Employee Organization and Employment Law in the Changing US Labor Market: America Moves Toward Shorter-Time Jobs*

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The two most distinctive features of the US labor market over the last decade are (1) its remarkable capacity to generate new jobs, keeping unemployment at historic lows; and (2) sharp statistical trends toward shorter job tenures. While these two facts are obviously related (Katz and Krueger 1999; Blank 1998), it would be wrong to think that we have a tight, agreed-on economic model of their relationship. The US in the 1990s saw the creation of many new jobs in the service sector that are held for shorter periods than their equivalents in past decades. These kinds of jobs are unlikely to lose importance. Employment law and policy is more likely to accommodate to them, than to change them.

I. The Picture: Job Creation and Short Jobs.

I.A. Some Numbers.

I.A.1 US Unemployment and Earnings.

The bare facts about low US unemployment are not controversial. The unemployment rate in March 2001 was 4.3%, the forty-seventh consecutive month that it has been below 5%. Despite some signs of economic slowdown, the unemployment rate has barely changed (yet). The rate for adult men is 3.8%; for African-Americans, 8.6%, both among the lowest figures ever recorded. Average hourly earnings have also not begun to fall, indeed, rose 6 cents over the previous month. (BLS 2001). While wages were flat for most income groups (except the highest) in the early years of the Clinton recovery, they began to move in 1997. By 1999, real median household income had reached the historic high of $40, 816, an increase of 13.3% since 1993 (Economic Report of the President 2001: 188-92).

Where have all these new jobs come from? They were created entirely through decisions by private employers. They do not much reflect government initiatives to create jobs, which have played a fairly negligible role in the US economy of the 1990s. Nor do they reflect Keynesian deficit spending. On the contrary, the 1990s were a decade in which the US federal government ended its current account deficit and began running a surplus. The new jobs are almost entirely held by employees in the service sector. Manufacturing employment dropped slightly in the 1990s and public employment did not expand. Contrary to popular belief, the percentage of the workforce that is self-employed is at its historic *low* point (6.7 percent) (BLS 1999). So the new jobs are almost entirely held by employees, in the service sector.

I.A.2 Shorter Job Tenures; Increased Involuntary Separations.

There is also no dispute about the leading indicators of short job tenures, although there is fierce disagreement about their meaning. The median US worker has been with his or her current employer for 3.5 years, the lowest figure ever recorded. The median man has had his job for 3.8 years, the median woman 3.3, two figures that have been drawing closer: as the man's has decreased, the woman's increased until 1998 but has been stable since. More than a quarter of the workforce has been with its present employer for less than a year. Some median job tenures for subsections of the workforce: private sector, 3.2 years; public sector, 7.2 years; service occupations, 2.5 years (BLS 2000).

When scholars turn their attention to different surveys and data bases, disputes arise about the precise timing and long-term significance of the trend to shorter job tenures (see Neumark 2000). It is not worth our tracking these disputes here, many of which center around trends in one- to three-year job tenures. The important point is that *all* indicators (involuntary separations, job tenures, perception of insecurity) point in the same direction (though to different degrees).

Moreover, the decline in really long job tenures is quite dramatic in all the studies. Jaeger and Stevens (1999) and Neumark et al (1999), despite expressed skepticism of significant change in the labor market, nevertheless found declines in the percentage of workers with more than eight or ten years tenure. Valletta (2000) found a higher rate of involuntary job loss for workers with high tenure. Farber (1997a) analyzed the Current Population Survey and found "a substantial decline between 1979 and 1996 in the fraction of workers who are in long-term employment relationships. Overall, the fraction of workers aged 35-64 who had been in their jobs more than 10 years fell by about 5.6 percentage points over this period with the majority of the decline occurring in the last three years." To pick just one telling example, the percentage of male workers between the ages of 40 and 44 who have been with their current employer for more than ten years declined from 46.3 percent in 1991 to 39.1 percent only seven years later (BLS 2000).

The numbers on involuntary terminations tell a similar story. Such terminations increased the years *before* 1992 (Boisjoly et al 1998; Valletta 2000). Most observers believe that this trend increased in the 1990s.

I.A.3 Interpreting the numbers: the changing labor market story.

It is possible that this decline in the percentage of workers with long job tenures may not actually represent much change in any individual's job. The US economy has been creating many jobs. It has also been creating many new firms, and those new firms create disproportionate numbers of new jobs (Krueger and Pischke 1997). If many workers are employed by new firms, a smaller percentage will be employed for long tenures, as Daniel J.B. Mitchell observed to me. Nor do the studies above permit much inference about trends over the next decade or longer.

However, most US observers tell a very different story about the decline in long job tenures and higher involuntary termination of long-tenured workers (e.g. Kruse and Blasi 2000; Cappelli 1999; Cappelli et al 1997; Herzenberg, Alic, and Wial 1999; Lester 1998; Osterman 1999). In this version, the numbers do reflect changes in individual jobs. Specifically, they reflect the elimination of career jobs inside the internal labor markets of large firms. These jobs were typically held by white men hired by large US corporations in the 1950s and 1960s. They worked either in unionized manufacturing positions, or in white-collar or supervisory roles. Their compensation increased gradually with time and was heavily back-loaded in the form of health and retirement benefits, designed so that each job would be held by an individual for his entire working life until retirement.

There is no good statistical proxy for just this kind of job, and perhaps the best evidence of their disappearance (better, failure to replicate) is the management literature summarized in Stone (2001). One possible proxy, not previously used for this purpose, might be the existence of a defined-benefit pension plan, guaranteeing a precise monthly payment after retirement. Such a defined-benefit pension was in many ways a good index of a career job. The trend in recent years has been away from such pension plans (Kruse 1995). Even in private establishments with over a hundred employees, where four out of five employees participate in retirement plans, only about half those employees have defined benefit pensions (US Department of Labor 1999b). In businesses with fewer than a hundred employees, only 15 percent have defined benefit pensions (US Department of Labor 1999a). It is thought that most of these individuals are older individuals whose defined benefit pensions are "frozen": they remain in place, but new funds are not being added to them, and new employees are not enrolled in defined benefit plans.

However measured, obviously many individuals continue to hold such career jobs. Nobody believes they have disappeared, and talk of their disappearance is normally a straw figure set up for demolition. But it is quite clear that, of the millions of new jobs created in the US economy in the 1990s, few are of the traditional career type.

I.B. Some Imperfect Proxies for the New Short Jobs, and How to Use Them.

It would be nice to be able to present data on the entire class of noncareer, short term, service sector jobs now being created in the US. Unfortunately, there is no way of doing this. Whatever statistical proxy we use in this paper will inevitably bias the results. As a result, researchers are often in the classic position of embracing one portion of elephant anatomy and believing they have a grasp on the beast.

I.B.1 Service Sector Jobs.

As mentioned, nearly all the US job creation in the 1990s was in the service sector (Meisenheimer 1998). However, service sector jobs are quite varied. Some rapidly growing service sectors are well-compensated (legal, computer, engineering, and managerial services). Some have internal labor markets. In general, service jobs as such are not necessarily bad jobs (Herzenberg, Alic, and Wial 1999; Meisenheimer 1998).

I.B.2 "Contingent" Jobs (as described by employees).

Professional labor statisticians devoted a great deal of effort in the 1990s to coming up with a measure for "contingent" jobs. The results were disappointing, and not much more will be heard from this category in the future.

The basic contrast, which runs through nearly all current US writing on jobs, contrasts "career" and "contingent" jobs. This contrast is clear at the extremes but hard to document with precision. A career job is part of an internal labor market in which more skilled, or supervisory jobs, are effectively open only to those promoted from within, and in which the compensation package reflects an implicit contract in which the employee will remain on the job for life. Career jobs normally involve increasing compensation that may reflect returns to experience, returns to firm-specific human capital, or merely an "efficiency wage" contract in which the employer and employee prefer a contract with back-loaded benefits.

Career jobs are often contrasted with jobs that are not part of internal labor markets and will not last a long time. Sometimes, these jobs are called "contingent" jobs, a term that lacks legal meaning or much precision of any kind. While "contingent" jobs thus cannot yet be defined or counted, the features of the ideal type are fairly clear. They are "dead-end". They are not portals of entry to any internal labor market. There will be more turnover, little prospect for promotion, few benefits, wages right around the market rate--in short, little to tie the employee to the firm. The job itself only exists as needed by a particular employer.

The Current Population Survey on three occasions in 1995, 1997, and 1999, asked people whether their jobs were contingent, specifically, whether their jobs were "temporary" or whether they could "continue to work for your current employer as long as you wish" (Cohany et al 1998).

Under the broadest definitions, no more than 5 percent of the workforce describes itself as contingent under this definition (BLS 1999). Since about 15 percent of the US workforce saw their jobs disappear forever between 1993 and 1995 alone (Farber 1998), the Current Population Survey questions on "contingent" work tell us more about cognitive dissonance than about labor markets.

I.B.3 Alternative or Flexible Work Arrangements.

A larger and more useful category has been constructed by researchers, using those CPS surveys, called workers in "alternative" or "flexible" arrangements. This adds together employees of temporary help agencies; temporary employees hired directly by firms; employees who work "on call" (like substitute teachers); employees of contractors who contract to supply the labor of those employees; and self-employed individuals working as independent contractors. Together these five groups make up 18.6 percent of respondents. If part-time workers (13.6 percent) are added in, we get a group of workers comprising 26.3 percent of the workforce (Houseman and Polivka 1999).

The advantages and disadvantages of this category come from its reliance on the juridical form in which labor is rendered. This is an advantage if people can accurately sort themselves into one of the above categories. This is largely but not entirely true. For example, more than half of agency temporaries incorrectly name, as their employer, the client where they render services, not the agency (Houseman and Polivka 1999:434-35). About 12 percent of those who tell the CPS that they are independent contractors also tell the CPS that they are employees, not self-employed (Houseman 1999:4 n.3). This is a legal impossibility.

The disadvantage of this category is that the juridical form is not a very good index of job security, or of any other aspect of employment. It is true that, as a group, workers in "flexible" arrangements are less likely to have long job tenures: they make up 40.8 percent of those with a year of tenure or less, although they are only 26.3 percent of the workforce. Still, the group of workers in juridically "flexible" relations is not the same as the group of workers facing job instability. The most important omission is "regular" full-time employees. Studying workers in "alternative" or "flexible" arrangements tells us nothing about them. Most observers think that those "regular" employees face sharply increased risk of job elimination or involuntary termination. We cannot learn about their jobs if we focus only on the form. *Nearly all "contingent" jobs in the US--however these are defined--are held by statutory "employees" who are fully protected by all US labor and employment laws applicable to "employees"*.

I.B.4 Independent contractors.

On the other hand, some groups in juridically "flexible" relations do not face unusual job insecurity and do not present particularly pressing targets for policy reform (though specific individuals or subgroups may). Specifically, independent contractors (self-employed individuals who don't own farms or businesses) are disproportionately male, older, more educated, and white. They earn more than "employees." In two industries (finance-insurance-real estate, and agriculture) the self-employed outearn traditional employees by over 50 percent. Only 10 percent of independent contractors in the CPS special supplements are dissatisfied with that way of working (Houseman 1999:15). They do not, as a group, experience less job stability over the year than do supposedly regular full-time employees (Houseman and Polivka 1999:443-44). And, as mentioned, despite all the excitement in recent years about "consultants" and people "working for themselves," independent contractors currently make up their historic *low* as a fraction of the workforce (6.7 percent). In short, of all the proxy groups on which one might focus to take the measure of the US job market, independent contractors are probably the worst.

I.B.5 Employees of temporary help agencies.

Perhaps because of the difficulty of generalizing about "service jobs created in the 1990s," there has been what may seem like disproportionate attention to the temporary help services industry as a kind of model of truly contingent services work. Only about 2-2.5 percent of the US workforce is employed at any given moment by a temporary help services employer. However, the sector quintupled from 1982 (the first year it was identified as a separate statistical group) to 1997. (Its percentage of the workforce has been level since 1997). Moreover, the number of individuals who work as a temp at some time in the year is higher than the number doing so on the date of any particular survey (Houseman 1997). Data on this group, finally, closely approximates the work experience of such larger groups as on-call workers, direct-hire temporary employees, and employees of a contract company, that is, employees in "flexible" or "alternative" work relations (Houseman and Polivka 2000). So this paper, too, will sometimes generalize, from the data on employees of temporary help agencies, to a larger class of contingent service employees, about which less is known.

The problem with focusing on temporary help employees is that theirs are pretty bad jobs, even by the standards of other employees in "flexible" arrangements. So normally one can generalize from this group in only one direction. If one finds aspects of temporary help employment that are not as bad as one thought, then probably things are no worse for other individuals in the new job market, such as other employees in "flexible" arrangements or even "regular" employees. For example, we shall see that temporary help jobs are *not* usually traps that individuals can never escape, and are often portals of entry into regular employment. If this is true of employees of temp agencies, it's probably true for everyone. By contrast, temp jobs are poorly paid and almost invariably lack benefits like health insurance or retirement plans. We cannot, however, generalize from this aspect of temporary help employees to the US workforce as a whole.

I.B.6 Individuals employed "at will".

If counting temporary help employees gives us too few employees to represent the "contingent"--no more than 2.5 percent of the workforce--counting employees who are employed "at will" gives us too many. Around 77 percent of US workers are legally employed "at will." The exceptions are those in the public sector (15.5 percent of the workforce) and those working under union contracts (around 9 percent of the private sector, or 7.6 percent of the total workforce). Of the rest, some are protected by antidiscrimination laws that may make it difficult as a practical matter for an employer to fire them, and a few others by employment contracts, formal or informal. Still, the overwhelming majority of the US workforce has no legally-enforceable job security.

In the discussion that follows, I want to focus on the 30-50 percent of the workforce (my estimate) that holds jobs where there is a quite realistic chance either of the employee's discharge, or the elimination of the job, within the next couple of years. Mindful that the median employee in the private sector has been with his or her present employer only 3.2 years, I will call these "short jobs," a term chosen precisely because it has no legal or statistical meaning.

II. Why Short Jobs?

The usual candidates that appear to explain the trend toward shorter jobs and the decline of internal labor markets are:

(1) the decline of sheltered US markets and rise of international competition;

(2) a genuinely uncertain business climate following the oil shocks of the 1970s;

(3) pressure from institutional and other investors dissatisfied with steady but slow returns on investment; and

(4) weak unions unable to oppose, either politically or through industrial action, the dismantling of internal labor markets.

Three other factors sometimes cited seem less important to me.

(5) Whatever the explanatory force in other contexts of that vague bugaboo "globalization," it appears to explain little about the US labor market, where trade continues to constitute a relatively small fraction of economic activity. See, however, Bertrand (1999), finding that firms facing import competition are more likely to have wages that respond to market forces, rather than orderly progression from a given baseline. The more significant factor, mentioned as (1) above, is not global trade as such, but the decline in the number of US employers operating as monopolists or oligopolists and thus able to share rents with their employees. Obvious US examples include automobile, steel, tire, and business equipment manufacture.

(6) Immigration levels into the US have been at historic highs. Over 11 million people immigrated to the US in the 1990s (and were counted by the Census in 2000; presumably the total group of immigrants is even larger). This is more than the entire foreign-born population of the US in 1970. This immigration might appear to increase labor supply in a way that would increase employer power (to impose contingent work on unwilling employees, for example). Nevertheless, almost everyone who has gone looking for labor market effects of immigration into the US in recent years has failed to find them (Gaston and Nelson 2000 review the evidence).

(7) Employee demand does not seem to be an important factor shaping the short jobs that we have. Seventy percent of agency temporaries tell the CPS special survey that they would prefer a job that would last longer than a year (Houseman 1999:15). Of course, some of the other short jobs are more desirable. Some individuals prefer consulting work or other work with frequent turnover, and others adjust to it (Kunda et al 2002; Bronson 1999:98-138; Bradach 1997). When some employers offer short jobs, workers will sort themselves. But nobody believes that employee demand really is driving the menu of choices offered (Golden and Applebaum 1992).

In truth, with hindsight, it is more difficult to explain why internal labor markets so dominated large corporate practice in the 1950s and 1960s than it is to explain why the system fell apart in the 1980s and 1990s. The mythology of the internal labor market was that executive and managerial services at higher levels could only be provided by career employees who had worked their way up through the ranks, been trained by the company, had seen all the company's facilities, and so on. Economists obligingly dubbed this "firm-specific human capital." Today, companies have learned that absolutely any service or expertise can be purchased in the market on a short-term basis, including a chief executive officer (Bradach 1997). What prevented companies from learning this lesson earlier?

I believe that the internal labor market, though with antecedents in the 1920s (Jacoby 1985), really flourished as a way of organizing work for the generation of men who entered the work force following military service in World War II. To manage this generation, it required no unusual perspicacity to see that high effort could be induced around themes of loyalty to (and by) the organization, jobs defined by location in a stratified bureaucracy, and lifetime employment. The link became particularly apparent when jobs were actually defined in military ways. For example, plaintiffs seeking to break down AT&T's highly sex-segregated job ladders in the 1970s learned of entire ladders in the organization that began with service in the Army Signal Corps. While the practice of internal labor markets thus arose almost naturally, their theory became synthesized only later, when the system came under challenge. New kinds of workers entered the workforce in the 1960s and 1970s: immigrant engineers and professionals whose immigration was enabled by the 1965 amendments to the immigration law, new women workforce entrants, other civil rights claimants. They saw access to higher jobs blocked by older white men, many of whom lacked engineering or professional degrees but had simply risen through the ranks (Cappelli et al 1997:16-19). The "firm-specific human capital" story arose to explain why this was not (as might have appeared) discrimination. Rather, these senior employees were said to represent both the employers' reaping their earlier investment in "firm-specific human capital" and, at the same time, upholding their end of an implicit contract. This rationale for internal labor markets has now disappeared with the retirement of the World War II generation.

Greater use of short jobs undoubtedly responds to all four factors mentioned above (loss of oligopoly, business uncertainty, investor pressure, weak unions). It is not possible to untangle them, and by now, altering any one of the four would be unlikely by itself to impede the growth of shorter jobs.

My own belief is that genuine uncertainties in the business climate are more important than weak unions. Management in the US has fought unions, and union density has shrunk. Unions are less able to protect members. This undoubtedly affects wages. But it is less clear to me that it affects whether jobs are long- or short-term. First, the actual practice of US trade unionism has never impeded layoffs. Union organization is actually associated with tendency to lay off (Turnbull 1988; Medoff 1979). Unions create incentives for employers to lay off marginal labor in order to preserve jobs and standards for a core, although such incentives are strong for employers whether or not they bargain with unions (Bewley 1999). In other words, employers that need to maintain flexibility in hiring or shedding labor do not *for that reason* have to oppose unionization (Katz and Krueger 1999).

Second, genuine uncertainty and the desire to protect some labor standards also drives the clients of temporary help firms. The heaviest users of temporary employees are not awful, rapacious, cutthroat hirers of labor who hire temps in order to keep labor standards down, for everyone, although such employers do exist (e.g. McAllister 1998). Rather, use of temporary employees is *highly* associated with *generous* employee benefits. Firms hire temps because their standard compensation package is above industry standards, and therefore too expensive to extend to a new employee, when business conditions make it unclear that a new addition to the workforce is really a permanent need (Houseman 1997: viii).

Third, surveys of employers using temporary help cite unexpected needs (52.2%) or unexpected absence of regular employees (47%) far more frequently than saving on wage and benefit costs (11.5%) as reasons for hiring temps (Houseman 1999). Finally, one frequently encounters *both* generous compensation *and* short job tenures in booming but uncertain economic sectors, such as the US high technology sector (Hyde, 2000; forthcoming).

III. How Short Jobs Contribute to Economic Growth and Low Unemployment.

When it became evident in the mid-1990s that the US was generating new jobs, but that they were disproportionately short jobs in the services sector, there was a debate about whether these were "bad" or "lousy" jobs. That debate is largely over inside the US. Short jobs are here to stay, and the debate has shifted to policy initiatives that respond to that fact (taken up in Section V of this paper).

As this section will describe in greater depth, short jobs can be remunerative and satisfying. They are important in shifting the phases of economic cycles. During recessions, employers will create short jobs who would never create jobs that they could not later eliminate. Likewise, individuals who lose jobs in a recession can pass through short jobs on their way to something better. Rapid turnover of employees can contribute to economic growth in other ways than merely improving the match of employees to jobs. Specifically, employee turnover is positively associated with the spread of information among firms, enabling firms to learn about best practices elsewhere and to improve productivity. There is no evidence that rapid turnover is associated with adverse psychological consequences.

The principal drawback of short jobs, in the eyes of some, is not seen as a drawback within the US: they do appear to be associated with inequality. However, there is no effective political constituency in the US now that advocates addressing social inequality, at least, not if that means improving job stability for a minority of the workforce and thus condemning others to unemployment. The result is that there is likewise no political constituency for ending short jobs, or converting them to more stable jobs. Rather, current policy debates assume the continued popularity of short jobs and address their implication for existing and future programs of employment and labor law.

III.A Flexibility.

Little needs to be said about the most familiar economic defense of short jobs. In any microeconomic model, gains are achieved by eliminating impediments to adjustment. Labor markets stand out for being slow to adjust. In the quip of William Nordhaus, if auction markets adjust at the speed of light, labor markets adjust at 55 miles per hour. Labor markets characterized by internal labor markets, or wages above market-clearing levels (so-called "efficiency wages") are indeed slow to adjust, so anything that reduces those tendencies should achieve some gains through match.

While there is much truth to this familiar story, it would be wrong to suggest that there is an agreed-on economic model of the gains from labor market deregulation. Labor markets are full of idiosyncratic features: cultural traditions, specific wage comparisons, all the ways in which human beings are unlike other factors of production. It is thus by no means unusual for countries to shred safety nets or other "impediments" to "labor market adjustment" and achieve no measurable gains in job creation, wealth, or any other desired goal (Esping-Andersen 2000; Freeman 1994). If there were no more to the American job creation story than increasing the speed of adjustment, there would be little reason for other countries to emulate it. The goal of this brief essay is to move *beyond* the "flexibility" paradigm in understanding some economic consequences of shorter job tenures. The first step is to understand that, in the US economy, job changes are not necessarily signs of "bad match", as in conventional labor economics. They are an expected part of the system.

III.B Shifting the phases of economic cycles.

Short jobs turn out to be an important part of softening the blows of business cycles on workers. Farber (1999) found that workers who lost their jobs were likelier than other workers to be temps or self-employed in the year following job loss. However, the likelihood of regular employment increased with the time since job loss, so that by four years after job loss, job losers had regular jobs at the same rate as those who hadn't lost jobs. Part-time jobs, too, were similarly important as part of the transition from job loss to reemployment full-time.

We can see that temporary or alternative jobs are *transition* jobs, here, from job loss to full-time employment. This casts new light on the spike in temporary jobs in the early years of the Clinton recovery from the (first) Bush recession. The concern about the "future of lousy jobs" was overstated. In the early period of a recovery, employers will understandably be wary about creating new jobs, particularly employers who (as is typical of users of temporary labor) pay generously. If the temporary job form is available, employers will use it in uncertain times. As the recovery becomes more robust, some of these jobs will become permanent.

Similarly, in slowdowns, the temporary jobs will be shed first. In fact, this appears to be happening in early 2001. I mentioned that, despite the current economic slowdown, the unemployment rate has risen overall only to 4.3% from its low of 3.9%. However, one sector in which employment has been falling faster than the average is precisely temporary help services, which began declining in September 2000 and declined for six consecutive months thereafter, shedding 273,000 jobs (BLS 2001).

III.C Transitions.

The implication of the last section is that people rarely stay in temporary jobs forever. Much of the concern about "contingent" work over the last decade invoked just this image of low-skilled workers, trapped forever in a succession of temp jobs, unable ever to secure regular employment. There are such individuals (e.g. McAllister 1998), and there should be much better policies to build paths into regular employment for them (Section V.B.). But it would be a mistake to make policy on the erroneous assumption that this is the most common pattern.

Surprisingly, temporary help jobs turn out sometimes to function like the "portals of entry" into the internal labor markets of another era. Smith (2001) studied temporary workers at a California high technology firm who seemed to think they had about as good a job as they could get. They had worked at the firm for a median of 27 months (almost exactly the median job tenure for a US service worker, which is 2.5 years). Nearly all (94 percent) sought permanent positions at that firm, and believed with some justification that a temporary position was the only path to that goal. About 43 percent of employers surveyed report "occasionally" or "often" moving temporary help employees into a permanent position (Houseman 1997).

A study currently underway (Finegold, in process) reviews the histories of 25 thousand individuals who were assigned by the large agency Manpower. While the study is not yet published, two of its authors shared preliminary findings with me by telephone in April 2001. The vast majority work as temps for a very short time, often in transition into, or out of, the workforce. Around 25 percent of everyone who had worked for Manpower between August 1999 and February 2000 were in permanent employment by March 2000. Around 60 percent will eventually make that transition.

III. D Endogenous growth through information diffusion.

A final contribution of short jobs to economic growth is more speculative, but is attracting increasing attention. When employees leave jobs to go to a competing firm, they carry information with them. The spread of such information across the boundaries of the firm plays an important role in economic growth.

This was first observed in the literature on "Silicon Valley," the high-technology district around Stanford University in California, which has combined exceptional economic growth with unusually high rates of job turnover and start-up firms. Saxenian (1994) argues that precisely this network economy enabled Silicon Valley to surpass the rival computer, semiconductor, and software firms around Boston's Route 128. At the time of her study, Boston's engineers pursued orderly careers up the job ladders at Digital or Wang, while their counterparts in California formed start-ups, skipped to rivals, or put together projects involving knowledge that necessarily became shared among networked or rival firms (see also Langlois 1992).

In the economic literature on endogenous economic growth, information is the most important factor in economic growth, specifically, information that is nonrivalrous and nonexcludable (Romer 1990). Employee mobility is probably the most important single mechanism of diffusing such information. Schools of course teach basic science, but no US region would thereby reap much advantage over any other US region. Moreover, if information taught in schools were the key to growth, US regions should lag many European and Asian regions. Technology can be licensed, but that mode of information transfer seems to assume information from which others *can* be excluded, or else there would be nothing to license.

Studies have begun to document the role of mobile employees in spreading the information that enables economic growth. A classic is Collins (1974), showing that no laboratory ever succeeded in building a particular kind of laser known as a TEA laser, without having employed someone who had worked in a laboratory that had previously built a TEA laser. While every aspect of building such a laser had been published in academic journals, it proved impossible to replicate unless someone had actually seen it done. The most important recent study, of the manufacture of hard drives (mostly in Silicon Valley), is by the Federal Reserve Bank of Minneapolis (Franco and Filson 2000). Of sixty-eight firms entering that industry over a twenty-year period (1977-97), forty were started by former employees of existing firms, and those forty included all but four of the start-ups that generated revenue, accounting for 99.4 percent of the total revenues of the start-up group. The greater the existing firm's technological know-how (measured by the range and capacities of its products), the greater the likelihood of employees leaving to start a start-up, and the longer the start-up will survive. Start-ups included both innovators, and firms that basically imitated the older firm. The result was that the price of disk drives fell while firm profits increased. Cooper (2001) is a formal economic model of this process.

This may appear to be a theory that applies, if at all, only to laser scientists and disk-drive engineers. I do not believe that to be true. Economic growth involves more than new lasers and disk drives. It also involves many small-scale productivity improvements in which companies improve the way in which they do what they do. (On the role of information in improving productivity in service industries, see Herzenberg, Alic, and Wial 1999:83-106). Ordinary working people, even supposedly "unskilled" laborers, know a great deal about the best way to do their jobs, more than their bosses know (Juravich 1985; Kusterer 1978). When they change jobs, they inevitably take that knowledge to the new employer, which should be able to benefit from it (unless it makes no effort to learn). Some of the new short jobs are short precisely because they are the form in which one employer acquires information from another. This is a harder process to document, but I have no doubt that research over the next decades will confirm the crucial role of employee mobility in the information diffusion necessary to endogenous economic growth.

III.E Stress.

There is no literature documenting particular psychological stress associated with rapid turnover jobs, unless you count Richard Sennett, *The Corrosion of Character* (1998), which purported to find such stress based on a sample of a single case, a man Sennett sat next to on an airplane. Contrary to the metaphor in Sennett's title, character, like most things, normally "corrodes" due to inactivity, not excessive activity. By contrast, individuals who were very loyal to their companies and attached to their careers had the most psychological difficulty adjusting to change in Heckscher (1995). There is some psychological literature on stresses attending work as a temporary help service employee (Beard and Edwards 1995). This raises the two-way generalization problem referred to above in connection with all the studies on temps: these are not very good jobs, but the workers holding them are not very skilled, and it is not clear how satisfied they would be on other jobs to which they might realistically aspire.

Future studies will no doubt refine our understanding of the psychology of job changes. They will uncover individuals who would function better in traditional career jobs. However, they will reveal others who strongly identify with a particular profession or craft, regard organizations as dysfunctional from a technical or scientific perspective, strongly dislike intraorganizational "politics," and prefer constant new challenges and freedom from organizations, particularly where they are well-compensated for this choice (see, e.g., Kunda et al 1999; Bronson 1999:98-138; Bradach 1997 for interviews with such individuals). In nostalgia over the loss of career jobs, it is important not to forget such powerful critiques of them as Melville's "Bartleby the Scrivener" or Pessoa's *Livro do desassossego*.

III.F Inequality.

By now, everyone knows that the US has inequalities of income and wealth unprecedented in the modern age. Apparently one must return to ancient empires to find their equal. Essentially all of the increase in national income over the past thirty years has gone to those in the top third (Ellwood 2000). Increasing economic returns to education have probably played the biggest role in this expanding inequality. In 1979, a male college graduate in the US earned an average 30 percent more than his high school equivalent. By 1995, the difference had increased to 70 percent (Slaughter 1999:610). The spread of information technology has contributed to rising returns to education and thus these distributional effects (Autor, Katz, and Krueger 1998).

However, the short jobs associated in the US with information technology, and other uncertain business climates, have probably also contributed to inequality, particularly when accompanied by the decline of traditional internal labor markets. At least some alternative work arrangements, such as temporary and part-time work, are comparatively unremunerative. The growth of such jobs has contributed directly to increasing inequality. A society more committed to equality than the US might think long and hard before adopting policy initiatives that made it easier to create short jobs.

Short jobs need not be (indeed are not) inevitably bad jobs, and their relationship to income distribution is complicated. It might well be possible for a society experiencing unacceptably high unemployment, but more committed to equality of distribution than the US, to proceed in the following way. It might eliminate impediments to the creation of short jobs (by permitting temporary help agencies, or reducing the burdens on the formation of new businesses (Krueger and Pitschke 1997)). At the same time, it might insist on policy initiatives to encourage transition, from short jobs into more stable employment (Herzenberg, Alic, and Wial 1999).

Such an experiment may or may not be feasible, but it will have to be conducted someplace other than the US. There is no effective political constituency within the United States devoted to reductions in inequality of income or wealth. Likely Congressional initiatives will move in precisely the opposite direction, by reducing progressive aspects of the income tax and eliminating the tax on estates. Recent analysis of 128 thousand European and American responses to surveys about happiness, correlated annually with statistics on inequality and unemployment, shows a large, negative, and significant effect of inequality on happiness in Europe, but not in the US. The only group in the US that seems at all negatively affected by inequality is Democrats in the upper half of income, and the effect even on them is slight. Individuals in the lower income half, and of course Republicans, are completely unaffected by measures of inequality, though the lower income half is affected by the rate of unemployment (Alesina, Di Tella, and MacCulloch 2001).

A safe prediction therefore is that US politicians will do nothing to disturb the current legal infrastructure supporting short jobs (Section IV). They may support some initiatives that build on the good features of short jobs (low unemployment, phase-shifting effects, diffusion of information) to make them more attractive (Section V).

IV How the US Employment Laws Support Short Jobs.

The explosion of short jobs in the US results from decisions of private employers that were not impeded by US law. There was no legal or policy decision to encourage them. The terms "deregulation" and "neoliberalism," standard in European discussions, are completely inapposite in the US. There was no "deregulation," because there was so little regulation in the first place. The little regulation of employment contracts that the US had in the 1960s and 70s remains completely intact after the 80s and 90s (though there is some evidence of diminished resources for enforcement, Wial 1999). There is no "neoliberalism," just the same old economic liberalism.

US requirements of substantive terms of employment contracts are quite light. Workers must receive minimum wage, and one-and-half-times normal pay for overtime hours. Many workers are exempt even from this requirement. Most of the exemptions are in Section 13 of the Fair Labor Standards Act, 29 U.S.C. §213. In many ways this is the single most revealing text in U.S. employment law. It rolls on for pages, listing numerous employees who need not receive overtime pay or even minimum wage. Each exemption was clearly drafted by lawyers for the relevant employers. No effort is made to put the exemptions into uniform drafting style. There is no pretense of equal application of the laws and no logic underlying the exemptions except the political strength of relevant employer groups.

This weak regulation has three particularly important implications for policy and regulatory aspects of US job creation. First, employers can create low-paid and rather temporary jobs without resorting to any particular institutional form (legal or illegal). Second, the scope for additional regulation is quite limited, since the general flexibility of the system makes regulation easy to evade. Third, it is quite difficult under US law to target particularly needy or dependent workers.

IV.A The Incredible Lightness of Regulating the Employment Relation.

The first point is just another way of restating that most contingent workers, however defined, are statutory employees, protected by all employment and labor laws. When a US employer wants to create a new position that will be paid the minimum wage, lack retirement or health benefits, and may be terminated if business turns down, it simply does it. There is no need to resort to subterfuge, such as calling such individuals "independent contractors", or to pay them "off the books". About the only workers who are routinely paid in cash, "off the books", are immigrants whose immigration status does not legally permit them to work.

Too much has been made in recent years of individuals "carried on the books" as independent contractors but "really" employees. The Dunlop Commission studying reform of the labor laws 1993-4 heard testimony about immigrant office cleaners who paid for the "franchise" to clean each floor (Commission on the Future 1994:93 n.2). There has been a great deal of publicity about individuals whom Microsoft called "freelancers" but who were eventually held by the tax authorities to be "employees."

In truth there is rarely any labor or employment law advantage to the employer in misclassifying employees in this way, and no systematic effort to do so. The main practical difference between paying an individual as an "employee" or "independent contractor" has to do with the tax laws. There were only two effects of finding the individuals at Microsoft to be "employees." First, in the future their taxes must be withheld by their employer. Second, they had to be permitted to participate in one very unusual employee stock purchase plan that by statute--unlike any other benefit plan--must be open to all employees. It is rarely appreciated that they lost on every other claim they made to be included in Microsoft benefit programs, such as health insurance, pensions, and the self-directed stock purchase plans known as "401(k) plans."

IV.B Evasion of Law.

There appears to be one important exception to the generalization that use of alternative work arrangements is rarely driven by a desire to evade employment laws. Use of temporary help agencies appears to have been spurred by legal doctrines permitting individuals to challenge their discharge. In 1991, the Civil Rights Act of 1964 was amended to increase damages for victims of discrimination and provide clearly for trial by jury. It appears that this influenced the rapid growth of the temporary help sector over the next few years. Employers have candidly told researchers that they value the ability to have the agency get a particular individual out, without having to create a paper record or be vulnerable to a discrimination suit. Similarly, use of temporary help employees often jumps in the year following a particular state adoption of legal grounds for challenging discharge (Autor 2000; Miles 2000).

The ease with which employers can refashion employment contracts places constraints on regulatory responses. Regulation of one kind of employment contract simply creates incentives for employers to use another.

IV.C The Absence of a Category for Needy or Dependent Workers.

Countries that specify a greater range of terms of employment contracts develop tests and vocabularies for distinguishing white collar from blue collar, professional from production, or highly-compensated from low-compensated work. An oddity of US employment law is that these terms mostly lack legal meaning. Although this Chapter was supposed to deal generally with short jobs and their impact on the US labor market, the occasional reference to computer programmers, managers, and similar individuals who present few problems of protection in any legal system, reflects this fact. There is often no convenient way in the US of taxing, regulating, or otherwise discouraging, say, independent contractor status among house cleaners, without creating problems for firms hiring well-paid project leaders as independent contractors, to the mutual satisfaction of each. The development of legal classifications that would permit attention to the most dependent workers is obviously not beyond human imagination. But it is not a current feature of US employment regulation.

IV.D Weak Regulatory Institutions in Employment Law.

Nor would such classifications be easy to develop through existing regulatory institutions. Distinct features of the current US political scene include: low Congressional and judicial respect for technical administrative agencies, such as the Department of Labor, and active Congressional intervention on behalf of favored industries or even individual firms. These factors are not exogenously given. Obviously, they reflect the political weakness of organized labor and its allies, even in Democratic administrations and Congresses.

For example, after some prominent accidents involving teenagers driving pizza delivery vans, the Department of Labor's Wage and Hour Division began a well-publicized campaign to enforce standards that prevented minors under age 18 from driving trucks at work. Congress responded by amending the Fair Labor Standards Act to permit 16-year olds (later raised to 17) to drive on the job. Truck drivers at the large Federal Express company are not unionized, as a result of the company's successful effort in 1996 to have Congress classify it as an "airline" whose employees may only be organized in nationwide classes. It is difficult to explain the US practice of legislative favors for single companies, favors largely purchased with campaign contributions, to people familiar with legal systems that adhere to the norm that laws should be general. Resources appropriated to enforce existing labor standards are so inadequate as to amount to effective repeal of the statutes. The enforcement resources of the Wage and Hour Division are smaller than twenty years ago, and its declining enforcement rates have contributed directly to US wage inequality (Wial 1999).

We turn now to current private and public policy initiatives to deal with the new world of short jobs, retain their contribution to low US unemployment, but make them better jobs for workers, particularly low-paid workers. The point of the foregoing is to help explain why this section emphasizes new organizations, and new voluntary policies, but says little about new regulatory initiatives.

V New Institutions in the New Labor Market.

V.A New Labor Market Intermediaries.

Even the US labor market has not yet become the kind of labor market in neoclassical models, in which the entire nation "shapes up" each morning like a group of unemployed longshoremen. New intermediaries have arisen to help broker labor contracts. The most important numerically are the temporary help agencies (already discussed), and the new job sites on the internet. It is possible that this need for intermediaries creates opportunities for employee organizations, either unions, or new forms of employee organization. This hope has not yet been realized.

It's common even in conventional labor economics to observe that labor markets are full of information asymmetries and other information that can be produced only by incurring high search costs. This chapter is not the first to "bring information into labor markets." Still, this insight is normally applied to a stock, limited set of information asymmetries. Typically, the worker knows whether he or she will shirk or not, but the employer doesn't know this. Or, in the models of ownership of intellectual property, the worker may develop valuable ideas, but neither the employer nor worker knows this in advance.

In a high-velocity labor market like the contemporary US, the information problems are considerably more complex and serious. Consider the complex of high technology industries in Silicon Valley. The employer may effectively know nothing about potential workers. The workers may know nothing about potential employers. And these very low levels of knowledge are then divided by the thousands annually, as firms with rapid employee turnover must repeatedly choose among employees who repeatedly move among firms.

Consider first the hiring employer. It needs employees with particular technical skills to be applied first to known, but thereafter to unknown, technical problems. Past work experience will be an imperfect source of information and educational attainment no help at all. Potential employees may describe the programs they created or products they designed on past jobs, but little objective evidence will be available to evaluate their claims. The best programmer may have only a high school degree, not a Ph.D. in computer science from Stanford. Most relevant information about employee ability can be learned only on the job, and the short job tenures that are the subject of this entire chapter are in part explained as informational devices.

If conventional labor economics has simplified the employer's informational needs, it has positively neglected the employee's. However, the employer's "reputation"--the usual cure-all in conventional labor economics--conveys little information to an employee selecting among competing startups and perhaps evaluating them against an offer from a more established company. "You can't really know whether an e-commerce company is going to fly," said a 25-year-old tech-support worker handing in a resume at a job fair. "It's a roll of the dice--just like investing in the Nasdaq." (Ethan Smith 2000).

V.A.1 Websites and similar job search vehicles.

Literally thousands of websites devoted to job placement have sprung up in the last five years or so. These include formal job boards, websites offering searchable databases of job listings and resumes, employer-initiated searches that target promising ("passive") candidates through their online credentials ("talent mining"), usenet bulletin boards and listservs, and systems internal to companies. It is probably impossible to get an accurate count of the number of websites, which is certainly in the thousands, let alone an overall picture of how they are used. Autor (2001) cites estimates of twenty-nine million jobs posted on-line (not necessarily unique) and over seven million resumes.

Benner (2000) calls dice.com the "most prominent site in the Silicon Valley high-tech recruiting industry. While the name actually stands for Data-processing Independent Consultants' Exchange, the gambling metaphor that accompanies the Dice imagery actually captures fairly well the type of high-rolling lifestyle that high-end contractors aspire to." Each month, twenty thousand distinct job seekers make over three million visits to the site (see Teuke 1999).

These online resources, like rapid turnover and short tenures, make labor markets more like classical markets than ever before. Individuals can advertise their skills to employers as well as the reverse, and each has access to unprecedented levels of information. Particularly telling is the heavy use by *employed* workers, some seven percent of whom told the Current Population Survey in December 1998 that they had used the web to search for new jobs that month (Kuhn and Skuterud 2000). This is believed to be many times the quantity of job searches by employed workers that took place before the internet (Autor 2001). More efficient matches to jobs should raise productivity.

New labor market intermediaries offer some potential for eliminating inefficiencies connected with information asymmetry, poor matches, and preferences falsified by employers or employee organizations. They might even help address the collective action problems that show up as adverse selection problems, by raising the quality and quantity of information available about worker preferences. For example, it is unusual for Silicon Valley firms to offer pensions. Suppose that this reflects adverse selection: firms fear that a high-tech firm that institutes pensions will become a magnet for time-servers. If even high-tech workers start to want pensions, firms will be able to see that this demand is really widespread, and may worry less about adverse selection. (This example is hypothetical; to date, the information transmitted through the new labor market intermediaries is that pensions and benefits are less important to high-tech workers than many have supposed. This general fact will become important when we discuss the fate of groups trying to market benefits to mobile workers).

Autor (2001) raises some cautionary notes about the efficiency advantages of web-based job sites. When applying for jobs becomes cost-free, employees will apply to jobs for which they would have considered themselves unqualified (if they had to pay to apply). The cost of distinguishing among these candidates is borne partly by employers, who must pay for additional information, and partly by other employees who must implicitly pay more to establish their qualifications. "A standard result of signaling models is that high quality workers pay to acquire a signal that distinguishes them from others. If the price of the signal falls, lower quality workers also acquire it and employers face more difficulty separating wheat from chaff." Autor suggests possible responses. Employers might make greater use of, at the least, screening services (to find out whether individuals really have the credentials advertised). They might rely more on intermediaries like employment agencies to certify employees. They will do more of their own talent mining, or place greater reliance on personal contacts. Finally, employees may post richer on-line resumes that will include "project portfolios, dockets of customer evaluations, and even standardized personality assessments."

V.A.2 Will unions organize the new service workers?

The need for new labor market intermediaries in the new US labor market seems to create an opportunity for unions, which have found it very difficult to organize new jobs in the service sector. It is not obvious why this should be so difficult. It is true that US unions achieved some of their greatest successes among manufacturing firms with internal labor markets. Some of these successes are not particularly relevant to today's short service jobs: job stability; diminished turnover; returns to seniority; benefits aimed at senior employees, like health insurance and pensions (Freeman and Medoff 1984). An employer in the uncertain services sector might be expected to resist strongly, both such union demands, and unions themselves (Freeman and Rogers 1999).

But this is far less than the whole story of US unions. Unions also have strong traditions in the representation of contingent services workers. Consider unions in the construction and building trades. Many construction workers work, over the course of a year, for many different contractors, on many jobs. Despite this uncertainty, construction workers are not usually included in discussions of "contingent" work. The difference is the union. Construction workers who are represented by a labor union typically have health insurance (87.1 percent), paid vacations, and a pension (67 percent). Construction employees who are not represented by a union normally have no health insurance (only 41.4 percent get it through work) or pension (only 22 percent have one) (Center to Protect Workers' Rights 1998: charts 3, 26, 27). The employer on a unionized construction job pays contractual amounts, per hour worked, into trusts, jointly administered by the union and employers, that pay health, vacation, and retirement benefits. In many ways, this kind of unionism is the best model for today's contingent service workers. (Construction unions often operate hiring halls that provide labor to contractors on request. While this can facilitate administration of the benefits plans, it is not necessary to them).

A large academic literature by scholars sympathetic to labor unions has suggested numerous models for the organization of low-wage, mobile, service employees, reviewed in turn in more detail in Hyde (1998, 2002) and Stone (2001). Among the more interesting theoretical models include:

i) regional craft association, once employed by waitresses (Cobble 1991);

ii) ns for low-wage service workers based on particular aspects of their work organization (Wial 1993);

iii) unions with a strong community component, such as the successful organizing of janitors by the Service Employees International Union through "Justice for Janitors" campaigns involving community participation through political leaders, ethnic festivals, and demonstrations (Martínez Saldaña 1993);

iv) unions that train employees and function as job referral agencies (Silverstein and Goselin 1996).

A union organized on any of these lines (or any other) could then administer benefit programs for workers; provide more reliable information about employers than websites; and provide political representation for worker interests. There have been organizing efforts along all the above models in recent years, with only modest success. Among the more interesting is the Washington Alliance of Technical Employees (Washtech), a project of the Communication Workers, designed to give voice to, and train, freelance and temporary workers at Microsoft and other Seattle information technology firms (duRivage 2000).

As a general matter, US labor law could be made much more facilitative of union organizing of all types, as has been much discussed (the best introduction is still Weiler 1990). Apart from these general impediments to unionization, the chief specific legal impediment, to the organizations proposed for mobile employees, is the lack of authority in the National Labor Relations Board to certify a bargaining unit with multiple employers. Such bargaining takes place, but is voluntary with the employer, who is free to withdraw from multiemployer bargaining at any time except when new contract negotiations are actually underway.

The Board has retreated from some extensions of this doctrine that have really impeded union organization among temporary help workers. For years, the Board took the position that including temporary help employees in a bargaining unit with regular employees was a kind of multiemployer bargaining that required the mutual consent of the temporary help agency and the client firm. The Board will now certify a unit of all employees working at the client, including regular employees and those jointly employed by the temp agency, to bargain with the client. It will also certify a unit of all the temporary employees working at various locations but referred by the same temp agency, in order to bargain with that temp agency. It is possible that these changes will spark new union organizing among temporary help employees. However, they represent the outer limits of the Board's power. A unit of all the temps working at many different clients, to bargain with those clients, is a multiemployer unit, voluntary with each client. *M.B. Sturgis, Inc.*, 331 NLRB No. 173 (2000). Nor does the Board have authority to force any client, and the temp agency, to bargain jointly with the employees whom they employ jointly.

V.A.3 New forms of employee organization?

It is sometimes asserted that the mobile service workers of today's economy require a completely new form of employee organization. I do not share this view. I think that most would be better served by organization along the lines of a traditional construction or entertainment union, providing bargaining with employers, benefits administration, job referral, and training, than any of the rival organizations that have emerged so far. For lower-wage contingent workers, there really are no rivals to union representation.

However, salaried workers without unions, particularly in information technology, have taken action through several alternative forms in recent years: Working Today, which designs and markets benefits to mobile individuals, many self-employed (Horowitz 2000); informal action on computer networks (Bishop and Levine 1998); web sites for disgruntled employees; ethnic or gender caucuses organized with assistance from employers; and informal ethnic networks that assist employees across firm lines (Saxenian 1999). The achievements of these groups are modest and do not require extended treatment here (see Hyde, 2002; 1993).

V.B New Definitions of Career.

Low-wage, contingent service jobs can be portals of entry to something better. The best of all worlds might be to retain the ease of creation of such jobs, to enable labor market entry and transition during recessions or early recoveries, but to link them to more defined careers at the same or other employers. Herzenberg, Alic, and Wial (1999:123-48) review recent voluntary multiemployer efforts to use the more contingent job as training for more stable work elsewhere.

V.C New Portability for Benefits?

The US system of private pensions is a disgrace. It consists of taxpayers paying employers to take money out of employee paychecks, and turn it over to financial intermediaries, for investment in the kinds of investment securities through which top managers are compensated. This increases demand (hence the price) of investment securities and has helped sustain the US stock market, as well as enrich executives who are increasingly compensated in stock options and bonuses. The law makes corporate managers fiduciaries of the employee retirement savings that they hold in trust, but this only partly mitigates the basic conflict of interest, integral to the system, of having employers control large funds for investment purposes. There is remarkably little academic or political criticism of the basic system.

Public provision of benefits is limited to the Social Security system, providing small retirement benefits to those who have previously paid into the system (and additional programs for the disabled), and the Medicare and Medicaid systems, public health insurance for the elderly and poor, respectively. Most people who are not poor therefore believe in theory that they should obtain health insurance, and additional retirement income, through their employer. However, both are becoming more difficult to obtain. Moreover, employee behavior turns out to be inconsistent with their professed desires. The new trends toward increased job mobility exacerbate the difficulty of obtaining and maintaining coverage through the employer.

In recent years, the percentage of the workforce enrolled in retirement or health plans has been dropping. About 44 percent of civilian workers participate in a company pension plan, down from about half in 1975. The proportion of full-time workers in firms with more than 100 employees who participate in a company health plan declined from 92 percent in 1989 to 76 percent in 1997. The comparable figures for small firms are 69 and 64 percent (1990-1996) (statistics available at the Bureau of Labor Statistics' web page).

Workers in the new short jobs are particularly unlikely to participate in these benefits. Only 4.3 percent of agency temporaries participate in a pension plan through their employer; the figure for on-call workers and temps directly hired by employers is around 20 percent. The figures are similar for health insurance. Only 7.3 percent of agency temporaries obtain health insurance through their employer, and only about 20 percent of on-call workers. he disparity, between workers in flexible and regular relations, remains large even when controlled for age, education, union status, and occupation, suggesting that employers simply don't offer these benefits to workers in flexible arrangements (Houseman 1999:24).

It is idle to point out that universal enrollment of the population in pension and health plans would simultaneously solve the problems of limited enrollment and of portability. Such a solution is politically infeasible in the US. Politically feasible proposals instead normally exacerbate either or both problems. The trap has been noted repeatedly in this brief chapter. Provision of health insurance and retirement benefits is voluntary with employers. Any regulation, making either more expensive, creates incentives for employers to switch to a less expensive program, or forego the benefit altogether.

For example, as mentioned earlier, employers have rushed in recent decades away from pension plans guaranteeing a defined benefit, and toward plans in which the employer merely makes defined contributions. Employers have made this change for their own benefit. Defined benefit plans place heavy administrative and fiduciary duties on employers, who bear the risk of the investments' loss of value. By contrast, in defined contribution plans, the employer's obligation is largely complete when the contribution is made. Risks thereafter are borne by employees. The most popular retirement plan in recent years is the very flexible "401(k)" plan, named after a section of the tax code, to which employees may make their own contributions, along with the employer's. Employees are permitted to choose among several different investment options, such as different stock portfolios or a fixed-income fund.

The trend toward 401(k) plans and away from defined-benefit pensions has clearly been driven by employers, for their own benefit. Still, it is sometimes asserted that 401(k) plans better meet the needs of mobile workers in the new workforce, in a way that the older pensions do not. In Silicon Valley, for example, defined benefit pension plans are almost unknown, while 401(k) plans are common. But the claim that this better serves workers mistakes form for substance. 401(k) plans are bad for employees, who do not invest enough in them, do not invest wisely, and cash them in when they change jobs. As a result, despite the boom in the US stock market in the 1990s, the total value of all 401(k) plans was no higher at the end of the decade than it had been at the beginning.

It is true that old-fashioned defined benefit plans are normally forfeited when an individual leaves employment within five years, and that this plan has a major impact given today's short job tenures. However, after five years, the benefit is nonforfeitable ("vested"). If a worker leaves the firm after five years, the defined benefit pension will be frozen. No new contributions will be made, and the worker will be guaranteed only the percentage of retirement benefit associated with his or her actual years of service. However, the benefit will be there.

Defined contribution plans, such as 401(k) plans, are normally not portable from employer to employer. There is no legal impediment to making such plans portable. Most US professors at large colleges and universities are enrolled in the TIAA-CREF plan, a defined contribution plan which is fully vested from the first day, and fully portable if the professor moves to another university that participates in TIAA-CREF. When federal legislation on pensions was first enacted in 1974, the pension experts around Ralph Nader, major proponents of some legislation, favored encouraging such portable plans for all workers, but this proposal was not adopted. Rather, when a worker leaves an employer with a 401(k) plan, the worker must choose between receiving a cash distribution of the account, or instructing the corporate trustee to "rollover" the balance into an individual retirement account or a plan at the new employer's. If the employee elects the cash balance and is under the age of 59 1/2, a 10 percent penalty tax will be placed on the withdrawal. It is thus remarkable that a large study by the leading US benefits consulting firm showed that 68 percent of participants in 401(k) plans, who switch jobs between the ages of 20 and 59, take a cash distribution of their retirement savings (Hewitt Associates 2000). As a general matter, employees do not contribute to their plans at the level to which they aspire, or which would be appropriate given their aspirations for retirement (Laibson 1998).

The problem of low US participation in, and contribution to, benefits plans, will be solved, if at all, by the private market. There is no realistic political possibility of greater mandated coverage, and current controversies over the administration of the public Social Security program turn around whether it, too, should be privatized.

Some organizations have supposed that this is an opportunity for unions, or other new forms of employee organization, to grow by marketing and administering benefits to a mobile workforce. The group Working Today (Horowitz 2000), mentioned above, has received substantial foundation support in pursuit of this model. I believe it unlikely to succeed, for two reasons. First, there appears to be remarkably little demand among US workers for better benefits programs. As mentioned, they do not participate adequately in the programs that they have. In my interviews in Silicon Valley, I have spoken to several founders of job placement services or contractors for technical labor who had intended to offer generous health or retirement benefits to workers, and discovered that they had overestimated worker demand for such benefits. (I should mention that these are firms that provide ordinary programmers, many on temporary visas, who make $40-50 thousand per year--not contracted project leaders or CEOs, in other words). I have failed to find anyone who has uncovered unanticipated worker demand for benefits. Second, there is absolutely no theoretical or practical reason to suppose that democratic employee organizations would have any advantage over private firms in the marketing of benefits.

VI Conclusion.

The US labor market has generated a remarkable number of new jobs, despite continuing labor force entry by immigrants and others. The jobs have been created by private employers, mainly in the service industries, without substantial public expenditure or deficit. The new jobs are nowhere near so bad as the stereotype of hamburger flipper would have it. For many people, they represent portals of entry into the labor market and will be succeeded by regular employment in careers that will span several employers. Little is known about such careers and they represent a pressing research agenda. It is true that the new jobs will probably not last so long as the old and will carry less generous benefits oriented to older workers, such as pensions or health insurance. The very rapidity of employee turnover, however, now seems to be making its own contribution to economic growth, by increasing the efficiency of labor market adjustment and information diffusion.

The labor market intermediaries that so far have benefited the most from these trends are temporary help agencies and internet job sites. Employee organizations so far have failed to find opportunities that they can exploit. This kind of labor market may not appear desirable to some outside the US, but it appears to enjoy domestic political support (or at least no articulate political opposition). Its emphasis on growth, low unemployment, and social mobility, and indifference to inequality, seem to accord with US political traditions and values.

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