of union organizing service's will vary in direct proportion to the incentives on union leaders to expand their organizations[18]. The implication of this argument is that there is likely to be a wide variation in the amount of resources that unions are willing to allocate to recruitment and organizing activities. It has already been noted that a disproportionate number of our 290 recognition claims (59.7 percent) involved only three unions. The hypothesis here is that recognition is more likely to be achieved in the claims of these three unions on the grounds that they are the most committed to expanding their organizations and have therefore devoted relatively more attention and effort to the task of building up a pro-union sentiment among the workers concerned. The basic results, however, did not provide any obvious support for this proposition, as 39.8 percent of the claims brought by these three unions achieved full recognition compared to a success rate of 39.3 percent among the claims of the other unions. The second variable under this particular sub-heading is the size of the workgroup involved in the recognition claim. The expectation here is that recognition is more likely to be achieved in the case of smaller sized workgroups. The *a priori* basis for expecting such a relationship is that the job related interests of workers in such units are likely to be more homogeneous in nature, which makes the unions 'selling job' somewhat easier — i.e. the union concerned will appear a much more attractive proposition to any individual employee if he is reasonably confident that most of the other employees in the unit want essentially the same thing from the union[19]. Certainly the mean number of employees in claims where full recognition was achieved was only 76 compared to 130 in claims where recognition was not achieved, although it should be noted that there was very little difference between the median sizes of the workgroups involved (i.e. 33 and 38 respectively).

Ideally we would like a direct measure of the extent of employer opposition to recognition in general, or to the particular union involved in bringing the claim. However, in the absence of any such measure we utilize as a proxy for such opposition the length of time that elapsed between the date the claim was referred to ACAS and the date the claim was cleared. This time delay factor we argue is a reasonable proxy for the extent of employer opposition to recognition, although we recognize that other simple administrative factors may also operate to lengthen the time period involved in

18 See, for example, Monroe BERKOWITZ, "The Economics of Trade Union Organization and Administration", *Industrial and Labor Relations Review,* Vol. 7, No. 4, July 1954. More recently see Richard N. BLOCK, "Union Organizing and the Allocation of Union Resources", *Industrial and Labor Relations Review,* Vol. 34, No. 1, October 1980.

19 See, for example, Gary M. CHAISON, "Unit Size and Union Success in Representation Elections", *Monthly Labor Review,* February 1973, pp. 51-2.

hearing and reaching a decision on a claim. It is nevertheless important to explicitly test for this length of time influence as studies based on statutory recognition claims in both Britain and the United States have clearly indicated that the longer the time taken to hear and report on a claim, the lower the probability of a union receiving a recommendation for recognition[20]. The basic results were certainly consistent with this expectation as the mean length of time for claims where full recognition was achieved was 1.8 calendar months, compared to 2.2 calendar months where recognition was not achieved.

As a second proxy for the extent of employer opposition to recognition we distinguish claims in an establishment that is part of a multi-plant set up from those in a single plant establishment. The available evidence in Britain indicates that existing union organization is significantly lower in single plant establishments[21], on the grounds that such establishments are more likely to be administered in a 'paternalistic fashion' with the employer being relatively opposed to the intrusion of an external body such as a trade union. Accordingly, for the above reason, we expect that recognition will have been less likely to be achieved in claims in single, independent establishments. It was certainly the case that only 45.5 percent of the claims where full recognition was achieved came from single, independent establishments, although virtually the same proportion of claims from single independent establishments and multi-establishments (i.e. 39.2 and 39.4 percent respectively) achieved full recognition.

In considering an industry of employment effect one can take individual industry orders where existing levels of workforce organization are relatively low and argue that employer opposition to recognition will be greatest in such industries. This is because the lack of a tradition of widespread organization may mean that employers in such industries are less likely to feel the 'odd man out' in opposing recognition claims, and may genuinely believe, on the basis of historical experience, that union organization is not appropriate to the circumstances of their industry. On the other hand, one might want to argue that the real source and strength of employer opposition to current recognition lies in the relatively few unorganized establishments in the relatively highly organized industries. This is because it is these

20 See, respectively, P.B. BEAUMONT, "Time Delays, Employer Opposition and White Collar Recognition Claims: The Section 12 Results", *British Journal of Industrial Relations,* Vol. XIX, No. 2, July 1981 and Richard PROSTEN, "The Longest Season: Union Organization in the Last Decade", *Proceedings of the Industrial Relations Research Association,* Winter 1978, pp. 240-49.

21 George Sayers BAIN and Farouk ELSHEIKH, "Unionization in Britain: An Inter-Establishment Analysis Based on Survey Data", *British Journal of Industrial Relations,* Vol. XVIII, No. 2, July 1980, p. 176.

establishments that have held out for so long against unions in the face of a strong, surrounding tradition of workforce organization. In view of these two potentially offsetting hypotheses it is difficult to make an *a priori* prediction about the sign on any individual industry order variable. As a result, we adopt the more broad brush approach here of distinguishing the manufacturing industry orders from the service sector orders, with no *a priori* hypothesis being put forward about the sign on this particular variable. However, the basic figures did indicate that 61.7 percent of the claims where full recognition was achieved were in the manufacturing industry orders, and that 42.8 percent of all manufacturing industry order claims achieved full recognition compared to only 35.5 percent of claims in the service sector. The final variable we enter here is whether strike action actually occurred or was threatened during the period of time discussions were taking place on recognition. The contention is that such threatened or actual strike action indicates the presence of particularly strong employer opposition to recognition. This opposition is held to be of such strength that recognition is unlikely to result so that a threatened or actual strike is negatively related to the likelihood of recognition being achieved. The strike weapon is therefore seen as a reaction to strong and sustained employer opposition, rather than as an early taken, positive initiative on the part of the union concerned.

This completes our list of potential explanatory variables and in the next section we present the results obtained using correlation analysis. (The dependent variable is in the form full and partial recognition obtained versus the rest.)

THE RESULTS

The basic correlation results obtained are set out in Table 1.

TABLE 1

Correlations Between Independent Variables and Whether Recognition (Full and Partial = 1) Was Achieved

Non-manual (= 1)	0.00949
Particular union (3 major unions involved = 1)	-0.01024
Size of workgroup	-0.05673
Time involved	-0.12244*
Single independent establishment (= 1)	-0.05819
Manufacturing industry orders (= 1)	0.08837
Strike action (threatened or actual = 1)	-0.10816

* = statistically significant

The most obvious point to make about the Table 1 is that virtually all of the variables fall short of statistical significance, which would seem to cast considerable doubt on the potential utility of the basic framework of analysis employed here. That is, the influence of unit related characteristics operating on employee preferences for recognition, which has been developed in studies of the operation of statutory recognition provisions, appears to have relatively little explanatory power when applied to less formal public policy based means of resolving recognition disputes. Accordingly, future research will need to develop an alternative central focus to that employed here. One possibility in this regard was suggested in discussions with individual ACAS conciliation officers. Such officers suggested that the presence (or not) of a small core of 'union activists' in the plant was frequently related to whether the recognition claim was successful (or not) from the union point of view. These individual union activists were held to be of considerable potential importance in building up a reasonable base line of *actual* union membership and a relatively 'pro-union sentiment' among the workforce that held out the expectation of considerable *potential* membership if the recognition claim succeeded. The 'activist cores' are unlikely to be distributed randomly across the full set of establishments where recognition claims occur over any given period of time. Such cores could, for example, be derivative from previous attempts at organization within the plants concerned. Certainly Rose found, admittedly on the basis of recognition elections held under statutory procedures in the United States, that unions were more successful in obtaining recognition where previous organizing attempts had been made[22]. The Rose study divided union campaigns in firms with prior organizing activity into two categories — the repeat organizing drive in which a second successive attempt is made to organize the same unit, and the non-repeat organizing drive which is centered on a different unit of the same firm — and found that both categories of prior organizing activity led to above-average success in obtaining recognition. In the case of the repeat organizing situations, union persistence and the timing of subsequent organizing activities were largely responsible for the reversal of prior setbacks, and that in non-repeat cases success was associated with the proximity of other organized employees in the firm. This latter explanation in particular could well be highly relevant to the suggestion regarding the potential importance of the presence (or not) of an activist core in accounting for recognition success.

The one significant variable in Table 1 was the length of time taken to hear and clear the claim by conciliation, the finding being that the longer

22 Joseph B. ROSE, "What Factors Influence Union Representation Elections?", *Monthly Labor Review,* Vol. XLV, October 1972, p. 51.

the time taken, the less likely that the union would be successful in achieving recognition, The argument underlying this variable was that the existence of substantial and sustained employer opposition to union recognition will draw out the length of time taken to conciliate a claim and can thus reduce potential employee support for the union through (i) a simple loss of interest on the part of employees or through (ii) allowing time for active counter-measures to the threat of unionization to be taken by the employer. Such counter-measures could include, for example, the encouragement of staff associations or the granting of carefully timed improvements in pay and other terms and conditions of employment. It would certainly be interesting to be able to identify the number and nature of employer counter-measures that were taken by employers in cases where the union claim was not successful, in order to see whether there was any consistent pattern apparent. The use of such counter-measures, which would certainly be a useful topic for future research, is likely to have been of major importance in accounting for the union failure to achieve recognition. This is because the time involved in hearing these conciliation claims was of such relatively short duration (i.e. mean time = 2.1 calendar months) that one would hardly expect a simple loss of employee interest to occur in such a space of time.

The above information, which is essentially qualitative in nature, can only be adequately obtained by a series of in-depth case studies conducted in the particular plants concerned. However, our existing data set does permit us to examine the issue of whether the extent of employer opposition to recognition does vary in any systematic fashion. Accordingly, we considered whether any of our other unit related characteristics were themselves significant explanators of the length of time involved in reaching a decision on the recognition claims. The correlation results obtained are set out in Table 2.

TABLE 2

Correlations Between Independent Variables and the Length of Time Involved in Reaching a Decision on Recognition

Non-manual (= 1)	0.05051
Particular union (3 major unions involved = 1)	-0.13971*
Size of workgroup	0.19373*
Single independent establishment (= 1)	-0.10698
Manufacturing industry orders (= 1)	-0.14224*
Strike action (threatened or actual = 1)	-0.01716

* = statistically significant

In this case we find that three variables are statistically significant, with relatively less time being taken to reach a decision on recognition claims from the three unions that were disproportionately involved in seeking recognition and in the manufacturing industry orders. The other significant variable indicates that a relatively long time was taken to reach a decision where the recognition claims involved relatively large sized workgroups.

The fact that employer opposition is greatest where claims involve relatively large sized groups of employees is presumably a reflection of the fact the employer is unwilling to see significant sized inroads made into his non-unionized workforce at a single stroke. A pragmatic union response to this sort of finding would seem to be one that involved attempting to build up organization among a given workforce on a step-by-step basis over a period of time. The particular union seeking recognition also seems to influence the extent of employer opposition to such recognition. This could be a function of the different organizing tactics employed by different unions, with some of them being relatively more acceptable to employers than others. Alternatively, it could be simply a function of the differing general images conveyed by the various unions. If it is the former consideration then a study of substantial potential interest, from the research, union, and public policy points of view, would involve identifying which particular organizational tactics adopted by unions are least likely to produce such entrenched employer opposition. Finally, the greater length of time involved in the service sector claims would suggest that employer opposition to union recognition will generally be most marked in sectors which are relatively little organized at that particular point in time. The greater opposition in such sectors being a reflection of the generally widespread belief among such employers that union recognition is not appropriate to the particular circumstances of their sector(s) of employment.

CONCLUSIONS

One may summarize the findings and lessons of this paper from both a research and public policy point of view. First, from the research point of view, it would appear that the bargaining unit type of analysis, which has been developed in studies of union recognition election outcomes heard under statutory procedures, offers relatively few insights into the operation of less formal public policy means for bringing about union recognition; at least in the sense of being able to identify the relevant characteristics of claims where unions are successful. In saying this, however, one should not ignore the fact that employer opposition, as proxied by the length of time involved in hearing and deciding the claim, was found to be a significant in-

fluence, as has been the case in elections held under statutory procedures. Moreover, this employer opposition was itself found to be strongly influenced by a number of bargaining unit characteristics, namely, the particular union involved, the size of the employee group covered by the claim and the sector of employment where the claim occurred. Future research in this subject area should involve qualitative, in-depth case studies conducted in particular plants where recognition claims have been conciliated. Such case studies should look at the history of their employee-management relationships, especially at past organizing attempts, and at the nature of union and management moves, counter-moves and tactics during the course of hearing and deciding the recognition claim.

In considering the public policy implications of our research it is important to note the fact that the reputation of the Section 2, voluntary route to recognition was riding high in Britain during the period 1976-80. This fact was clearly not independent of the obvious difficulties surrounding the operation of the statutory recognition provisions during the same period of time. Indeed the then Chairman of ACAS seemed to provide more than a strong hint that trade unions seeking recognition would be wise to look more to the Section 2 than the Section 11-16 procedures[23]. The note on which we conclude is to pose the question whether the reputation of the Section 2, voluntary conciliation route to recognition will continue to remain high, at least in the eyes of the unions, now that the Section 11-16 provisions have been abolished.

There are at least two reasons for thinking that this may not in fact remain the case. First, the type of claim taken through the two sets of procedures was, as we have seen, rather different, but now that the statutory provisions have been repealed a rather different type of claim is likely to increasingly go through Section 2, in particular the claims involving large groups of non-manual workers that formerly went through the statutory procedures. The result of such a change is likely to be a reduction in the overall success rate, from the union point of view, in achieving recognition under Section 2. Secondly, ACAS conciliators have indicated to us that the potential availability of the Section 11-16 provisions in the background was an important factor in ensuring that employers were prepared to seriously discuss the recognition issue with the unions and themselves under the Section 2 provisions. This interdependency of the two sets of provisions, which we mentioned earlier, obviously no longer exists so that employer opposition, as reflected in non-cooperation with ACAS or the use of delaying tactics in any discussions, is likely to become increasingly evident in Section 2

23 *IDS Brief No. 158,* June 1979, p. 1.

claims. The result is quite likely to be increased operational difficulties for ACAS and a lowering of the union success rate in achieving recognition.

In view of these sorts of changes it would be desirable if future research could be undertaken on Section 2 claims in the current period of time when the statutory provisions are no longer in existence. If such research reveals some of the changes and difficulties that we have suggested may occur then one might begin to see the emergence of demands for the re-introduction of statutory recognition provisions. At present there are admittedly few signs of such a demand, but is is certainly a possibility that cannot be ruled out of hand in the years to come in Britain.

La conciliation par une tierce partie et la reconnaissance des syndicats en Grande-Bretagne

L'utilisation des mécanismes de la conciliation volontaire pour résoudre les différends entre les syndicats et les employeurs a une longue histoire en Grande-Bretagne où les revendications en matière de reconnaissance syndicale figurent en première place dans ce travail de conciliation. L'organisme à qui il appartient de pourvoir au processus de conciliation en Grande-Bretagne depuis 1974 se nomme le Service consultatif de conciliation et d'arbitrage (Advisory Conciliation and Arbitration Service). Pendant la période 1976-1980, des mécanismes législatifs de reconnaissance syndicale existaient également, mais le Service consultatif entendit plus de requêtes que le Service existant en vertu de la loi. De plus, le type de réclamation en matière de reconnaissance syndicale différait totalement, les syndicats obtenant plus de succès sous le régime de la conciliation volontaire que sous le mécanisme législatif.

Le présent article étudie le résultat de la totalité des requêtes en reconnaissance syndicale entendues par conciliation volontaire en Écosse entre 1976 et 1980 par le Bureau régional du service consultatif de conciliation et d'arbitrage. Le nombre total des requêtes s'élève à 290, ce qui représente environ dix pour cent de toutes les requêtes en reconnaissance entendues par le Service au pays pendant toute cette période. Les syndicats ont réussi à obtenir la reconnaissance dans 47 pour cent de toutes les enquêtes en Écosse, ce qui se compare aux statistiques pour l'ensemble du pays (43 pour cent) et laisse deviner le caractère valable de l'échantillon.

Dans un effort pour préciser la probabilité du succès d'une requête en reconnaissance syndicale, une grille d'analyse fondée sur les études du résultat de votes de reconnaissance syndicale tenus sous le mécanisme de reconnaissance législatif fut mise au point. Cette grille d'analyse consiste en trois types d'influence: 1) l'attrait du syndicalisme et de la négociation collective en général chez les employés concernés; 2) la préférence du syndicat qui présentait la requête; 3) l'importance de l'opposition de l'employeur à la reconnaissance syndicale en général et au syndicat qui formulait la

requête en particulier. Sous ces trois rubriques, nous avons vérifié, par analyse corrélative, l'influence des variables individuelles suivantes: le statut non-manuel des employés, le syndicat particulier qui formulait la demande, l'étendue du groupe d'employés compris dans la requête, le temps nécessaire à l'audition et au jugé de la requête, le statut multi-établissements de l'entreprise, la menace ou l'existence effective d'une grève et le secteur d'emploi où il y a eu présentation d'une requête.

Le manque de signification de la plupart des variables jette un doute considérable sur l'utilité de cette grille d'analyse pour identifier les facteurs pertinents valables pour obtenir gain de cause dans la reconnaissance d'un syndicat sous le système de conciliation volontaire. La seule influence significative résidait dans le temps nécessaire à l'audition et à la décision de la requête en reconnaissance. En retour, cette opposition de l'employeur se trouvait reliée à l'étendue du groupe visé par la requête, au syndicat particulier qui présentait la requête et au secteur de l'emploi où elle était présentée. En particulier, on s'est rendu compte que l'opposition était moindre dans le cas des syndicats le plus fortement engagés et dans le secteur manufacturier et qu'elle était plus marquée dans le cas des requêtes visant des groupes d'employés plus considérables.

Les constatations et les conclusions de l'article ont été résumées à la fois dans un but de recherche et en vue d'une action politique. En ce qui concerne la recherche future, nous estimons qu'il est nécessaire de procéder par études de cas approfondies destinées à identifier l'histoire des relations professionnelles dans les établissements particuliers concernés ainsi qu'à identifier aussi les tactiques des syndicats et des employeurs au cours de la procédure de reconnaissance syndicale comme étant les facteurs-clés qui préparent le résultat des requêtes entendues sous ce régime. Au sujet des implications en matière d'action politique, nous estimons que certains changements peuvent agir à l'avenir de façon à amoindrir l'enthousiasme des syndicats qui était apparent pendant la période 1976-1980 pour l'audition des requêtes sous le système de conciliation volontaire, ces changements découlant de l'abrogation en 1980 du régime législatif de reconnaissance syndicale.