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Meeting Today in Equity-Off Broadway Dispute

By MEL GUSSOW

The yearlong conflict between Actors Equity and the younger American playwrights, a battle that has severely injured Off Broadway and is threatening its very existence as a nurturing ground for new theater, may be inching toward a resolution.

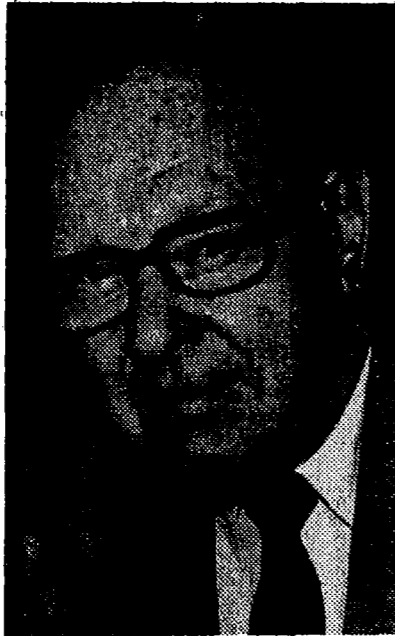
The rift began last year, when the actors' union added stringent provisions to its nonprofit theater code governing Off Broadway. As a result, playwrights have been asked to bear a heavy financial burden for showcase productions. Equity acted to protect its actors, who often work for little or no money in Off Broadway ventures. According to the new Equity ruling, actors in such productions, those in minor as well as leading parts, must be offered their roles again should the play move to Broadway or Off Broadway. If not, they must be paid four or five weeks' salary. Should the new producer be unwilling to assume that financial burden, the responsibility would fall on the playwright. The playwright must sign the Equity code to this effect before his play can be put on Off Broadway.

The remuneration applies not only to Broadway and Off Broadway productions, but to the sale of the property to television or to the movies. In addition, the financial obligation still holds even if many years elapse before a play is optioned for subsequent production. This could mean that, in the long run, a playwright might be compelled to pay far more than he earned from a particular play.

Weller Files Suit

Detonating the controversy was an episode last April at the Second Stage, a new Off Broadway company presenting Michael Weller's "Split." The play was a critical and popular success, and in the normal course of events it would have had its run extended or been moved to an Off Broadway theater. However, Mr. Weller refused to sign the Equity code, which would have made him financially liable. As a result, Equity forced the production to close.

Incensed at the union's intransigence and concerned about the ultimate effect on himself and other playwrights, Mr. Weller filed suit in Federal Court against Equity in October, charging the union with violations of the Sher-



Willard Swire of Equity
Is the actors' union ready for a peaceful solution?

man Antitrust Act and the National Labor Relations Act. He was joined in his suit by five other playwrights, David Mamet, Romulus Linney, Barbara S. Graham, John Olive and James Childs.

Sources of New Plays Diminish

Two weeks ago, the Council of Equity made its first formal recognition of the suit. It decided to contest the suit "in the strongest manner to the bitter end," while at the same time taking advantage of "the possibility of making a reasonable settlement." Although this seems like a hardline response, it may actually be more in the nature of campaign verbiage. Sources within Equity indicate that the union will probably be making an attempt at a peaceful solution out of court. One hopeful sign is that Willard Swire, executive secretary of Equity, is considered to be far more conciliatory than his predecessor, Donald Grody. As a first step, lawyers for Equity and for the playwrights are scheduled to confer today.

For the playwrights and the Off Broadway companies, a swift settle-

ment is urgent. Because of the code, playwrights have been increasingly reluctant to have their plays produced Off Broadway. A showcase production could lead to so many financial obligations to actors as to make future presentations financially impractical. The Weller suit adds that this would also make "it virtually impossible to exploit the work for television or motion pictures." Many playwrights have taken a strong stand against Equity, preferring to keep work unproduced than to give in to the demands of the union.

Out in the cold are the Off Broadway institutional theaters themselves. Because of Equity's threat to close productions not operating under the code and the concurrent reluctance of playwrights to jeopardize future productions, Off Broadway companies have found sources for new plays diminishing. Plays already scheduled have been withdrawn, and others are simply not being submitted. In response, theaters have been forced to postpone or cancel their entire seasons. Some have switched artistic policies (stressing revivals rather than new works), have produced plays with only non-Equity actors, or are doing plays on an individual "mini-contract" basis, paying the actors the equivalent of an Off Broadway scale.

Some Private Agreements

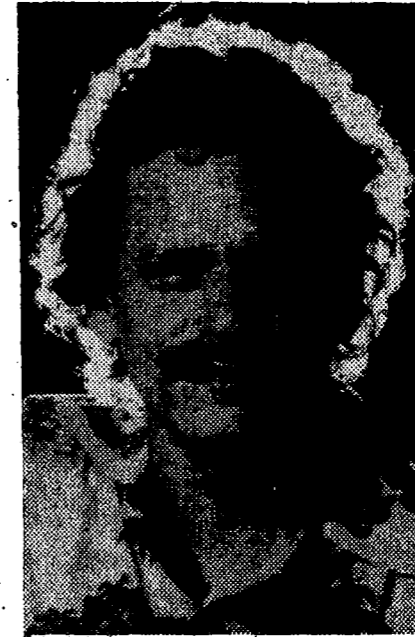
At least three companies have posted closing notices — the Impossible Ragtime Theater, the Direct Theater and Counterpoint, each of which was on the verge of becoming an established part of the New York theater scene. The I.R.T., whose cessation represents a particular loss for theatergoers, offered a diverse roster of plays, experimental revivals of lesser known plays by O'Neill as well as the first New York production of works by Sam Shepard and Max Frisch. The Direct was responsible for the early work of Albert Innaurato and Christopher Durang as well as for Dennis McIntyre's "Modigliani."

The Ensemble Studio Theater, the Lion company and Theater Off Park, among others, have delayed their seasons, either waiting for resolution of the Weller suit or seeking individual agreements. Other groups, such as the W.P.A. and the InterArt theater, have reduced the number of their productions. By various estimates, new play production Off Broadway has decreased 60 to 80 percent.

For the most part, those plays that have been done this season are by neophyte writers so eager for production that they sign the code, or they are works that fall outside the code restrictions, such as new plays that have been previously produced in regional theaters and are considered to be revivals. Some theaters have been able to come to terms with Equity over individual productions, with the union furthering its preferred notion of private covenants privately arrived at. For example, the Second Stage will soon be opening a production of Amlin Gray's "How I Got That Story." The directors, Robyn Goodman and Carole Rothman, have made a private arrangement with Equity and have agreed not to release the details of the agreement.

In response to Equity, David Levine, executive director of the Dramatists Guild, said that he would encourage any attempt at a settlement, but at the same time he "would not lessen our efforts in law." It is his feeling that the code should be a matter between actors and theaters, that "it shouldn't be the playwrights' business." Disgruntled at the delay, other playwrights and individual theaters are considering filing suit against Equity.

The initial step in any solution would be to adopt the Dramatists Guild's suggestion of a moratorium so that companies could at least temporarily return to new play production. If negotiations should ensue, two questions to be resolved immediately are the clause in the code that acknowledges the placing of a "lien" by Equity against the play — a fact that threatens playwrights



The New York Times / Jack Mitchell

Michael Weller, playwright
He and five others filed suit
against Equity in October
after his play was closed.

with legal reprisal — and the subsidiary rights clause in regard to television and movies. Playwrights also argue against the absence of a time limit in the code.

Should the crisis continue, there will be long-range implications for the American theater. In recent years many of the most acclaimed and popular new plays have emerged from Off Broadway, including Lanford Wilson's "The Hot 1 Baltimore," Hugh Leonard's "Da," David Mamet's "American Buffalo," Ntozake Shange's "For Colored Girls," Sam Shepard's "The Tooth of Crime" and Albert Innaurato's "The Transfigura-

tion of Benno Blumpe." Were the present provisions of the Equity code in effect at the time, these plays might never have been produced in New York.

Furthermore, foundation grants to a theater are often tied to a guarantee of producing new plays, or to producing a certain number of plays. Companies that cannot fulfill the requirements of their grants may be forced into foreclosure.

Everyone would seem to be victimized, including the actors, who are often willing to work for hardly more than carfare for the chance to be part of a promising production. Surveying the currently arid Off Broadway landscape, Nancy Heller, executive director of the Off Broadway Alliance, said: "It's a deplorable situation. The lifeblood of Off Broadway is new plays; the playwright is the focal point. At the same time, Off Broadway has introduced new actors. Actors are saying, 'What is there to audition for?'"

'Shortsightedness and Greed'

Over the years, Off Broadway has become a place where unusual, difficult or commercially questionable work can be tested before it is exposed to a wider public. David Mamet is one of many playwrights who has benefited from this creative process. His earliest plays were staged there, as were his more recent workshops. Naturally, Mr. Mamet is eager to see a settlement; he also believes that the Equity policy has already gravely damaged Off Broadway. As he sees it, the union position is a case of "shortsightedness and greed born out of insecurity." Carefully using the past tense, he said about Off Broadway: "It was the most exciting arena in the country, the most immediate and simplest communal atmosphere in which to work. We all said, 'Let's do it for love and not for money.'"

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By order of and subject to the approval of the Superior Court for the Judicial
District of Superior Court for the Judicial

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